

**MR ANDREW WONG** (in Cantonese): Madam President, I rise to speak in support of the Legislative Council (Amendment) Bill 1999.

Madam President, I do not intend to deliver a long speech. I will only say a few words on two issues which I consider rather important. The first issue concerns the introduction of universal and equal elections in Functional Constituencies (FCs). The second issue is about the necessity of introducing a uniform voting system for all types of seats.

Members may still recall that in 1994, I successfully put forward a new voting system for FCs. I consider the existing system is fundamentally flawed; besides running counter to the principle of universal and equal elections, it is also plagued with all sorts of problems. For example, can veterinary surgeons join any particular functional sector? Should herbalists be regarded as medical practitioners? Or, should a separate functional sector be created for them? Moreover, we also see that the sizes of some functional sectors may be very large while those of others may be very small. The existing situation is that the smallest sector is composed of 50 people only, but the largest one has some 60 000 people. This is totally unequal, which is why sometimes, we do see the "big" eating up the "small".

All these problems can be solved if the scheme I advanced is implemented. The gist of my proposal is to allocate the 30 FC seats among five FCs, and these five FCs may be sub-divided into many more categories. The five FCs I propose are industries, commerce, labour, culture and education as well as social and public services. There shall be six seats for each FC, with all of them belonging to a FC having the right to run in the elections of that particular FC, and with all the people of Hong Kong having the right to vote. In other words, in addition to having a vote in the direct election of his Geographical Constituency (GC), an elector will also have one vote in each of the five FCs. As a result of this, FC elections will be able to conform to the principle of universal, equal and direct elections, and at the same time, we can also ensure that people belonging to different FCs can join this Council. By "universal", I mean that each person will have one vote, and everybody can vote in elections. By "equal", I mean that the votes cast by all people will carry the same weight.

In 1994, I opposed Miss Emily LAU's proposal of having 60 directly elected seats. Today, if she makes the same proposal again, I will also oppose it. The reason is that before the Basic Law is amended, such an amendment is largely meaningless, and will have no chance of taking any effect. This is a point I must state very clearly.

For this reason, when it comes to this Bill, because of the time constraints and the urgency of elector registration, even if we want to express our opposition to it in principle, we should just oppose its Second Reading, not the Third Reading. The reason is that if we oppose its Third Reading and if it is eventually voted down, it will simply be impossible to conduct any election in September 2000, because there will be no legal basis for any election. Well, it is of course possible to follow the old arrangements. But please do not forget that as stipulated in the Basic Law, there shall be 24 directly elected seats in the second Legislative Council, and the number of seats returned by the Election Committee shall be reduced from 10 to six. So, if we do not pass this particular part of the Bill, and if we adopt the old arrangements for the election in 2000, we will only have 20 directly elected seats, while the number of seats returned by the Election Committee remains at 10. I think this is a very important point to note.

Unfortunately, when I put forward the original proposal again during the time of the Provisional Legislative Council, the President ruled that it had already gone beyond the scope of the bill. Though I did not quite accept this viewpoint, I still respected the President's ruling. This time around, I have not put forward the proposal, because I had discussed with the Government beforehand in the Bills Committee, and the Government replied in writing that the scheme would involve a "charging effect". Specifically, it is said that if all people in Hong Kong are allowed to vote in FC elections, election expenses such as free postage will certainly increase drastically. I also remember that when the District Councils Bill was discussed, the President also ruled that my proposal on returning District Council Chairmen by direct elections would involve a "charging effect". I found this ruling very regrettable at that time. The Government may well face international criticisms, and my only hope is that even if it cannot introduce direct elections for all the 60 seats, and even if it has to retain the 30 FC seats, it will still consider the idea of complying with the

requirement of Article 25 of the International Covenant on Civil and Political Rights. This requirement ..... As pointed out by Mr Ambrose CHEUNG, this is in fact the most basic requirement. He dares not ask for direct elections, and he only hopes to see elections marked by universal participation and equality. Therefore, from that perspective ..... Well, the two seats held by the two Municipal Councils in this Council were categorized as FC seats, but I must say that even indirect elections can fulfil the principle of universal and equal elections. So, it is very much a pity that these two seats are now deemed necessary to be deleted.

Madam President, my second point is about the need to introduce a uniform voting system for different types of seats. On this, I wish to say that if we really have any faith in proportional representation — but I do not want to conclude whether proportional representation or the block vote system is better ..... but if we really have any faith in proportional representation, why do we not adopt it for the Election Committee, which now returns 10 Members but will return six later? The reason is simple and obvious. In the 800-member Election Committee Election, any political group, any alliance, which can get the support of 401 members ..... I mean, those 10 people (six people in the future) who can get the support of 401 members would surely be elected. If the direct elections held in GCs can adopt the system of apportioning seats among candidates of different parties or backgrounds according to their degree of support, the elections of the Election Committee should also adopt such a system.

Therefore, I have based my amendment on such an idea. Since I cannot put forward any proposals on reorganizing the FCs, I have simply added a new clause between these two clauses, and I have also made some minor amendments to these two clauses slightly. That is to say, the nomination lists for direct elections in FCs are to form the bases of nomination lists for the Election Committee. The same lists can be used. Section 38 on nomination lists for GCs reads as follows: "Section 38 applies with any necessary modifications to nomination lists for the Election Committee as if all references to a GC were references to the Election Committee." This is a new section. As for the voting system, the original section 52 is repealed and substituted by section 49: "Section 49 applies with any modifications to the system of voting and counting of votes for the Election Committee as if all references to a GC were references

to the Election Committee."

I hope that Members, on the premise of supporting the adoption of proportional representation as the voting system, will also support my amendments. Certainly, I think that it is better to restore the "single-seat, single-vote" system adopted in the past. In this connection, I may have to say a few words on Mr Gary CHENG's remarks. He thinks that proportional representation is better, but we should not forget that the "single-seat, single-vote" system is now adopted for District Board Elections. So, if we are to implement the "single-seat, single-vote" system on a full-scale basis, then Legislative Council Elections should also adopt such a system. But if we really think that proportional representation is good, then we should specify in the District Boards Ordinance that larger constituencies for district boards should be demarcated and that seats should be apportioned on a proportional basis. Therefore, on this matter, I will support Dr YEUNG Sum's reformist amendment on "single-seat, single-vote". If Dr YEUNG Sum's reformist amendment is passed, I will withdraw my amendments. This is because, first, I think that in principle, we can actually make a choice between the two; if we follow the District Boards Ordinance and adopt the "single-seat, single-vote" system, I can then give all my support to the "single-seat, single-vote" system, and for this reason, the Election Committee can also adopt the block vote system. I am not that stubborn after all. Moreover, if the "single-seat, single-vote" system is adopted for GCs, it will simply be impossible for my amendment to yield any effect, because it will have to follow the nomination lists and vote counting system of GCs before it can work. That is why it must be withdrawn.

With these remarks, Madam President, I support the Second Readings and Third Reading of the Bill.

**MRS SELINA CHOW** (in Cantonese): Madam President, to begin with, I wish to say that I fully support all the Basic Law provisions on the methods and pace of development of Legislative Council elections in the Hong Kong Special Administrative Region between now and 2007. The Liberal Party and I have always strongly supported all the relevant provisions of the Basic Law. Some Members explained how they looked at FCs a moment ago, and some even queried the value of FCs. Since we have discussed these points many times before, I do not intend to repeat my viewpoints here once again. Basically, we are of the view that under the special circumstances caused by our reunification with the Mainland, and given the need for a gradual and orderly development of

our political system, FCs definitely have their unique value.

That said, can FCs withstand challenges? As far as I can see, up to this moment, many people still agree that FCs can somehow perform a certain function. What I mean is that people still agree that under the comparatively special circumstances in Hong Kong, FCs can perform the function of balancing different aspirations, interests and ways of thinking. In spite of this, I must still say that whether or not FCs can withstand challenges at the end of the day will depend very much on their representativeness. I am of the view that in terms of ensuring the representativeness of FCs, the efforts made by the Government so far are not only inadequate, but also downright disappointing. There are some inadequacies or omissions in some FCs; some people once thought that they could enjoy privileges, but when people alerted the Government to these omissions, the Government simply refused to listen. I am sure that Mrs Miriam LAU will very much share my view, and this is precisely the reason why we have proposed our amendments.

