

立法會
Legislative Council

LC Paper No. CB(2)521/99-00

(These minutes have been
seen by the Administration)

Ref : CB2/BC/11/98

Bills Committee on District Councils Bill

Minutes of Meeting
held on Thursday, 28 January 1999 at 8:30 am
in Conference Room A of the Legislative Council Building

- Members Present** :
- Hon Ambrose LAU Hon-chuen, JP (Chairman)
 - Hon David CHU Yu-lin
 - Hon Cyd HO Sau-lan
 - Dr Hon Raymond HO Chung-tai, JP
 - Hon Lee Kai-ming, JP
 - Hon Ronald ARCULLI, JP
 - Hon Christine LOH
 - Hon CHAN Wing-chan
 - Hon CHAN Kam-lam
 - Dr Hon LEONG Che-hung, JP
 - Hon Andrew WONG Wang-fat, JP
 - Hon WONG Yung-kan
 - Hon Jasper TSANG Yok-sing, JP
 - Hon Howard YOUNG, JP
 - Hon YEUNG Yiu-chung
 - Hon LAU Wong-fat, GBS, JP
 - Dr Hon TANG Siu-tong, JP
 - Hon Andrew CHENG Kar-foo
 - Hon TAM Yiu-chung, JP
- Members Absent** :
- Hon James TIEN Pei-chun, JP
 - Hon LEE Wing-tat
 - Hon Fred LI Wah-ming
 - Hon MA Fung-kwok
 - Hon CHEUNG Man-kwong
 - Hon Ambrose CHEUNG Wing-sum, JP
 - Hon SIN Chung-kai

Hon Emily LAU Wai-hing, JP
Hon SZETO Wah

- Public Officers :**
- Attending**
- Mr Robin IP
Deputy Secretary for Constitutional Affairs 2
- Mrs Maureen CHAN
Deputy Secretary for Constitutional Affairs 3
- Mr Paul WONG
Principal Assistant Secretary for Constitutional Affairs
- Mr Augustine CHENG
Deputy Director of Home Affairs
- Mr James O' NEIL
Principal Government Counsel (Elections)
- Mrs N DISSANAYAKE
Senior Assistant Law Draftsman
- Mr Vidy CHEUNG
Senior Assistant Law Draftsman
- Clerk in Attendance :** Mrs Constance LI
Chief Assistant Secretary (2) 2
- Staff in Attendance :** Mrs Justina LAM
Assistant Secretary General 2
- Mr Jimmy MA
Legal Adviser
- Miss Flora TAI
Senior Assistant Secretary (2) 2
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I. Membership of the Bills Committee

Members noted that Hon Mrs Selina CHOW had withdrawn from the Bills Committee with effect from 26 January 1999.

II. Further Committee Stage amendments proposed by the Democratic Party

2. Members noted that the Democratic Party had proposed further Committee Stage amendments (CSAs) on 27 January 1999 relating to the functions of District Councils (DCs) and Village Representative (VR) elections.

Functions of District Councils

[Paper No. CB(2)1191/98-99(01)]

3. Mr Andrew CHENG briefed members on the CSAs proposed by the Democratic Party to strengthen DC functions. The CSAs were intended to empower DCs to set priorities for Category D projects of the Public Works Programme for the District and to require chairmen of DC committees to attend meetings of the District Management Committees (DMCs).

4. Deputy Director of Home Affairs (DD(HA)) responded that the Administration did not consider the proposed new Clause 59(c) necessary for the following reasons -

- (a) subclause 59(a)(iii) had already provided for the role of DCs in advising the Government on the adequacy and priorities of Government programmes for the District; and
- (b) government departments well understood the need to consult the respective DC on any Government programme which might affect the District.

5. Mr Ronald ARCULLI asked how the proposal would be implemented for projects affecting more than one District. Mr Andrew CHENG explained that a co-ordinating mechanism, e.g. working group comprising representatives of DCs concerned, could be set up to resolve differences in opinions among affected parties.

6. Mr Ronald ARCULLI inquired whether the Basic Law had any restrictions on the functions of DCs. He was concerned that the proposed CSAs might be in contradiction of the Basic Law. In response, Legal Adviser (LA) drew members' attention to Section 5 of Chapter IV in the Basic Law concerning the nature and functions of district organizations. According to Article 97

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therein, district organizations were not organs of political power, and they were to be consulted by the government on district administration and other affairs, and be responsible for providing services in such fields as culture, recreation and environmental sanitation. Article 98 also stipulated that the powers and functions of the district organizations, and the method for their formation, shall be prescribed by law.

