

立法會

Legislative Council

LC Paper No. CB(2)927/02-03

(These minutes have been
seen by the Administration)

Ref : CB2/PL/CA

Panel on Constitutional Affairs

**Minutes of special meeting
held on Tuesday, 10 December 2002 at 2:30 pm
in Chamber of the Legislative Council Building**

- Members present** : Hon Andrew WONG Wang-fat, JP (Chairman)
Hon Emily LAU Wai-hing, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, JP
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Dr Hon Philip WONG Yu-hong
Hon Howard YOUNG, JP
Dr Hon YEUNG Sum
Hon SZETO Wah
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
- Members Attending** : Dr Hon David CHU Yu-lin, JP
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Eric LI Ka-cheung, JP
Hon Andrew CHENG Kar-foo
Dr Hon TANG Siu-tong, JP
Hon LI Fung-ying, JP
Dr Hon LO WING-lok
Hon WONG sing-chi
- Members absent** : Hon Margaret NG
Hon YEUNG Yiu-chung, BBS
Hon TAM Yiu-chung, GBS, JP
- Public officers attending** : Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Mr Bassanio SO Chek-leung
Acting Deputy Secretary for Constitutional Affairs

Ms Eva YAM
Principal Assistant Secretary for Constitutional Affairs

Clerk in attendance : Mrs Percy MA
Chief Assistant Secretary (2)3

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mr Paul WOO
Senior Assistant Secretary (2)3

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2004 Legislative Council elections :
Functional constituencies and other electoral arrangements
(LC Paper No. CB(2)661/02-03(06))

At the invitation of the Chairman, Secretary for Constitutional Affairs (SCA) briefed members on the Administration's paper (tabled at the meeting and circulated vide LC Paper No. CB(2)661/02-03(06)), which set out the Administration's recommendations on the electoral arrangements for the functional constituencies (FCs) and other electoral arrangements for the 2004 Legislative Council (LegCo) elections. The recommendations were summarised as follows -

Delineation of electorate of FCs

- (a) The existing 28 FCs should continue to return 30 Members to the third term LegCo. The composition of these FCs should remain broadly unchanged. However, technical amendments would be made to tie in with the developments and situation of the relevant FCs;
- (b) Consideration would be given to including registered Chinese medicine practitioners in the Medical FC;

Provision of partial financial support to LegCo candidates

- (c) Financial support would be provided to a candidate in accordance with the number of valid votes received, at the rate of \$10 per vote

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but capped at 50% of the actual election expenses incurred. Only candidates who got elected, or those who had received 5% of valid votes or more, would be given financial support. The proposed arrangements would be applicable to candidates in both the geographical constituencies (GC) and FC elections;

- (d) Free mailing for candidates would be reduced from two rounds to one;
- (e) The existing threshold for the return of election deposit would be reduced from 5% of the valid votes to 3%;
- (f) The free TV and radio air time on Radio Television Hong Kong would be maintained for candidates to promote their election platforms; and

Printing of names and emblems of political parties or organisations or photos of candidates on ballot papers

- (g) Candidates would be allowed to have the names and emblems of their parties (or organisations) or their photographs printed on the ballot papers.

2. SCA further informed members that with respect to direct elections for GCs, the Government was currently conducting an examination of the number of GCs and the number of LegCo Members to be returned by each GC at the 2004 elections. Upon completion of the examination, the Administration would report its recommendations to the Panel as soon as possible.

Issues raised by members

Medical FC

3. Dr LO Wing-lok said that registered doctors and dentists were generally in support of the establishment of a separate Chinese Medicine FC. As regards the Government's proposal to include registered Chinese medicine practitioners in the Medical FC, he opined that the Administration should conduct extensive consultation with all interested parties concerned before taking a decision on the matter. Dr LO said that he would consult his constituents and interested parties on the proposal.

4. SCA informed members that in the context of the 2000 LegCo elections, the Administration did consider the possibility of including registered Chinese medicine practitioners in the Medical FC. The proposal was subsequently withdrawn as the statutory framework for registering Chinese medicine practitioners was not yet fully ready in early 2000. However, the

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Administration undertook to revisit the proposal for the third term LegCo elections. Given that a statutory registration regime had been put in place and the estimation that several thousand Chinese medicine practitioners would have been properly registered by mid-2004, the Administration agreed in principle to consider including registered Chinese medicine practitioners in the Medical FC. SCA said that the Administration would consult the relevant professions and interested parties before deciding on the proposal. He added that there would be opportunities for all parties to express their views before and after the amendment bill was introduced into LegCo.

Paid election advertisements and election expenses limit

5. Mr James TIEN asked whether the Administration would consider allowing paid election advertisements on TV and radio by LegCo candidates for the purpose of promoting their election, a practice adopted by some countries. He also asked whether the limit of election expenses would be dispensed with.

6. SCA responded that the position of the Administration was that candidates should not be encouraged to use paid election advertisements as a means to promote their election. He said that candidates might make use of the free TV and radio free air time on Radio Television Hong Kong to promote their election platforms. As regards the election expenses limit, he advised that the Administration had yet to finalise its recommendation on the issue.

