

Administration's Response to Concerns raised on 10 March 1999
by Members of the Bills Committee
on Elections (Corrupt and Illegal Conduct) Bill

- C1 : The Administration to discuss with the Heung Yee Kuk the possibility of incorporating certain provisions of the Bill relating to corrupt conduct at elections into the "Model Rules" which govern the election procedures of VR.**
- A1 : We are discussing the suggestion with the Home Affairs Bureau and the Home Affairs Department. We will report back to the Committee as soon as possible.
- C2 : The Administration to consider ways to address members' concern that distributing election materials to electors might be regarded as offering an advantage to electors, e.g. to specify that election materials with no resale value or below a certain value and distributed in small quantity would not be considered as an advantage having valuable consideration as defined under clause 2 of the Bill.**
- A2 : The term "valuable consideration" is also used in other common law countries such as the United Kingdom and Australia. By defining the term "valuable consideration" to mean money or anything that is worth money, the term "advantage" under the Bill will not include things on which no money value can be put nor things which have merely a nominal value. This differs from the definition of advantage used in the Prevention of Bribery Ordinance, which could cover things with no value in money terms or merely a nominal value.

Whether an election gift is worth more than a nominal value has to be judged on the circumstances. There will be technical difficulties to define "resale value" or "small quantity". Alternatively, specifying an amount below which an election gift will not be counted as an advantage is too arbitrary and will be subject to abuse.

The definition must be read in the context of the relevant offence provision. For example, to constitute an offence of bribing an elector under clause 11, it has to be proved that the purported advantage is given or offered as an inducement to cause an elector to vote for a particular candidate or candidates.

Constitutional Affairs Bureau

18 March 1999