7. Mr ARCULLI remarked that the DC function proposed by the Democratic Party was not included in the Basic Law, and that even the Legislative Council (LegCo) itself did not have the power to decide the priorities of Public Work Programmes as it would have charging effects. Mr Andrew WONG commented that the Basic Law had not specifically precluded DCs from having decision-making powers in district administration. As the issue touched upon the interpretation of Basic Law, the Chairman advised that the issue would require careful examination by the Administration and Legal Service Division.

8. With regard to Democratic Party's proposed CSAs to clause 69 concerning the attendance of chairmen of DC committees at the meetings of DMCs, DD(HA) explained the operation of DMCs which was not specified in legislation. He said that it had been the practice that the District Officer would chair the DMC which comprised representatives of other government departments. The DMC would submit written reports to the District Boards (DBs) on its discussions and progress made in solving problems in the District. To enhance the role of DCs in district administration, the Administration was considering inviting the Vice Chairman in addition to the Chairman of a DC to be a member of the DMC. As there would be sufficient channel of communication and cooperation between DC and DMC, the Administration did not consider the Democratic Party's CSA necessary.

9. Mr Ronald ARCULLI inquired about the difference between a DC committee and DMC. He pointed out that if the DMCs were to be given legal status, it would also be necessary to specify in legislation the composition, functions and operation of DMCs. DD(HA) and Deputy Secretary for Constitutional Affairs 3 (DS(CA)3) clarified that DMCs were only administrative bodies to assist the DBs or DCs in district administration. The functions of a DMC were mainly to identify solutions for problems in the District and make recommendations to the DC. The Administration had plans to include the Vice Chairman of DCs to be a member of DMC subject to LegCo agreement to the proposed provision of a Vice-Chairman for a DC. It would not be effective if the membership of DMC was enlarged to include too many DC members, as there was already adequate communication channel between the District Board (DB) and the DMC. DS(CA)3 said that the Administration could not agree to the Democratic Party's proposal.

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10. Mr Andrew CHENG clarified that the Democratic Party only proposed that the chairmen of DC committees should attend DMC meetings as non-members, so that they could give advice on specific district issues which they were familiar with. He then sought legal opinion as to whether the proposed CSA was technically in order. LA advised that there might be technical problems with the drafting, as DMC was currently not included in the legislation or the Bill. LA explained that, save the exceptions as described below, reference in legislation to an entity would only be made if the entity did exist in law. The exceptions were -

- (a) the legislation in question was enacted specifically for the establishment of that entity; and
- (b) there was sufficient evidence that the entity had operated continuously and steadily over a long period and there was no doubt that the entity would continue to exist.

11. Mr ARCULLI commented that it was not possible to confer legal status to a DMC with the proposed CSA, as there was no mention of the DMC or its functions in any legislation. Mr Andrew WONG shared the views of Mr ARCULLI that the drafting of the proposed CSA was inadequate for the purpose. LA suggested Mr CHENG to further discuss with the Administration on his CSA in order to gather factual information to assist him to decide on the wording of the proposed CSA.

12. Mr CHAN Kam-lam also expressed reservation on the usefulness of the CSA which only sought to empower the chairmen of DC committees to attend DMC meetings. He was of the view that DMCs were part of the administrative structure and should best be left to the Administration to consider. Mr TAM Yiu-chung added that the proposed CSA might not achieve any purpose if the DMCs subsequently changed their names.

13. Mr Andrew CHENG held the view that the proposed CSA had not contravened any existing legislation. He informed the meeting that the Democratic Party had been pressing the Administration to strengthen the communication between DCs and DMCs. He would consider improving the drafting of the CSA in view of members' comments.