Moreover, when it comes to the encouragement, support and administrative arrangements for electors in FCs, such as the work of assisting people in registering as electors in FCs, the Government has been doing a very poor job. This was also the case in the past. We can all see that most of the manpower and resources are spent on the direct elections held in Geographical Constituencies (GCs), one example being making home visits to ask people to register as electors. But for FCs, there is simply nothing like this, and even when people want to register as electors on their own initiative, they have to go through lots of procedures before they can do so. This will not possibly arouse their desire to register as electors; quite the contrary, their desire to do so will be dampened.

The Government really has to carry out a review on this problem. Well, the Basic Law provides that functional sector elections will continue to be held until 2007, and that a review will be conducted in 2007. For this reason, should the Government value FCs? Should the Government seek to ensure that FCs are always adequately representative as required?

I now wish to discuss whether or not the amendments proposed by some Members are in breach of Article 74 of the Basic Law. What requirements are set down in Article 74 of the Basic Law? Let me give a brief account of the requirements. Members may still remember that this issue was once discussed in the Rules of Procedure Committee and a report was given to Members in the House Committee. All Members at that time agreed that Article 74 of the Basic Law should be applied only to bills, not Members' amendments. Well, some Members say that Members' amendments should not touch upon Article 74, but even so, even when we interpret this Article in its narrow sense, we must still distinguish very clearly what kinds of amendments will touch upon Article 74.

Article 74 reads: "Bills which do not relate to public expenditure or political structure or the operation of the government .....". The amendments of Mrs Miriam LAU and I conform to the rules of the game within the existing political structure. That is to say, they are in compliance with the existing rules of the game. The only problem is that the Government has omitted some electors, and now these electors have come forward, telling the Government that it has omitted them, that they really belong to the FCs concerned, and that they all fulfil the requirements. Well, if they cannot fulfil the requirements, we cannot of course say anything for them. For example, if the requirements state that it should be an association, then they should not be qualified because they are individuals. Or, if it is required that only an association as a whole should have the vote, they cannot possibly ask for the vote as individual members of that association. Such cases are of course not proper, because the requirements are not met. But the real situation now is not quite like that. All the existing rules of the game are obeyed, and we are just telling the Government that it has omitted some electors. Why do people say that the political structure is involved? Our amendments simply do not relate to political structure; even if Article 74 is interpreted in the narrow sense, there should not be any problem with the amendments. How can the Government use this as a reason when lobbying our colleagues, threatening them that the amendments are in breach of Article 74? And, the Government is not alone in doing this; I have also heard some Members threaten their colleagues, saying that there may be some

problems with the amendments.

I very much hope that Members can realize what is really going on. Some amendments may be entirely different from other amendments. For example, there are just 30 seats for the FCs, but after branching out, there may be more seats than that. I do not wish to go into this here. Or, other amendments do relate to political structure. I do not want to talk about this too. What we are trying to say is that under the existing rules of the game applicable to the FCs, there are some omissions. But then the Government has tried to threaten Members with the Basic Law, saying that the amendments will violate Article 74. If Members accept its argument, instead of considering whether or not our arguments are substantiated and whether or not these eligible electors should be included in these FCs, they will be behaving most unfairly to these electors.

When the Secretary replies to our remarks a moment later, he will most certainly do so with full "ammunition". But we will be able to resist each and every shot which he may fire. To sum up, we advise the Government to think about the matter of FCs more thoroughly. If the Government holds such an attitude towards the FCs, that is, if it is bent on imposing a strict control on them and suppressing them high-handedly even when it should give them the reasonable degree of representativeness they deserve, it will only give more excuses of criticisms to Members like Miss Emily LAU. I hope the Government will think about the matter more thoroughly and consider this point seriously.

Madam President, I support the Second Reading of the Bill.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, with regard to this piece of legislation which sets out the rules of the game for the Legislative Council Election next year, what the public is most concerned about is probably how the Legislative Council will be formed, which is to say, how the Members will be returned. Madam President, it is unfortunate that you have not given your approval to Dr YEUNG Sum's proposed amendment to have all the 60 seats of the Council returned by direct elections. The grounds which you have based are the provisions in the Basic Law which is in itself not democratic at all in the way it has been drafted. But still I would hold the view that in the entire

Legislative Council Ordinance, the real crux of the problem is whether the 60 seats should all be returned by direct elections. It is also our greatest concern.

The issue of direct elections for the Legislative Council has been discussed on countless occasions in this Chamber, among the public and in the media over the past decade or so. There is nothing new in the arguments put forward by those who are opposed to direct elections over these years. They think that direct elections should be introduced gradually and democracy in Hong Kong is still immature and so it needs time to develop and so on. If we are to follow this line of logic, I believe the same excuse can be used over and over in the future, for even another decade or even decades to come. For these people politics in Hong Kong will never be mature enough for direct elections. When that day comes, their vested interests will be taken away. That is their greatest fear. It is also why they will keep on using this excuse, not just for now, but for the future. It will simply be a waste of time to discuss this problem.

Madam President, I remember a day from today will be exactly one year since we had a motion debate on the issue of full direct elections for the Legislative Council in the year 2000. The events which took place last year have convinced me that we must have full-fledged democracy as soon as possible. The Chief Executive and all the Members of the Legislative Council must be returned by the "one person, one-vote" system. If not, human rights, the rule of law, the people's livelihood and our economy will all deteriorate and degenerate.

I am not saying all these in scaremongering. What I have said is based on the many controversial events which happened last year. These include the way the Secretary for Justice handled the Sally AW case, the revival of the appointment system in the district boards, and the Government's attempt to increase fees and charges despite the adversities and economic downturn. All these are what the common people concerned most. But the Government is bent on having its own way and the voice of the people is simply ignored. Discontent is created but we can see no change on the part of the Government. It is still holding fast onto its own views. To put the situation in a popular saying: there is no change for the better in the people's livelihood without democracy.

In the face of these perverse acts of the Government, what kind of checks and balance can be expected from a Legislative Council which has only one third of its seats returned by direct elections? Apart from what happened last week when the Government's proposal to raise the parking meter charges was voted down by a narrow margin of one vote, the wish of the Government prevailed in most of the other controversial issues. But then more often than not, the wish of the Government clashes with that of the people. That shows how feeble the voice of the people is in this Council. It cannot make the wish of the people heard. Therefore, this Council must move in the direction of full direct elections and democratization. It is the only way that the wish of the people can find a full expression. The reason why this Council failed to express the wish of the people in the past was that the Council was itself a monstrosity formed by Members returned by FCs and through the Election Committee. Members from these two groups usually defend government policies. This, when coupled with the most absurd mechanism of voting in groups, only serves to silence the voices of the people.

Madam President, if we look at the opinion polls conducted over the past year, we can see a continuous drop in the popularity of the Chief Executive, Mr TUNG Chee-hwa and his administration. A death knell has sounded for the Administration as it is fast losing its mandate to rule. But has our Administration done any soul-searching and learned from its mistakes? From the policies and measures implemented, the Government is still what it used to be. It has never bothered to look into the problems which arise. It is still standing aloof and playing the happy prince while the voice of the people goes unheard. It is a government which shows a greater contempt for public opinion than the government that we used to have. I cannot help but feel that when the Council is not fully directly elected, there can never be any hope that the voices of the people can be heard.

Madam President, I would like also to explain from another perspective why the 60 Members of the Council should be returned through direct elections.

Recently, some residents of Tai O complained to me on a few issues, including the question of cutting the number of classes in schools, the nuisance caused by noise from the airport and so on. These residents of Tai O can well be said to be an "underprivileged community" and they are often neglected. Their rights and life are worse than those of the people living in urban areas. They are neglected under the existing system of direct elections. In a demarcation of constituencies for a full-scale direct election of the 60 seats, underprivileged communities like these would stand a better chance of having their interests taken care of. Public opinion can be better expressed in this Chamber and there will be more chances of communication and contact between the voters and the Members. I therefore hope that some day the 60 seats in this Council will all be returned by direct elections.

