

Prepared remarks of David M. Webb, Editor of Webb-site.com, to the Constitutional Affairs Panel of the Legislative Council, 16-Jun-03

Honourable members, you sought views on two questions.

Firstly, whether the phrase “terms subsequent to the year 2007” should include the third term of the Chief Executive.

The legislative intent is very clear from logical analysis. I refer to Annex II of the Law, which relates to the terms of the Legislative Council. This clearly specifies a formation method for the second and third terms only, originally commencing in 1999 and 2003. Section III is then titled “Method for the formation of the Legislative Council and its voting procedures **subsequent to the year 2007**”. The only logical interpretation is that this section applies to the fourth legislative term onwards, originally commencing in 2007.

Now if the Basic Law is internally consistent, then it must follow that the same phrase in Annex I has the same meaning as it does in Annex II. That is, it must include the Chief Executive term commencing in 2007.

As a secondary argument, if the phrase in Annex I was really intended to refer only to the fourth Chief Executive term commencing in 2012, then surely it would have said “terms subsequent to 2011” rather than “terms subsequent to 2007”.

Your second question is whether the method for selecting the third term Chief Executive should be included in a constitutional review to be conducted in 2004 or 2005. It follows from my first answer that this must be the case, and we must start now.

As a British Citizen and as a Hong Kong Permanent Resident, I have always felt some shame that the colonial government did not implement democracy before agreeing in 1984 to a return of sovereignty.

As most of you know, I spend much of my time seeking improvements in corporate governance, and at the highest point of governance must be a competitive process for the selection of management by the shareholders of a company. By parallel, the shareholders of

this Government are the citizens of Hong Kong, and they should have the right to elect its Chief Executive.

Hong Kong has always claimed to have a free market economy, but at its root, a successful free market depends on fair competition, and that includes competition in setting the policies which govern that economy, which in turn implies competition between policy-makers. Without a fair competition for policy makers at the ballot box, there can be no true free market. It is no coincidence that we are one of the few developed economies with neither a competition law nor a competition for laws.

The difficult decisions and actions of the Chief Executive are made with the knowledge of accountability to his or her electorate, and hence in the best interests of that electorate. So long as that electorate continues to be a small circle dominated by tycoons, then we can expect decisions to be made in the best interests of tycoons rather than in the best interests of the people and future of Hong Kong.

Thank you for your attention.