Village representative elections

[Paper No. CB(2)1191/98-99(02)]

14. Mr Andrew CHENG briefed members on the proposed CSAs concerning village representative (VR) elections. He said that the Democratic Party had strongly urged for the abolition of ex officio membership in DCs as it went against the principle of open and fair elections. Referring to the supplementary

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information provided by the Administration on the number of ex officio seats in each DC, Mr CHENG pointed out that the number of ex officio seats in the Islands DC would exceed half of its total membership. He explained that the Democratic Party's CSA sought to bring the VR elections under the regulation of the Corrupt and Illegal Practice Ordinance (CIPO), Cap. 288 to guard against unfair VR elections. He informed members that there had been complaints that female indigenous villagers who were married to persons outside the villages had not been allowed to vote in the VR election. There were also cases that some indigenous villagers and non-indigenous villagers who had resided in the villages for over ten years were excluded from registration as voters for the VR elections. Mr CHENG said that the CSA sought to amend Heung Yee Kuk Ordinance to enable it to make regulations for VR elections, and to empower LegCo to amend such regulations by resolution.

15. Deputy Secretary for Constitutional Affairs 2 (DS(CA)2) referred to the object of the Bill which was to provide for the declaration of Districts, the establishment, composition and functions of DCs, the procedures for election of persons to be members of DCs; and to provide for other related matters. He had doubts as to whether the proposed CSA relating to VR election was within the ambit of the Bill. In this connection, LA advised that according to the Rules of Procedure of LegCo, an amendment must be relevant to the subject matter of the Bill and that of the clause to which it related. It would be the President's decision as to whether an amendment was outside the scope of the Bill. However, consequential and miscellaneous amendments in general should not involve any amendment of a policy nature. Mr Andrew WONG was of the view that the CSA fell outside the scope of the Bill.

16. The Chairman then invited the Administration to give a preliminary response to the proposed CSAs. DD(HA) took the opportunity to brief members on the arrangement of VR elections. He said that the Administration and Heung Yee Kuk had agreed on a set of the Model Rules for VR elections in 1994. The Model Rules stipulated that VR elections should base on the principles of one-person-one vote, equal voting rights for men and women and fixed four-year term for VRs. DD(HA) informed members that about 95% of the villages in the New Territories had elected their VRs in accordance with the Model Rules, while the remaining villages would conduct the new round of elections when the term of the incumbents VRs expired in March 1999. Section 3(3) of Heung Yee Kuk Ordinance (Cap. 1097) had empowered the Secretary for Home Affairs (SHA) to endorse the status of an VR so that the VR could take part in the work of the Rural Committee and Heung Yee Kuk. The agreement was that SHA would not endorse the status of an VR who was not elected in accordance with the principles of the Model Rules.

17. With reference to the voting right of female indigenous villagers who were married to persons outside the village, DD(HA) said that female indigenous

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villagers definitely had voting right but it might be unclear as to which village or district they belonged. DD(HA) further explained that all villagers were in principle entitled to vote in a “non-indigenous” village but eligibility of non-indigenous villagers in an “indigenous” village would depend on the tradition and practice of the village concerned. The Administration had all along respected the traditions of these villages. DD(HA) pointed out that it was inappropriate for CSAs relating to VR elections to be moved in the context of the Bill; therefore the Administration did not support the proposal. DS(CA)2 also advised that the Administration had informed the LegCo Panel on Constitutional Affairs of its proposals to review CIPO, and a Bill would soon be introduced into LegCo. It would therefore be more appropriate for issues relating to VR elections to be considered in that context. In this connection, Dr TANG Siu-tong pointed out that CIPO applied to elections of Rural Committees and to any election to fill a vacancy for the chairman, vice-chairman or a member of the Executive Committee of a Rural Committee. In response to Mr Andrew CHENG, DS(CA)2 said that he could not confirm at the present stage whether the legislative review on CIPO would cover the regulation of VR elections.

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18. Mr Andrew CHENG said that although the Administration claimed that about 95% of the New Territories villages had elected their VRs in accordance with the Model Rules since 1994, he doubted very much that these elections had actually followed the rules. He urged the Administration to closely monitor the process of VR elections. Mr CHENG also requested Administration to provide the membership list of all Rural Committees and the Heung Yee Kuk including the Justices of Peace for reference.

**III. Committees Stage amendments proposed by Hon Andrew WONG/
Hon Christine LOH**
[Paper No. CB(2)1158/98-99(06)]

19. Mr Andrew WONG informed members that Hon Christine LOH and himself had jointly proposed three sets of CSAs as detailed in Lists 1-3 of the paper [Paper No. CB(2)1158/98-99(06)].