Madam President, the essential principle of holding elections lies in putting democracy into practice. The Legislative Council Ordinance which regulates elections must adhere to this principle and ensure that the elections are democratic and equal. Unfortunately, it is a certainty that this Ordinance can never hope to reach this target. However, some amendments proposed by Honourable Members will help to implement this principle of democracy and equality. So I would give them my support. These amendments include the restoration of the "single-seat, single-vote" system and to designate the polling day as a cooling-off period and to reimburse election expenses to candidates who have obtained a certain number of votes.

One of the essential elements of a democratic and equal election is to let all people who want to stand for election have an equal opportunity to get elected. Candidates from political parties with strong financial back-up will not be in a more advantageous position than candidates with meagre means. Should the three amendments be passed, they will help to reduce the effect of financial means and mobilization power on election results. The prescription of a cooling-off period can reduce mobilization efforts on the part of the candidates on polling day and it will also allow voters to make a cool-headed choice. In addition, the adoption of the "single-seat, single-vote" system can reduce the size of the constituencies and hence reduce election expenses. Needless to say, the reimbursement of election expenses will be beneficial to those candidates with meagre means.

Those who are opposed to the "single-seat, single-vote" system and support the proportional representation system instead often use a rationale and that is: the proportional representation system can allow candidates from different sectors to be returned to the Council and so a balanced composition can be achieved. It will prevent the views held by a slight majority prevailing over those of others. If all the 60 seats of the Legislative Council are returned through direct elections, this argument is valid. The problem we have is that the Basic Law has laid down some undemocratic methods to return some Members to the Council and to adopt the proportional representation system in a situation of small constituencies and few seats. These are simply unfair and undemocratic. That a so-called balance can be so struck in the Legislative Council is nothing but a lie. Therefore, the proportional representation system that we have is really a representation system which is out of proportions. Madam President, I therefore support the idea of returning our Members through the "single-seat, single-vote" system.

Quite a number of the Honourable Members have proposed amendments in respect of the FCs and the Election Committee. No matter what these amendments are, they cannot change the fact that these elections are really coterie elections. They allow some people to enjoy certain privileges which other people do not have, and that they can have one or more votes than other people. On the whole, the Legislative Council elections are still unequal and undemocratic. As these amendments are by their very nature devoid of any meaning, I will not give them my support.

Madam President, I so submit.

**MR MARTIN LEE** (in Cantonese): Madam President, as a matter of fact, we ought to feel ashamed when we look at this piece of legislation. We all know well beforehand which amendments are going to be passed and which are not. If the amended Bill is passed, I would think that it is a disgrace for Hong Kong.

Now we are coming to the end of the century, but why is democracy in Hong Kong going at a pace even slower than that of a snail? Take aside the countries in Europe and America which we are no match for them in terms of the pace of democratization, if we just look around the places or countries in Southeast Asia, we can see so many of them have adopted the "one-person, one-vote" system. Let me just tell you what they are: India, Pakistan, Sri Lanka, Thailand, now we have Indonesia, Cambodia has one under the overseeing of the United Nations, there are also the Philippines, South Korea, Taiwan, Singapore, Malaysia and Outer Mongolia. Why is Hong Kong an exemption? Will our government officials not feel ashamed? Will our Chief Executive not feel ashamed? In the APEC summit, when he stands among the leaders of Asia, given the appalling state of democracy in Hong Kong, will he still be able to hold his head high? I hope that as legislators we should not be afraid, neither should we be afraid of the result of the Bill failing to pass Third Reading. Will it be the end of the world if this Bill fails to pass Third Reading? Since we are not the ruling party, we can wait for the Government to come back and bargain with us. If the Government is willing to speed up the pace of democratization, then we can support it. Do not fall into these traps, thinking that there is bound to be trouble if the Bill is not passed at the Third Reading. Do not think that we will have 20 seats again like what we are having now. Please do not be afraid, the Government cannot stick to the number of 20. The reason why I say this is that 20 seats are against the Basic Law. There should be at least 24 seats before other discussions. Then why should we be afraid?

In fact the Government is very skilful in handling this. It is dividing the Legislative Council and our Honourable colleagues have failed to live up to our expectations. Take the example of the scrapping of the Municipal Councils. The three major parties which used to oppose the idea were the Democratic Party, the Democratic Alliance for the Betterment of Hong Kong (DAB) and the Liberal Party. At first, there was no way in which the Government could hope to get its proposal passed since the three major parties and the democratic Members were united in opposing it. However, the Government was being very ingenious, it persuaded some Members by saying to them that after the scrapping of the Councils, they would get a certain number of seats in one of the Councils. And so they were convinced that they would certainly get these seats. So one Member after another began to abandon their opposition stand. I do not

know how they could have supported such a proposal. Take the DAB as an example, they have a Member who would lose his seat because of this council scrapping. But this Member did not urge his party to put up a staunch opposition. It makes me feel puzzled. I often say that since we have such a Legislative Council, the Government is taking us slightly, it does not respect us, it is simply being contemptuous of us. Take the case of the cooling-off period as an example, the Government does not stop from lobbying and bargaining with the Members over even such a trivial matter, thinking that we will never know what it is doing. Had no bargains been struck, there would never be so many things today.

Talking about Mr Michael SUEN, the Secretary for Constitutional Affairs, I am aware that he made a speech recently in a conference on Asian and international relations in Harvard. It was on 8 June that he made that speech. It was such an ironic coincidence that that day happened to be my birthday. What he said was hair-raising. He said that opinion polls showed that the people of Hong Kong did not have too much interest in democracy. To a certain extent, this is right. Madam President, when people are asked questions like, "What is more important, the economy or democracy?", the answer they give will definitely be the economy. It is simply because people are afraid of becoming unemployed. But the Secretary did not tell everything to the foreigners. As a matter of fact, when the people of Hong Kong are asked when should all the seats in the Legislative Council be returned through direct elections, the answer they give is invariably, "The sooner, the better." When they are asked when should the Chief Executive be returned through universal suffrage, the answer the public gives is invariably, "The sooner, the better. Preferably in the next term of office." These opinion polls are most important surveys, but the Secretary did not mention a word of these. The foreigners did not know what was happening here and so the facts had never come to the surface. Then he said something which in my opinion was going too far. I would like to read these remarks out. At that time, Mr SUEN was explaining why we should not be moving at too fast a pace and why we should follow the timetable as laid down in the Basic Law. He said, "In the first instance, our political bodies will need time to develop and mature since none of them has a history of more than a couple of years." The words in the English text were "a couple of years", that is, two years. In other words, he was saying that the political groups in Hong Kong did not have a history of more than a few years at

most. Madam President, I would like to ask the Secretary, was he wrong in saying that? The Liberal Party plus its predecessor the Co-operative Resources Centre have a history of eight years. The DAB has just celebrated the seventh anniversary of its founding. The Democratic Party plus its predecessor the United Democrats of Hong Kong have a history of nine years. The Hong Kong Progressive Alliance has five years. Groups like the Hong Kong Association of Democracy and People's Livelihood, Meeting Point and the Hong Kong Affairs Society have an even longer history. Therefore, how could the Secretary make such remarks? I would like to repeat the remarks made by the Secretary once again, he said, "..... our political bodies will need time to develop and mature since none of them has a history of more than a couple of years." Was he wrong in saying that? Then he went on to say that these groups were handicapped by the limited resources they had which mainly came from public donations. It is true that some political parties are like that, but there are some very rich political parties with resources in the region of half a billion dollars or so and the money is readily available for use. These parties have people raising funds for them, but the Democratic Party raises funds on the streets. Our resources are very limited. Why does the Government not support the amendment we are proposing, that is, if a candidate has managed to get a certain number of votes, parts of the election expenses will be reimbursed to that candidate. Why is the Government fronting such a strong opposition to this amendment? Because it is trying to topple us. Though we are poor, we have the votes and the public supports us. The Government is making use of our lack of financial resources and refuses to quicken the pace of direct elections. It is afraid that we will get more seats. What line of thinking is this? It is very simple. The Government has no intention to go ahead with democracy in Hong Kong and so it is dragging its feet on democratization. It is afraid of the possibility that the democrats will get a majority of the seats if all the 60 seats are returned through direct elections. This is as simple as that. Since the Government is not willing to implement democracy here, it is dragging the pace for it. It seeks to divide us, some FCs are led to believe that they can have the 30 seats forever. In this way the Government can exert its control on the Legislative Council. So from the outset, what the Government is doing is just to control the Council.

