

**Administration's further responses to points raised
on 28 March 2001 by Members of the Bills Committee
on the Chief Executive Election Bill**

Q1: Whether judicial officers in foreign countries are required to resign before running in elections?

A1: Our research shows that the practice varies across countries. We have surveyed seven countries, among which judicial officers are allowed to run for presidential and/or parliamentary elections in France, Germany and the United States but are generally prohibited in Canada, Singapore and United Kingdom and, in Japan, they are deemed to have resigned from the judiciary once they announce their candidacy.

Nevertheless, if a judicial officer is elected in France, Germany or the United States, he will be required to resign and, in the case of Germany parliamentary election, be suspended, from the judiciary before taking up the elected office.

Q2: Members asked about differences between the leapfrog procedure proposed in the Bill vis-à-vis that proposed in the Court of Final Appeal (Amendment) Bill to be introduced.

A2: We consider that the two procedures are not directly comparable. Under the CE Election Bill, we propose to provide for an "appeal" procedure such that an appeal against the decision of the Court of First Instance in relation to the CE election will be lodged to the Court of Final Appeal direct, subject to leave being granted by the Appeal Committee of the Court of Final Appeal. The proposed procedure caters for specific purposes and is confined to the circumstances prescribed under the Bill. It takes into

account the time constraints and the constitutional importance of completing the appeal procedure expeditiously and authoritatively before the CPG makes the appointment.

On the other hand, the general “leapfrog” proposals for civil appeals currently under discussion (paper for Panel on Administration of Justice and Legal Services (AJLS Panel) at Annex) would amend the existing procedures for civil appeals, under which appeals go to the Court of Appeal and then to the Court of Final Appeal, to allow appeals in certain cases to go direct to the Court of Final Appeal. Such cases are not subject to the unique time and constitutional considerations inherent in the CE election and will be subject to the special conditions set out in paragraph 33 of the Annex. Given the different purposes and circumstances, it is reasonable for the general “leapfrog” proposals to differ from the direct appeal procedure proposed under the CE Election Bill.

The Administration has been consulting the LegCo AJLS Panel on the general “leapfrog” proposal for civil appeals and would take into account the Panel’s view before finalizing the relevant legislative proposals.

Constitutional Affairs Bureau
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