DC Chairman to be directly elected (List 1)

20. Mr Andrew WONG briefed members on the proposal for a DC Chairman to be directly elected. Members noted that the proposed amendments mainly sought to replace the existing system of electing the Chairman from among the members by a system of directly electing the Chairman of a DC by all electors in the District concerned. The CSA also sought to create an additional member for each DC Chairman of the DC. Mr WONG said that the proposal did not provide for a Deputy Chairman for each DC because the post could not be justified on functional grounds. The details of the proposal were as follows -

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- (a) an elector in a District would be given two ballots on the election day - one for the election of a member to represent his constituency and the other to elect the Chairman of the DC of his District;
- (b) a candidate could be nominated concurrently for the election of a member and a Chairman of a DC of the same District;
- (c) a candidate could not be nominated concurrently as a candidate for more than one constituency; and
- (d) a Temporary Chairman would be elected by the DC if the office of Chairman was vacated pending a by-election of the Chairman.

21. DS(CA)2 responded that the Bill proposed for a DC Chairman to be elected from among DC members, and that the system had been adopted since the establishment of DBs. The system had operated well so far and was generally accepted. This being the case, the Administration did not see any need to change the well-established system. With regard to Hon Andrew WONG's proposal, the Administration had identified several problems as follows -

- (a) there would be an anomaly if a candidate succeeded in the election of the DC Chairman but failed to be elected as a member in a constituency;
- (b) it would deprive ex officio and appointed DC members of the opportunity to be elected as DC Chairmen; and
- (c) a by-election of the DC Chairman would have to be held and extra public expenses would be incurred to fill an office of Chairman which was vacated.

In view of these problems, DS(CA)2 said that the Administration could not support the CSAs proposed.

22. In response to Mr Ronald ARCULLI's enquiry about the method of electing the chairmen of local councils in other countries, Mr Andrew WONG said that chairmen of local councils in overseas countries were normally elected from among the members but some local administration did have a strong mayor system. Mr Andrew WONG clarified that the purpose of his proposal was to provide a DC with a Chairman with public mandate, so that the Chairman would have much stronger influence on the Government. In this connection, Ms Cyd HO expressed concern that if a DC Chairman was not elected from among the DC members, the Chairman might have difficulties commanding co-operation of his fellow members, thus hampering the efficiency of the DC. Mr Andrew

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WONG responded that even if the Chairman was elected from among the members, he might not necessarily have majority support within the DC, and it depended much on one's political skills.

23. Mr CHAN Wing-chan expressed reservation on the proposal, as he considered it too complicated to implement. Mr David CHU said that he did not support the principle of the proposal. He pointed out that one important role of a DC Chairman was to represent the interest of the whole DC. He queried whether the DC Chairman would remain impartial in conducting the business of the DC if he only represented his own electors. Mr Andrew WONG responded that a DC Chairman would be bound by the standing orders of each DC in conducting the business and he could not distort the views of the DC.

24. Ms HO Sau-lan said that she did not agree with the Administration that the proposal would deprive ex officio and appointed members of the opportunity to be elected as DC Chairmen, as they could choose to compete for the office by participating in the election. Mr Andrew CHENG shared her view.

25. Mr Andrew CHENG and Ms HO Sau-lan said that they supported the proposal in principle but had concerns about its technical feasibility. To overcome the problem in para. 21(a), Mr CHENG suggested that Mr Andrew WONG might consider revising his proposal to the effect that a candidate for the election of a DC Chairman would be disqualified if he failed in the election of a constituency within that District. Ms HO also expressed concern that if a candidate could be nominated concurrently for the election of member and Chairman of a DC within the same District, the candidate would not be able to represent his constituency if he was elected DC Chairman. Mr Andrew WONG responded that it was a preliminary proposal and he would welcome members' views to refine the arrangements. To address members' concerns, amendments could be made to the effect that a candidate could not be nominated concurrently for the election of a member and a Chairman of a DC within the same District; and a member of a DC must first resign from the DC before standing for the by-election of a DC Chairman. Regarding the Administration concern's about the cost of a by-election for an office vacated by a DC Chairman, Mr Andrew WONG opined that a by-election would have to be held anyway when an office was vacated by any DC member.