The executive authorities are under control, so are the legislature and

recently, the Judiciary as well. What the Communists are doing can be described in just two words, that is, to exert control. It is simply nonsense to talk anything else. I want to go back to Mr SUEN's speech. He said that there should be a "constructive and workable relationship between our executive-led Government" and the legislature. In the end, he said that he would consult the public. So he said, "Time will be needed in good measure for developing a broad consensus as to how elections to the legislature should be organized after the third term of the Legislative Council." I can tell Mr SUEN that there can never be a consensus in this Council. For among the Members holding the 30 seats returned by the FCs, why should a majority of these Members be willing to give up their seats? In this Council, I know that the five democrats from the FCs are willing to give up their seats and stand for direct elections. But how about the other Members? They will naturally cling to their seats and will never let go of them. How can a consensus be reached? There is no need trying to reach one.

As a matter of fact, after the 4 June Incident of 1989, the Basic Law Drafting Committee had only 18 committee members left. At that time, Mr SZETO Wah and I were no longer committee members. Rev. Peter KWONG, Bishop of Hong Kong and Macau and Mr Louis CHA had resigned. Among the 18 members of the Drafting Committee from Hong Kong, 11 of them jointly wrote a letter to the Central Government and made two demands, that is, to speed up the pace of democracy and to abolish the system of voting in groups. These members were very conservative people, but they could see something wrong with the draft Basic Law. They saw the progress of democracy with their own eyes and they did not want Hong Kong or China to be constantly lagging behind others. They wanted to go forward with the times. Among the 18 members of the Drafting Committee from Hong Kong, 11 of them had jointly written a letter to the Central Government. History does bear witness to that event. Why is this Council even worse than these 11 members of the Drafting Committee? Why do the Chief Executive and our major officials adopt such a slow course of action? Do they not feel ashamed?

Why is the Government opposed to these amendments? As a matter of fact, it is doing all these against the democrats and it is trying to take the life from us, not only in terms of money, but also in other aspects as well. That is as simple as that. Fortunately, up to this moment, public opinion is still on our side.

We will let the Chief Executive and the Government fight with public opinion. I do not know how long they can resist it. I do not know whether our Chief Executive will think it is an honour and something he is proud of, and whether he can hold his head high when he stands with the heads of government of other countries. The Hong Kong Special Administrative Region has been led by the Chief Executive to go back on the road to democracy. But what good will this bring to our country? If we can have our rule of law maintained, march in the direction of democracy like Taiwan and make our pace faster, can we not exert some influence on the Mainland and the Central Government and cause them to forge ahead and go faster in the direction of democracy, so that in the not too distant future, our 1.2 billion fellow countrymen will enjoy the rule of law and freedom? By then we will be able to stand up proudly as Chinese. Why is the Chief Executive leading us to make a U-turn? Is he trying to make us fall behind even more than the other countries in Asia or those poor and backward countries? Will this be considered as the pride and honour of being a Chinese? Madam President, in the face of our Government, I must admit I do have a contempt for it.

**MR LEE WING-TAT** (in Cantonese): Madam President, the issue of democratic development has been discussed many times in this Council. I do not wish to repeat the principles which have been mentioned by some colleagues. But I would like to make several points. After years of debate, many colleagues in this Council should understand that should the situation be allowed to continue to develop this way, it can hardly sustain any longer.

Our present Government is one which has all the powers but no mandate. In other words, it has powers but it has no mandate in the Legislative Council. On the other hand, the Legislative Council is one which has mandate but no powers since we are often subject to the restrictions of the Basic Law and we cannot do what we want to do. The Government will very often pick its partners in this Council through selective lobbying in order to get its motions, bills and funding applications approved for the benefit of its continued governance. The Hong Kong Progressive Alliance (HKPA) and the Democratic Alliance for the Betterment of Hong Kong (DAB) are often chosen as its partners. Occasionally, the Democratic Party is also picked, but this is so rare that it happens once in a blue moon. We are chosen as the Government's

partners several times a year simply because its flagship partners do not necessarily agree to its stand on some particular issues.

Can constitutional disharmony or conflicts continue to be resolved in this manner in the future? I have watched closely the development of events over the past two weeks and the situation is really alarming. In my view, the Government should not ignore the political conflict, which was even described as a political scandal by some people, evident in the development over the past two weeks. This is because it would continuously undermine the Government's prestige.

Our Government is not a democratic government. Nor is it a government which rules by gunboats and armed forces. For a government without a popular mandate, the only way to establish its prestige is to get popular support for its policies. Regrettably, the comment for the Chief Executive since the reunification has always been the same: his supporting rate has hit the record low. When I was having business meals with secretaries or directors, they felt embarrassed even though they dared not comment on this in public. But they felt that it is hard to justify that a political leader's prestige and popularity should keep falling, reaching as low as 25% at one time, during the past two years since the reunification. Although a foreign government of such a low rating will not necessarily step down, the parliament may have already attempted to remove the cabinet by means of a vote of non-confidence. It is not necessary for us to incorporate such a mechanism in our constitution though. However, if the Government or the high-ranking officials keep adopting such an approach, I wonder how long it can sustain. I think this is not the way to maintain a stable governance in the long term.

I have heard many secretaries and directors say in private that they are in favour of the ministerial system. This is only one of the possible approaches. No political leader can continue to rule a territory successfully for a long period of time without a popular mandate or prestige. It is not at all surprising when social unrest in certain forms or events in other forms happens. So in our discussions about democracy, many colleagues may assume that the democrats will be able to win more seats in the elections due to the presence of these

elements. Of course, this may be one of the factors. But I think a society which relies on people's choice and mandate will maintain long-term stability better than one which adopts the present approach of our Government.

A colleague has been discussing the issue of FCs. I have always told the press and the secretaries that the former colonial government had actually put Members from the business sector into a disadvantageous position. So does the present Government. In view of the circumstances in 1991, I believe the Honourable Mrs Selina CHOW, the Honourable Mrs Miriam LAU or even the Honourable Allen LEE would have won the seats if they had taken part in the direct elections. And we the greenhorns, who might be just nobody in 1991, would not have won the election and got the seats. In my opinion, should direct elections be implemented earlier, more people with diverse political views would have emerged in this Council. In the present system, the Government simply wants to play nanny to protect what it considers the minority interests in society. But this approach will not work in the long term. If this approach is adopted every time, these people will not be able to increase their influential power.

Looking around the world, which capitalistic society is not ruled by a capitalist president or a government formed by capitalists? Even if the government or the president is not a capitalist, he is usually more sympathetic towards the business sector or capitalists. Let me tell you that the Labour Party in France or the Labour Party in Britain has very close connection with the business sector. I do not believe that all the elites in the business sector of Hong Kong would have failed to register this worldwide trend.

Whenever I was having business meals with some secretaries or directors, I would ask them why the business sector in Hong Kong was such a mediocrity. Why are they unable to deal with political affairs although they are millionaires or even billionaires? Members of the public may accept that our society is governed by businessmen or professionals. Of course, the public may demand that a sound monitoring system be put in place to ensure that these people will not line their own pockets with public funds, or protect each other, or promote the interests of the business sector. If a survey is conducted and the public is

asked whether they would choose a worker or a professional or a businessman to be our Chief Executive, I believe the public would prefer the professional rather than the worker or the businessman. I hope the unionists would forgive me for making this hypothesis. And in my speculation, the businessman will even get more votes than the worker.