Delineation of electorate of FCs

7. Mr CHEUNG Man-kwong said that Annex II of the Basic Law (BL) prescribed that 30 seats of the third term LegCo would be returned by GCs through direct elections, and the remaining 30 seats by FCs. The BL, however, did not set out how the FC electorate should be constituted. He enquired whether the Administration would consider introducing changes to the composition of the electorate, e.g. enlarging the size of the electorate to include individual FC electors, if there were strong voices within the relevant sectors and professions calling for election by "one man, one vote". He opined that the Administration should conduct broad consultation on the matter.

8. SCA said that the Administration would take into account new developments in the FCs and make adjustments to tie in with the present situation of the FCs. He pointed out that some technical amendments would be introduced, as outlined in paragraph 6 of the Administration's paper. He said that the stance of the Administration was that the existing 28 FCs effectively reflected the role of and contributions made by the various sectors (economic, financial, professional, labour and others) to the community, and provided a representative voice for these sectors in LegCo. He further said

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that the Administration would listen to views on the proposed electoral arrangements in the coming months. So far, he had not received suggestions from constituents of any particular FCs to change the composition of the electorate.

9. Mr WONG Sing-chi and Mr Andrew CHENG expressed the view that the electorate of FCs should be enlarged. Mr WONG pointed out that the electorate of some FCs was smaller than that of a District Council (DC) constituency.

10. SCA responded that the nature of DC elections and FC elections was different. The role of DC members was to look after the interests of residents of local districts whereas that of LegCo Members returned by FCs was to represent the unique interests of particular trades and industries, sectors and professions.

11. Mr Andrew CHENG said that the existing corporate electors of FCs, many of them were large corporate bodies and employers, were unlikely to support changes to the electorate because their interests were already represented. He said that the interests of employees in the various sectors should not be overlooked. He opined that when conducting consultation on the delineation of FC electorate, the Administration should take initiative to seek the views of individual employees, in particular the front-line workers, in the relevant sectors. He added that there were widely held opinions among constituents in some sectors, e.g. the financial services, real estate and insurance sectors, that both corporate bodies and individual employees should have a vote in electing candidates to represent them in LegCo.

12. Mr Andrew CHENG further pointed out that SCA was the youngest Director of Bureau among the existing Directors. Hence, he had high expectation that SCA could bring in new thinking on how constitutional development should progress in Hong Kong, and that SCA could assume a more proactive role in promoting democracy in Hong Kong.

13. SCA said that LegCo Members returned by FCs had fulfilled their role of representing the overall interests of their constituencies, without prejudicing the interests of the employees in the relevant sectors and professions. He said that as the constituents of FCs, and the system of election to them, had been well established and generally accepted by the public, the Administration was of the view that the composition of the existing 28 FCs should remain broadly unchanged for the 2004 LegCo elections.

14. SCA further said that constitutional development in Hong Kong had to be in compliance with the blueprint laid down in the BL, i.e. in accordance with the principle of gradual and orderly progress and in the light of the actual situation in the Hong Kong Special Administrative Region (HKSAR). He

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pointed out that the present proposal of the Administration to provide partial financial support to candidates standing for LegCo elections and other related arrangements would have the effect of encouraging public-spirited people to take part in elections as well as facilitating the development of local political parties and groups in Hong Kong.

15. Ms Emily LAU pointed out that in responding to her oral question raised at the Council meeting on 13 November 2002 concerning FC elections, SCA had said that progressive constitutional development in Hong Kong was given expression in the form of the increase of directly elected seats for GCs. As regards FC elections, development would have to be determined by the actual situation of the HKSAR. She said that the principle of progressive development should not be limited to GC elections only. She opined that even if FC elections were to be retained at the present stage, the size of FC electorate should be expanded.

16. SCA responded that the principle of gradual and orderly progress stated in BL applied to constitutional development in Hong Kong in the overall sense. The increase of directly elected seats for GCs from 20 to 24 for the second term LegCo, and from 24 to 30 seats for the third term, was a manifestation of the principle of progressive development. Regarding FC elections, the Administration was of the view that the existing system of returning candidates to LegCo was satisfactory, and the composition of the 28 FCs was representative of the interests of different sectors in the territory. He said that the proposal to consider including Chinese medicine practitioners in the Medical FC and other necessary amendments to reflect the new developments in the FCs would further enhance the representativeness of FC elections.

17. The Chairman said that he had previously made proposals on reform of functional constituencies in the context of the Legislative Council (Electoral Provisions) (Amendment) Bill 1994. He invited the Administration to make reference to his views expressed at the resumption of the Second Reading debate on the Bill on 29 June 1994 which represented a completely different concept of electing functional constituencies.

The way forward

18. Ms Emily LAU suggested that the Panel should seek public views on the Administration's proposals. The Chairman said that members could discuss the way forward at the next meeting to be held on 16 December 2002.

19. There being no other business, the meeting ended at 3:10 pm.