

CB(3)/B/P2/EL1(97-98)
2869 9461
2877 9600

14 November 1997

Hon Eric LI Ka-cheung, JP
Room 1021, 10/F
Sun Hung Kai Centre
30 Harbour Road
Wanchai, Hong Kong

Thank you for your letter of 22 October 1997 in which you asked me to give a private ruling on whether you may introduce a Member's Bill to alter the composition of the Social Welfare Functional Constituency so that only registered social workers may vote in the said Constituency. I have studied your letter and the additional information provided by you on 23 October 1997 and 5 November 1997. I have also considered the response of the Secretary for Constitutional Affairs and the views of the Counsel to the Provisional Legislative Council.

I rule that you may not introduce your proposed Legislative Council (Amendment) Bill 1997. The proposal in the bill falls within the purview of Rule 51(3) of the Rules of Procedure of the Provisional Legislative Council, and it is my considered opinion that the bill relates to political structure.

I shall explain below the rationale for my ruling.

Your proposed bill aims to amend the Legislative Council Ordinance (Ord. 134 of 1997) enacted by the Provisional Legislative Council on 28 September 1997. You pointed out that the composition of the Social Welfare Functional Constituency as amended by your proposed bill is not in conflict with the decision of the Preparatory Committee for the Hong Kong Special Administrative Region regarding the formation of the first Legislative Council. I agree. It follows that your proposed bill relates to the decision of the Preparatory Committee on the specific method for the formation of the first Legislative Council which is an integral part of the political structure referred to in Article 74 of the Basic Law.

Chapter 4 of the Basic Law is entitled “Political Structure” and Section 3 of the said Chapter is on “The Legislature”. Article 68 in the above Section refers to the specific method for forming the legislature. In explaining the Basic Law and its related documents to the National People’s Congress on 28 March 1990, the Chairman of the Drafting Committee for the Basic Law, Mr JI Pengfei, spoke at length on the political structure and specifically referred to the method for forming the Legislative Council as one of the main stipulations contained in Chapter 4 and Annex II.

Taking all the above together, I have found no basis for concluding that the method for forming the Legislative Council is not related to the political structure. Such method includes, among others, prescribing the composition of the Legislative Council and providing for the eligibility of electors and of candidates standing for election to the Council. All these matters are related and are contained in Parts III, IV, V and VI of the Legislative Council Ordinance which the Provisional Legislative Council enacted.

In my view, to be caught by the provision of “relate to political structure” in the Rules of Procedure, it is not necessary that the proposed bill be in conflict with Article 68 and Annex II of the Basic Law and/or the decision of the Preparatory Committee; it is sufficient that the bill relates to them and thus relates to the political structure.

(Rita FAN)
President