I feel that the Hong Kong culture is a very conservative one. Most people believe in the doctrine of the mean. Comparatively radical comments would be criticized by members of the public. In my opinion, different political parties such as the DAB, the Democratic Party and the Liberal Party may differ in terms of their political manifestos. But the spectrum of their party platform is very narrow insofar as social policies are concerned, just like the Republicans and the Democrats in the United States. Therefore, the conditions and soil in Hong Kong are suitable for the development of a benign democratic political systems.

Furthermore, there is no religious conflict in Hong Kong. No Catholics will be jailed and no Sikhs will be killed. There is no conflict arising from different religious faiths. Nor do we have any pronounced class conflict. I think even the Honourable LEE Cheuk-yan and the Honourable LAU Chin-shek are very mild. From the prospective of foreign labour parties, they are basically the rightists. They are not even the middle-of-the-roaders, let alone the leftists. They have never advocated nationalization, or suggested to put the existing services under the public sector. As unionists, they are very conservative.

I do not know whether the Chief Executive is aware of such favourable conditions. However, I believe he must have noted these messages or observations. As regards the path I prefer, the Honourable Martin LEE has just mentioned it. If our society continues to tread this path in this direction, it will eventually reach a critical point or stage. To put it simply, there will be very strong dissenting views in our community in 2007. In the history of Hong Kong's democratic movement, there had been some important milestones on our agenda, such as the proposal of direct elections in 1988, and the pace of democratization stipulated in the Basic Law. After so many years, I can predict that there will be social unrest in 2007 because no one can tolerate to have no direct elections in 2008 after waiting for so many years.

I have read the DAB's platform very carefully and find that they advocate to review the development of Hong Kong's constitutional structure before 2007, and to strive to elect the subsequent Chief Executive by universal suffrage and to return all seats in the Legislative Council by universal suffrage. I hope they will not change their platform and I will keep this piece of paper. I remember that Mr Allen LEE, the then Chairman of the Liberal Party, had also said something similar. He hoped that universal suffrage would be implemented in 2008.

If we do not do anything before 2007, what would our society become? It will certainly become polarized. One camp will resort to all means to strive for direct elections in 2008 while the other camp will resort to all means to prevent this. This social conflict will certainly emerge. If the Chief Executive is not far-sighted enough, he will face this problem when he is re-elected. The earlier preparations are made for direct elections the more will this social conflict be reduced. Let us look at our young people, the educated as well as the development of the media, the soil is ready for it.

How long can our Government insist? Since the summer of 1998, the second year after the reunification, the Government has faced a prestige crisis almost every month in innumerable incidents such as the Cyberport incident, the wrong prosecution of LEE Hop or the incident concerning Mr WONG Ho-sang, the Commissioner of Inland Revenue. We can cite an incident for each month, showing that the Government's prestige is being challenged. However, no political party, no political party with a popular mandate has stepped forward to defend the Government's prestige.

A director once talked to me when we were having a business meal. According to his observation, he said, the press and the public had leveled severe criticism against the Government's credibility which has experienced a dramatic fall is due to the fact that never has a political party stood out in the Legislative Council to continuously lend unambiguous support to the Government. The Government has no mandate while all elected Members criticize the Government, with the occasional exception of those who aspire to be the ruling party. But they do not always speak for the Government. They do so only occasionally. On the other hand, the Government dares not say in public that it is seeking a political party as its flagship in the Legislative Council

or to form a coalition with it so as to implement its social policies systematically.

I see that Mr Michael SUEN is nodding his head. I do not know whether or not he is expressing consent. I hope he will agree to my analysis.

Therefore, I think that if we do not try to do something about our political system or democratic development, we are simply dragging on the social conflict. In fact, the longer we delay, the smaller the chances of reversing the trend. The success of any attempted change to any political system at its critical stage of collapse is next to nothing. The experiences of many countries, particularly in Africa, have told us that this will result in violence and other forms of social unrest.

This is not alarmist talk. I hope members of the public, including those from the business sector, will reflect on this. A system which is under the protection and care of a nanny cannot sustain for long.

Moreover, I find something very strange. We have been discussing for years about whether Hong Kong is politically mature and whether Hong Kong should develop democracy in a gradual and orderly manner. But if we look at our neighbouring regions and countries, we will find that governments of many countries have already been returned by universal suffrage. Perhaps Burma is the only exception. The governments of countries like Thailand, Indonesia and even Brunei, which have noticeably lagged behind Hong Kong in terms of economics, education, culture and information technology, are returned by universal suffrage. I do not see any possible social unrest in these countries.

Besides, I am most unhappy that we often feel that Chinese are inferior. Why can we Chinese not have a government elected by ourselves to rule our own territory? In this aspect, Taiwan is the only exceptional place where democracy has been implemented successfully. I do not know how long we have to wait until we can see this occurs in mainland China and Hong Kong.

Yesterday, I saw President JIANG Zemin commending China's national women football team on television. He praised the athletes for their good work and doing credit to our country. I think the power of our country does not only depend on our economic and military strengths. It also hinges on whether our country is respected by the international community. It will be the pride of China and will deserve the praise of our President if we become a civilized and

orderly society or country which respects the value of individuals.

Finally, I would like to discuss the scrapping of our two Municipal Councils. Although we are not discussing the relevant bill today, this Bill also has a lot of provisions concerning the abolition of the two Councils. The Democratic Party will oppose these proposals.

I urge Honourable colleagues to support my amendment concerning the prohibition of canvassing activities on polling day. I will elaborate on that later. I am counting the votes and find that I am bound to lose as I am one vote short. I will try my best to lobby Members, especially those of the functional constituency. I hope they will listen to and consider my arguments very carefully. I hope they will support my proposal.

Thank you, Madam President.

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, I disagree to what the Honourable LEE Wing-tat has just said. He said that the Government has power but no mandate or votes. In fact, the Government does have the votes, which include the "government-opposition party's vote", "blocking Member's vote" and "exchange vote". The Government has at least these three kinds of vote. So Mr LEE cannot say that the Government has power but no votes.

On the other hand, Madam President, Mr Martin LEE has earlier read out the famous speech by the Secretary, Mr Michael SUEN, at Harvard University. One point Mr SUEN made in his speech is that political parties in Hong Kong are immature. I would like to put on record that if the political parties are immature, then Mr TUNG Chee-hwa, the Chief Executive, is all the more politically immature than all the political parties. As a result, prestige crisis occurs as mentioned by Mr LEE Wing-tat. I think we should do an introspection before criticizing others. So I hope the Secretary will conduct a review on the executive-led Administration before criticizing that the political

parties are immature. Thank you, Madam President.

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, I would also like to comment on whether or not Hong Kong political parties are mature. Mr Michael SUEN, as an Administrative Officer, has made such a comment while submitting the Bill to this Council. To look at the incident from another perspective, I, as a member of a political party, feel that the Government itself is not mature enough. If an opportunity arises, I would like to invite Mr SUEN to resign from the Government and form a party so that he can compete with us in the elections. He can then put forward his political platform and we put forward ours for the choice of the voters. If he can win in the election, I would admit my defeat. Mr LEE Cheuk-yan once said in the Chater Garden that if Mr TUNG Chee-hwa should participate in the direct elections, he would admit defeat too. I would then follow suit.

Let us look at the leaders of foreign countries. Mr Tony BLAIR, who became Member of Parliament (MP) in 1983 and Leader of the Labour Party in 1994, was elected Prime Minister in 1997. I believe many Members in this Council have much longer political experience than him. For example, Mrs Selina CHOW seems to have joined the legislature in 1981. Mr Bill CLINTON, President of the United States, was a state governor at the age of 30 and was elected President at the age of 46. Although there are many stories about him, he is undeniably very popular in the United States. This is probably because the current economic situation of the country is very favourable. He did not have any experience in Washington politics before he became President. But apart from his personal conduct, his performance as a President is satisfactory.