26. Ms HO said that she had doubts about the effectiveness of the proposal, having regard to the fact that future DCs remained to be advisory in nature without executive powers. While the proposed election of DC Chairman had moved in the right direction of democratic development, it would have to be complemented by corresponding changes to the system of local administration. Mr Andrew WONG replied that if the DC Chairman was selected by direct election, he would be in a much stronger position in dealing with the District

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Officer of the District concerned and would be able to bring about changes to the local administration.

27. In response to the Chairman, DS(CA)2 confirmed that the Administration did not support the proposal.

Eligibility of appointed members (List 2)

28. Mr Andrew WONG briefed members on the proposal which would bar three categories of persons from appointment to DCs. These categories included (a) persons who had failed in an election of the DB/DC or municipal councils in the past six years, (b) persons who were politically active; and (c) persons who were members of a political body. Mr WONG explained that he had made reference to equivalent provisions in the Electoral Affairs Commission Ordinance (Cap. 541) in drawing up these CSAs. He had proposed to lengthen the disqualification period from four years to six years, and to prevent a person from appointment if he had been nominated as a candidate for any public election. Members noted that Mr Andrew WONG would move the CSAs only if the amendments to abolish appointed membership was voted down. Mr Andrew WONG said that one of the CSAs in List 2 would restrict the discretionary power of the Chief Executive under clause 11(3) to specify an appointment period which fell short of the full term or the remainder of the full term for appointed members.

29. DS(CA)3 reiterated that the provision for appointment for a shorter period under clause 11(3) was to provide some flexibility in the period of appointment for appointed members, and previous DB Ordinances also had similar provisions. She pointed out that the Chief Executive had the same discretionary power in making appointment to many other statutory bodies. However, the Administration would be prepared to re-consider the provision in view of members' concern.

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30. With regard to the eligibility of appointed members, DS(CA)3 and DS(CA)2 said that it would be inappropriate to provide additional criteria in the legislation, other than those general provisions in Clause 12 and the disqualification provisions in Clause 14 of the Bill. DS(CA)3 expressed doubts as to whether provisions relating to the appointment criteria for the Electoral Affairs Commission should be made applicable to DCs. In this regard, Principal Government Counsel (Elections) (PGC(E)) explained the appointment criteria in the Electoral Affairs Commission Ordinance which were necessary to ensure the political impartiality of the Electoral Affairs Commission. He further drew members' attention to the fact that the disqualification provisions in Clause 14 which applied to appointed members were applicable to a person at the time of appointment and while he held office as an appointed member.

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31. Mr Howard YOUNG asked about the reasons for setting the disqualification period in Clause 14(1A)(a) to six years but not four years, as most members were of the view that only those persons who failed in the last elections should be barred from appointment. Mr David CHU also opined that a period of six years was unreasonably long and was unfair to persons who failed in the last election. Mr Andrew WONG explained that a six-year disqualification period was necessary because the last elections of the then DBs were held in 1994. He agreed that the disqualification period could be reduced to four years after the 1999 DC elections.

32. Mr Andrew CHENG said that he supported the proposal in principle but expressed concern as to how a person could be proved to be actively engaged in politics. Mr ARCULLI also raised similar concerns. Mr Andrew WONG responded that Mr CHENG might seek a legal opinion. He considered it a matter of judgement for the Chief Executive in deciding whether the person would or had become politically active when making the appointment, and the decision would be subject to public scrutiny. In response to Mr CHENG's further enquiry, Mr WONG explained that the disqualification criteria should apply both at the time of appointment and during the period of holding office. In this regard, Mr WONG said that he might include in the CSA the definition of "political body" as stipulated in the Electoral Affairs Commission Ordinance. As regards whether candidates of previous municipal council elections should be barred from appointment, Mr Andrew WONG said that he had no strong views in this respect, and the CSA could be modified in the light of members' comments.

33. Ms HO Sau-lan suggested that an appointed DC member should also be barred from appointment to the Selection Committee for the election of Chief Executive. Mr Andrew WONG said that the suggestion might exceed the scope of the Bill. LA reiterated that it would be up to the President of LegCo to decide whether an amendment was outside the scope of the Bill. To address Ms HO's concern, Mr Andrew WONG said that one alternative was to disqualify members of the Selection Committee from appointment to DCs. Ms HO informed members that the Frontier might consider proposing an amendment to that effect.