What are the ways to make a political party become mature? What are the ways to make those who have no political experience to be able to govern a territory? The key to this lies in the system. If there is a good system, this goal can be achieved. Under the existing system in the United Kingdom, for example, an MP can be elected as the Leader of a party or the Opposition Spokesman through internal competition. The Tories, after the defeat in 1997, elected a 38-year-old Party Leader. I wonder whether this is because in its calculation, it may still lose the election in 10 years' time. So when their Leader turns 48, Mr Tony BLAIR will have been in power for only 10 years. By that time, the Conservative Party may still be unable to win and have to wait for another five years. But age is not an important factor. In a country where

parliamentarism or parliamentary government is practised, or where the government is formed by a party which has won the majority seats in the parliament, or the president is indirectly elected by electors as in the United States, the key lies in election. I hope Members will understand that election is a very complicated process. Since a presidential candidate, say in the United States, will have to form a government, he has to raise a lot of funds during the election process. Besides, he has to form a team of people to help him and to draft his own political platform. Only when he has secured such a strong backup and supporting mechanism will he be able to win the election. After being elected President, he can then implement his policies.

Mr SUEN is now in a very difficult position. He has to support whatever proposals approved by the cabinet irrespective of his personal point of view. An MP, however, may refuse to join the cabinet of the government if he is in disagreement with it. Of course, not every decision can get the agreement of all members in the cabinet. But generally speaking, the cabinet members will certainly support the government since they are the ruling party. But Mr SUEN, as a civil servant, is caught in a difficult position. Perhaps he may write a memoir after retirement that he would have in fact supported direct elections if not because of Mr TUNG. But today he has no alternative except supporting Mr TUNG's undemocratic approach since he is a civil servant. So he suffers a lot because he has to push it through regardless of his personal belief.

Our existing system is indeed ridiculous because in the Executive Council, which functions very much like the cabinet of a government, there are two Members who have political party affiliation. We know that there are at least two Members who have such a background. Some may have party affiliation other than that in Hong Kong, which means affiliation with the Communist Party. These two Members in the cabinet are the Honourable TAM Yiu-chung of the DAB and the Honourable Henry TANG of the Liberal Party who are appointed in their personal capacity. In fact, the Government may consider appointing them as the government party, in reality as well as in name. The Government can then publish its policies only after full consultation has been made with them. This will ensure that the Government can secure 10 to 20 votes from them. This is very fair if they are the government party. In fact, the Government should also invite the Honourable Ambrose LAU to join the government party

because he always supports the Government. If they flaunt the banner of government party, they can tell the voters that they will defend the government policies or help implement them as these are part of their political platform. If they lose in the election, this means the public does not support their policies. If they win, they can speak plausibly that they have got public support. With public support, they can implement their policies.

As regards whether or not political parties in Hong Kong are mature, the fact is that it is impossible to breed a mature political party under an immature system. It is difficult to do so no matter how hard we may try. Even if Mr SUEN runs in the election, the situation will not change because he lacks experience in managing or leading a political party either. None of us here has ruling experience. In fact, we may always be criticized as immature as long as we have no experience in ruling a territory. As I have just said, many state leaders, including Mr Tony BLAIR of Britain and Mr Bill CLINTON of the United States, started their political career as a member of the opposition party before they eventually become the ruling party.

Today, the Democratic Party is playing the role of the so-called opposition party. We all know that we may not have the opportunity to become the ruling party before we retire although I hope my prediction is wrong. Some of us are still quite young, but we are not optimistic about that. According to the present pace of democratization adopted by the TUNG Chee-hwa Administration, I do not think the pace will be accelerated even though a review will be conducted in 2007. As Mr LAU Chin-shek has pointed out, a lot of obstacles will have to be overcome in 2007 review. First of all, it has to be approved by a two-third majority in this Council. After that, the abolition of seats for the FCs will require the approval of 10 respective representatives in that sector, and there are at least 30 seats in the Legislative Council returned by the FCs. This is by no means easy. If this is proposed by Mr TUNG, it may be easier. But would he do that? Of course, he may no longer be the Chief Executive by that time. But if he is re-elected, these reforms will be feasible if he makes such proposals during his term of office.

I hope the Government will understand that the difficulty they are now facing will linger on because worsening mutual distrust between us has led to confrontation. Both the Government and the political parties will find the situation difficult. Even though we have made some valuable advice to the Government, it may be forced to reject it. In last week's debate concerning the

increase in tolls of the Cross-Harbour Tunnel, we were arguing whether the toll should be increased to \$15 or \$20. The Democratic Party proposed an increase to \$15 in conformity with the doctrine of the mean. In fact, I know that some government officials agreed to this suggestion, but Mr TUNG might conceive that since this involved politics, the Government should not support a proposal made by the Democratic Party even though it might be a good policy. Eventually, this strangled the principle of debate that one should concern oneself with the subject rather than parties or individuals.

We well know that whatever amendments we move to this Bill today, it is difficult to get them approved in this Council since a majority vote in two groups of Members is required. However, the Government has to plan in advance for the implementation of direct elections. Without a directly elected Chief Executive and a directly elected legislature, it is difficult for us to formulate policies for the long-term interests of Hong Kong. The supporting rate of Mr TUNG, who has been in office as the Chief Executive for two years, has been declining because the Government is politically immature. Both the Government and the political parties are immature, but the difference is that we act as the opposition party and the Government can then be in a position to nitpick with us. From the perspective of a political party, how was the performance of the Government in the past two years? Is the Government very popular? Has it earned a very high supporting rate? I hope Mr SUEN would ask himself whether his supporting rate is very high. I believe he also understand that we are similarly facing difficulties. Of course, he is entitled to travel to various countries and comment on the immaturity of political parties in Hong Kong. Nevertheless, the Government should also ask itself whether it is a mature government.

Madam President, I so submit.

**MR ALBERT HO** (in Cantonese): Madam President, the Legislative Council Ordinance will give rise to a product which has lost touch with the needs of society. After the reunification, we have even witnessed that Hong Kong, instead of moving forward, is in retrogression.

I remember that when we expressed our support for Hong Kong's reunification with China in the early 1980s and fought for democracy since then,

many people, particularly those who had prepared to leave Hong Kong on foreign passports tendered us advices. We were criticized as being naive in the sense that we had no political wisdom or vision for we had failed to see that people could not expect any democracy under the Communist rule. So what we had were just wishful thinking, fighting a lost battle. Before any revolutionary changes are in place in China, so they said, we could not expect to see democracy in Hong Kong and the Chinese leaders would not accept any notions of democracy. Over the past 10 years or so, many academics and scholars ordained by the Government, after judging the hour and sizing up the situation, have come up with all sorts of theories to explain the political development in Hong Kong. They all pointed to one direction for the political development in Hong Kong and that is, Hong Kong must be put under the governance of a pro-China and pro-businessmen ruling clique. In the end, they said, this clique would come under the control or guidance of the Central Government. And only such a clique would see a future and the other propositions were merely wishful thinking. Many academics had written such articles and expressed such ideas. I trust these articles or so-called political knowledge have strengthened the belief of the Chinese leaders in how to rule Hong Kong. They were led to think that Hong Kong would not have any future unless it was ruled by a monopolistic clique because political parties would not amount to anything. This sort of argument is indeed quite similar to the remarks made by Mr SUEN a fortnight ago. The same argument was raised 10 years ago. Even today, there are widespread remarks that political parties in Hong Kong would not have any future since the Chinese Government would not support democracy. Hence, those who have an ambition in political development in Hong Kong would not feel that it is useful to fight for democracy, except those naive democrats like us.

Madam President, over the past 10 years or so, I have never accepted the direction proposed by these academics or scholars ordained by the Government. Their remarks are nothing but self-fulfilling prophecies. It means that they can predict the changes of the situation. But how can their prophecies come true? This is because what they did has put our scope of development under constraints. As a result, what they concocted single-handedly has become the necessary trend they previously predicted.

As a matter of fact, Madam President, things will go a different direction simply because of a mistake made in a moment of weakness. Many people say that political development depends on a lot of objective factors, such as

economic, social and cultural factors. Compared to other countries, in which areas does Hong Kong lag behind other advanced countries? Hong Kong can be said to be a very modernized economy. In terms of economic achievement and per capita income, Hong Kong ranks quite high in the world. Our middle class is very sophisticated and there are many professionals. Furthermore, we have advanced information technology and convenient transportation networks. As a highly urbanized city, the average educational level in Hong Kong compares favourably with many democratic countries. All these are very favourable factors, but those in power, particularly those in the highest authority, do not believe in the facts. Just because of their reluctance to change their philosophy, Hong Kong cannot develop democracy.

Of course, many people may ask: Since the Chinese leaders are reluctant to delegate the power they are holding so tightly, what can you do? Does this mean that we should succumb to the rulers' will and refrain from telling them what we believe is genuinely in the best interest and for the long-term stability of Hong Kong? We think that when some people in Hong Kong voluntarily surrender, give up their position on certain matters and then play up to those in power, they have actually given up the responsibility they should bear and failed to live up to our expectations and that of the next generation. I think two of the most important prerequisites for a politician is courage and honesty. As I said earlier, things will go a different direction simply because of a mistake made in a moment of weakness. This concerns a person's vision and choice of courage. Why can we not tell the leaders of the Central Authorities that China's development actually occurs in phases and is different from region to region? China now says that it has to open up its economy and develop a different type of economic system. To achieve the goal, special economic zones are set up and different stages of development are allowed so that certain regions can become well-off first. As regards democracy, we of course hope that democracy will be implemented in the whole country the sooner the better. Despite all the constraints on the Mainland, why is it impossible to have democracy implemented as soon as possible in places with the mature conditions? Have we ever fought for democracy? Have we ever be brave enough to present these objective facts and factors and the ruling philosophy for the long-term stability of Hong Kong for the consideration of the Central Authorities in a sincere manner? I think many people have let us down by failing to fulfil the

responsibility entrusted in them by history and have brought shame to the next generation. According to Mr TUNG's political philosophy, I believe the present Legislative Council has created a lot of trouble and hurdles for him. I think he must feel frustrated and annoyed whenever he appears before this Council. But this in fact shows how dim the prospects of political development in Hong Kong are.

Madam President, we can see that when the Legislative Council Ordinance comes into operation, it will give birth to a very fragmented system. On the surface of it, the representatives of the Council will be very fragmented. Thanks to the structural factors, it will be difficult for these representatives to reflect the interests of society and public opinion. Nor can this Council be an epitome of society. As a fragmented Council, it will be more difficult for them to exercise checks and balances on the Government. Because of the fragmented nature of this Council, it is easier for the Government to lobby individual Members. As a result, the Government will be able to command the majority support in this Council, thus preventing the formation of an independent voice to check the Government. To check the Government does not mean that every measure or proposal made by the Government should be opposed. Instead, we should at least be able to act as an independent monitor of the Government in the interest of the public. Of course, I do not agree to the saying that the Government does not have any vote in this Council under the existing system. As a matter of fact, we all know that the effect of the Legislative Council Ordinance will be a continuation of the present Council. Representatives returned under this system will act as a pro-government party though they tend to conceal their true nature as they are reluctant to be seen in their true colours when they defend the Government. But this is an ironclad truth. I think when crucial questions are put to the vote in the future, we will time and again see that the Government can command the majority support in this fragmented Council.

In fact, we do not oppose the idea of proportional representation. In many democratic countries, particularly those in Western Europe, are practising such a system. Of course, these countries have their own political environment and tradition. The government they have is a coalition government. Very often, proportional representation is adopted to ensure that there are representatives for people of different political viewpoint, different social, religious and racial background. In fact, I do not oppose proportional representation. Madam President, a coalition government has its own way. It

is usually very mild though its biggest weakness lies in the lack of a strong foreign policy. Many people may say that a coalition government will easily collapse when it faces problems, and changes every two or three year. In fact, it is the composition of the coalition that is changed. For instance, its composition is changed from parties ABC to parties BCD or CDE. In a nutshell, a coalition government has the responsibility to directly face the entire society. This is unavoidable. Although such a responsibility is not as clear as that of a ruling party, a coalition government inevitably has to face its own voters. Any decision made by a political party within the coalition government entails political consequences. But as far as our proportional representation system is concerned, what has it achieved today? It has prevented public opinion from becoming the mainstream views in a council where directly elected seats are so limited. To put it simply, it is a further toning down of the democratic voices within this Council. So I feel that under such circumstances, proportional representation is unacceptable.

As regards FCs, we understand that they played a certain role in the early stage when Hong Kong was in transition to a democratic government. But nowadays, Madam President, such a system has been in place for over 15 years since 1984 and it is high time it be eliminated. About a fortnight ago when I was having dinner with the Honourable Miss Margaret NG, she asked me who was the first one to propose FCs. I really had no idea. But I feel ashamed that in an article I wrote in 1982, I put forth this idea in a systematic way. At that time, no political party or candidate had ever considered the direction of Hong Kong's political development seriously. I therefore proposed the idea of functional constituency. Unfortunately, most of the functional groups I named in my article were included in the Government's list later on. Several years later, however, my thinking began to change. I perceived that further development was necessary. Although I suggested in 1982 that FCs should be set up, I do not think that I was wrong at that time. However, when we realize that such a system has no more chance for further development and is outdated, it will be the most absurd and ridiculous thing on earth to do if we still cling to it and try to enhance it. This is absolutely unacceptable to me.

The final point I would like to make is that the political system is just the hardware. Democracy requires a democratic culture. It is very important. What happens today and the whole design and circumstances seem to be a retrogression of democratic culture and consciousness. It has also led to the

dwindling of democracy. While we are still the minority voice in this Chamber today, we will continue to try our best to make our voices heard for the development of a democratic culture. We will continue to confront any undesirable trend and fight for our objective. We will not give up even in the last minute and the last chance.

I so submit.

**MR NG LEUNG-SING** (in Cantonese): Madam President, I would like to discuss the amendment to the Bill concerning the prohibition of canvassing activities on polling day. In my opinion, canvassing activity is one of the important parts of exercising a candidate's right to stand for election as part of his civic rights. If candidates are disallowed to canvass votes on polling day, they obviously cannot conduct the whole campaign in its entirety. Hence, to impose restrictions on candidates' canvassing activities is actually to impose restrictions on their right to stand for election. Only when it is necessary and reasonable should such a restriction be imposed by the Government. In a society where more and more people advocate openness and democracy, restriction should be reduced, and the less the restriction the better.

When a Member of this Council moves an amendment, he must try to win support by reasoning. I am sure Members would agree that from Hong Kong's previous election experience, canvassing activities on polling day have never resulted in any unacceptable and undesirable consequences that would adversely affect social stability or the smooth progress of election. This is because we are a law-abiding and mature society in which elections are conducted in a peaceful and rational manner. Violence has no place in the election culture of Hong Kong. If we believe in the political rationality and maturity of voters, political parties and independent candidates in Hong Kong, we should have no reason to impose any unnecessary restriction on an important part of exercising one's right to stand for election. I think the original arrangement for the designation of no-canvassing zone is good enough.

Members are concerned that violent incidents had occurred when elections were held in other countries and regions. It only shows that the election culture in those places is overly emotional. In contrast, the election culture in Hong Kong can be described as relatively calm. Hence, it is not necessary for us to mechanically impose the practice of prohibiting canvassing activities on polling

day in Hong Kong as what has been implemented in those countries or regions. Under the existing calm election culture in Hong Kong, it is necessary for the Government to promote election as well as for the candidates to canvass votes so as to help publicize the election as what they did in the past. This will enhance the effort of the Government and community organizations in encouraging public participation in public affairs. This is also a valuable opportunity to promote civic education. Unless there are factual evidence to prove that the permission of canvassing activities on polling day will bring more harm than good, otherwise, it is inappropriate to move such an amendment. Rather, we should make a fair and reasonable arrangement to encourage a higher voter turnout rate.

Some express the concern that nuisance could be caused to voters if canvassing activities are allowed on polling day. But the same argument applies to any canvassing activities on any day during the whole election period. If we go by this logic, does it mean that we should consider expanding the no-canvassing zone and extending the period? I think the crux of the problem lies in whether the candidates are able to resort to reasonable means to canvass votes. If they handle the campaign improperly, they may cause nuisance to the public and their loss will outweigh the gain. So I think the success of an election hinges on whether the candidates who aspire to serve the public understand which mode of electioneering, including canvassing activities, will be in the best interest of the public.