34. In response to Mr Ronald ARCULLI, Mr Andrew WONG responded that his CSAs were proposed on the understanding that appointed membership was to include in a DC professionals and businessmen who did not want to participate in elections. If a person was politically active or belonged to a political body, he should have participated in the election.

35. The Chairman asked the Administration about its position on the proposed CSAs. DS(CA)3 reiterated that the Administration did not support the CSAs. Mr Andrew WONG said that he did not understand why the Administration was opposed to the proposal. He pointed out that the proposal would dispel any criticism that the appointed membership was to create a pro-

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government camp in each DC and to influence the results of the elections of the Chief Executive and LegCo.

Functions of District Councils (List 3)

36. Mr Andrew WONG and Miss Christine LOH briefed members on their proposal to enlarge the DC functions. Members noted that the proposed amendments were adapted from the Provisional Regional Council Ordinance (Cap. 385) to empower DCs to assume functions and powers conferred on them by any Ordinance or directed by the Chief Executive. Mr WONG and Miss LOH explained that the CSAs proposed to enlarge the power of the DCs to include decisions on local public works and environmental improvements and to establish and maintain facilities for recreation, sports and culture when funds were made available for the purpose. This would change the role of a DC as an advisory body to an entity with some decision-making powers.

37. DS(CA)3 responded that the Administration would have to carefully consider the CSAs. However, her preliminary view was that Clause 59(b) of the Bill had already provided for DCs to undertake environmental improvements which covered minor works projects, and to promote recreation and cultural activities in the District. Moreover, clause 83 of the Bill also empowered the Chief Executive, after consultation with a DC, to give direction to that Council in relation to the performance of its functions. As such, she did not consider the CSAs necessary. Mr Andrew WONG reminded the Administration that Clause 83 only provided for the Chief Executive to give directions of a general character, but his proposed CSA to clause 59(b) would enable the Chief Executive to assign specific functions to a DC as deemed necessary from time to time. DS(CA)3 said that the Administration would need to carefully examine the CSAs and provide a detailed response later.

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38. Mr Ronald ARCULLI asked whether the DCs would have the resources and staff to undertake the duties in clause 59(b) or in the CSAs. DD(HA) then explained the existing funding arrangement for DBs. He pointed out that Mr Andrew WONG's proposal of empowering DCs to establish and maintain places and facilities for recreation, sports and culture would involve recurrent expenditure, and this was outside the current funding arrangement for DBs. Mr Andrew WONG responded that administrative arrangement could be made for a DC to hire its own staff or contract out the work, if it was agreed that DCs should be given the task to establish and maintain places and facilities for recreation, culture and sport. He was of the view that the proposal to confer functions and to impose duties on DCs by provision of necessary funds was permissible under the present constitutional framework, as long as DCs did not become executive bodies. Ms HO Sau-lan asked whether the Administration would allow DCs to be financially independent. DD(HA) replied that Home Affairs Department would allocate the funds to each DC every year based on the estimates of the DCs, and it would be up to the DC to decide how the money should be spent. In

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this connection, Mr Andrew WONG clarified that his proposal did not require a DC to be financially independent, and the fund controlling officer would continue to be the Director of Home Affairs.

39. Mr Andrew CHENG referred to the fact that the proposed functions in sub-clause 59(d) in the CSAs were similar to those of the municipal councils. He asked what would be the legal effect if the CSA was passed but the Administration's subsequent legislative proposal to abolish the Provisional Municipal Councils failed to materialise. Ms HO Sau-lan said that she supported the proposal to enlarge DC functions in principle but she also shared Mr CHENG's concern. She opined that the problem was caused by the Administration's failure to put forward a comprehensive proposal to review the two tiers of district organisations at the same time. In this connection, Mr Andrew WONG said that the CSAs would not give rise to overlapping functions even if the municipal councils continued to exist. He pointed out that under the existing structure, DBs had already undertaken environmental improvements and managed some recreation facilities through the District Offices.

40. Mr YEUNG Yiu-chung asked whether the proposed addition of "and powers" to the heading of Clause 59 would imply a change of the status of a DC as an advisory body. DS(CA)3 responded that in drafting the Bill, the Administration had made reference to Article 97 of the Basic Law which stipulated that district organisations could not be organs of political power. It was decided after careful consideration that the heading of Clause 59 of the Bill should be "Functions of a District Council". However, Mr Andrew WONG was of the view that it was unnecessary to directly equate the word "powers" with political power. He explained that the proposed heading in his CSAs was adapted from the relevant provisions of the Provisional Regional Council Ordinance in which the word "powers" was used in provisions to describe functions of the Provisional Regional Council. In this regard, PGC(E) drew members' attention to the definition of "function" in clause 2 which included a power and an authority. Referring to the Provisional Urban Council Ordinance (Cap. 101) and the Provisional Regional Council Ordinance (Cap. 385), Ms HO Sau-lan noted that separate provisions were made on the "functions" and "powers" for matters relating to food and environmental hygiene services and recreation and cultural activities.

41. Mr Andrew CHENG asked whether the proposed clause 59(b) in the CSA was redundant since clause 79(1) of the Bill already provided for the Chief Executive in Council to make regulations. Mr Andrew WONG replied that he had the impression that the regulations made under clause 79(1) were for the purpose of carrying out DC elections. PGC(E) clarified that the purpose of regulations to be made under Clause 79(1) would not be restricted to any Part of the Ordinance. PGC added that while these regulations would be made by way of subsidiary legislation, a direction to be made by Chief Executive under the

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proposed Clause 59(b) did not require any subsidiary legislation. Furthermore, Clause 83 of the Bill already provided for directions to be given by Chief Executive to a DC. Mr WONG did not agree with PGC(E)'s interpretation of Clause 83, pointing out that the directions under clause 83 must be of a general character. In this connection, LA advised that the Chief Executive would not be able to confer additional functions on a DC by directions under Clause 83, and that the scope of regulations to be made under Clause 79(1) could not exceed the DC functions as prescribed in the principal legislation.

IV. Committee Stage amendments proposed by Ms HO Sau-lan

42. Ms HO Sau-lan referred to her proposed CSAs relating to disqualification of a DC member from holding office if he was absent from meetings for four consecutive months. She said that she would revise the proposed amendments to include members' suggestion that the number of meetings should also be counted.

V. Legislative timetable

43. DS(CA)2 said that the Administration appreciated that the Bills Committee had made its best efforts to expedite the scrutiny of the Bill and that good progress had been made so far. The Administration noted that it would not be possible for the Bills Committee to finalise its deliberations for a report to be made to the House Committee on 29 January 1999. This being the case, the Administration had agreed to defer the resumption of the Second Reading debate on the Bill from 10 February to 10 March 1999. However, the Administration hoped that the Bills Committee would continue its scrutiny work and finalise its deliberations as soon as possible, as delays would affect the preparatory work for the elections. Ms HO Sau-lan expressed dissatisfaction that the Administration did not agree to defer the resumption of the Bill until such a late stage. She pointed out that the late decision had affected members' participation in other important Council business. In this connection, members noted that if the Second Reading debate was to resume on 10 March 1999, the Bills Committee had to report to the House Committee on 26 February 1999 and the deadline for CSAs would be 1 March 1999.

44. Mr Howard YOUNG suggested that the Bills Committee should aim to complete its scrutiny work by 9 February 1999 so as to allow more time for members to finalise their CSAs and to lobby other members. Mr Ronald ARCULLI shared similar views. Mr Andrew CHENG expressed reservation on Mr YOUNG's suggestion, considering that adequate time should be allowed for the deliberation of the Bills and that members had other important Council business to attend to. After discussion, the Chairman advised that the Bills

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Committee would try to complete the scrutiny work by 9 February 1999 as many members would be out of town during the Chinese New Year recess. Members agreed to schedule additional meetings before Chinese New Year.

45. DS(CA)2 informed members that as a result of the deferred timetable, the Administration would move an amendment to the Bill to the effect that the period of public consultation on the demarcation of constituency boundaries was adjusted to not less than 14 days, instead of 30 days as originally proposed. He appealed to members' support of the amendment, so as to allow adequate time for the Electoral Affairs Committee to complete its preliminary recommendations on constituency boundaries for submission to the Chief Executive.

VI. Dates of future meetings

46. Members agreed that the future meetings would be scheduled as follows -

- (a) Tuesday, 2 February 1999 from 2:30pm to 6:30pm; and
- (b) Thursday, 4 February 1999 from 8:30am to 12:30pm.

47. The meeting ended at 12:15 pm.

Legislative Council Secretariat

1 December 1999