With these remarks, Madam President, I oppose the relevant amendment.

THE PRESIDENT'S DEPUTY, DR LEONG CHE-HUNG, took the Chair.

**MISS CYD HO** (in Cantonese): Mr Deputy, Members of the Frontier have originally intended not to speak after Miss Emily LAU has spoken on our behalf. However, having heard other Members' comments on the flaws of functional constituency (FC) elections, I cannot refrain from expressing my views.

According to the Green Paper on The Further Development of Representative Government in Hong Kong published in 1984, it was hoped that through FC elections, various sectors could contribute their professional

knowledge in this Council. What has been the development so far after so many years? The development is that different constituencies wish to take a share of the pie in this Council and the representatives of various sectors come here to defend their own interest. At the Bills Committee stage, the representatives of the catering industry frankly said that they would like to have a seat in this Council so as to defend the interest of their own sector. Mr Deputy, even you yourself have to withdraw an amendment. Although the Chinese medicine practitioners should belong to the medical sector, why does the medical FC refuses the incorporation of Chinese medicine practitioners into the electorate? Why does the original electorate of the medical FC discriminate against the Chinese medicine practitioners and prefer to have these two sectors separated? From this we can see that under such an electoral system, the representatives concerned have the inherent duty to their constituents. With respect, I find it unacceptable. Because of such an electoral system, many good people are bound by such a bad system to put their sector's interest before public interest.

I remember that Miss Emily LAU introduced a bill in 1994 proposing full direct elections. At that time, I was a member of the United Ants. We tried to lobby the Legislative Council Members to support the bill and asked them to comment on the proposal. I remember that the late Honourable Samuel WONG said in public that if he was asked to support full direct elections, it was equivalent to asking him to commit political suicide. I admired his frankness because he, as a representative of a FC, really could not go against the interest of his constituents to support full direct elections. According to the Basic Law, there will be a review on the legislature in 2007. When there are 30 Members in this Council returned by FC elections, it is inconceivable that they would support the proposal of a fully directly elected legislature in the following year. So, a fully directly elected legislature would be possible if and only if the executive authorities could let go of their powers. But under what political pressure would the executive authorities do so? In the Philippines, a democratic election was still held in the year when President Ferdinand MARCOS stepped down. When Mrs AQUINO was about to win the election, President MARCOS could have resorted to military suppression. But he did not do so because he was facing a pressure as the people's force was too great. Of course, foreign influence was also a factor. These factors made him realize that even if he had resorted to military suppression, it would mean an ugly aftermath to tidy up. When will the executive authorities in Hong Kong let go

of their powers? Do we have to follow the path of Indonesia where the government is willing to give up its powers and implement universal suffrage only when the public outcry has reached an uncontrollable stage?

We the democrats have been hoping to achieve full democracy through a peaceful, rational and non-violent process. We do not want to see any violence at all. However, history often tells us that when the rulers are very stubborn and refuse to give up their powers, they will resort to a lot of suppressive means. However, the more suppressive it is, the stronger is the reaction. In the unfortunate event that the implementation of democratic elections in Hong Kong has to depend on the promotion of a suppressive government, then this will be a great tragedy in our civilization. Thank you, Mr Deputy.

**MR JAMES TIEN** (in Cantonese): Mr Deputy, in our debate on the Legislative Council Ordinance today, some arguments which were raised many years ago come up in our discussion again. These include what kind of political model is needed in Hong Kong, and whether there should be a political system in the legislature to act as a counterbalance since under the principle of "one country, two systems", Hong Kong is not an independent state.

What is the greatest concern of the people? Is it like what the Honourable Miss Cyd HO just said that our present situation is similar to that in Indonesia? Is it that if there is no direction election or full direct election, Hong Kong will be in trouble, and that many people strongly demand direct elections? If we take a look at the recent opinion poll, we will find that people are concerned about our economic development and unemployment problem. I am not trying to belittle the directly elected Members. They do have representativeness and they can fight for people's aspirations or reflect the views of the grassroots or wage earners. However, as a matter of fact, among those who are returned by direct elections, who have been running a business? They claim every day that they represent the workers' interest, but who have ever been the employers of these workers? Some may have hired a few workers to work in their union office, but what I mean is to hire workers when they are

running a business or operating a factory. Have they ever offered any "rice bowls" to the wage earners? No, they have not. Of course, some may argue that the direct election system is also implemented in a gradual and orderly manner in the United States. Although full direct elections cannot be implemented today, they will be implemented sooner or later. The Liberal Party does not oppose the idea of implementing direct elections in a gradual and orderly manner. But so far, do any directly elected Members represent part, if not all, of the interest of the business sector? I have never heard any directly elected Member say a fair word on behalf of the business sector in any debates.

On the contrary, can those incumbent, not prospective, directly elected Members give such advice on the bills as what professionals, such as doctors or lawyers, in our FCs have provided? I do not think so. If ordinances and bills are all scrutinized by these 20 directly elected Members, I believe the Government will even be more dominant as an executive-led government. The Government, assisted by so many professionals, can twist Members round its little finger. This is because these directly elected Members lack the required professional knowledge to assist the Government. Several years later, if more businessmen or professionals take part in politics, and the public can understand that they should give them support even though their remarks today may not always represent the interest of the workers or the public, then debates in this Council would not be so biased.

I always say that Members representing the labour sector have made things worse with good intentions. On the surface, they seem to be fighting for the wage earners' interest today, but several years later, these wage earners may lose their jobs. I have known Mr LEE Cheuk-yan for 10 years. When I first knew him, none of us was a Member. He fights for the interest of workers every day and has made a lot of achievement. However, most of the garment factories, for instance, have been closed down. The interest of the garment workers have become zero. What is the genuine need of our society? Under the current situation, I am afraid it is not the right time to implement full direct elections and to abolish functional constituency election, as what the Frontier has proposed.

In this debate, Members of the Frontier are talking at lengths about the popular quest for direct elections. As I just said, people are not asking for that.

I have never seen any people petitioning outside this Chamber for full direct elections. What I hear today is the voices for improvement to the economy. They urge the business sector and the employers to try their best to grasp all investment opportunities so that workers can get a better job. They do not expect to have substantial pay rises. But at least, there should be no more pay cuts or retrenchment so that the unemployment rate, which now stands at 6%, will not rise any further. That is the message today. I have never heard foreign or local investors say that they would withdraw their investment and refrain from supporting Hong Kong if direct elections are not implemented in Hong Kong. Let us take a look at Indonesia where universal suffrage has been implemented. As far as job opportunities are concerned, does the country benefit from such a system?

Mr Deputy, what is the purpose of "one-man, one-vote"? The purpose is to improve the living quality of the public rather than for the politicians to fight for direct elections. But it is the case in some countries. In the United States, for example, it is a very complicated community where there are racial problems between the white and the blacks, apart from numerous religious problems. Hence, the interests of many people can only be reflected by election or direct election. But we have no racial or religious problem in Hong Kong. People are divided into those who have and those who have not, or those who are the employers and those who are the employees. If our objective is to ensure a smooth functioning of our society, I wonder whether Members of the FCs, including the financial and business sectors, are really so incapable that we should step down as what the directly elected Members have suggested. I also wonder whether we have failed to perform our duty to the Government. I do not think it is the case. While we support the gradual and orderly approach, I hope the public will understand that the remarks of Members of the business sector may be less pleasing to their ears than those of Members of the labour sector. But in fact, we also consider the long-term interest of Hong Kong as a whole. Anything that can benefit employers in the long run will also benefit employees in the long term. The union leaders may today argue that even though it is for the interest of the workers, it does not mean that their long-term interest is also protected.

Mr Deputy, this is my view on the FCs. But there is this point made by

Miss Emily LAU that I share. She queried the status of the Legislative Council in the eyes of the Government. I am also very concerned about the so-called precedence list. Why has the Government published such a document, which has downgraded the status of this Council, without going through any public consultation or any public procedure? In the past, the title "Honourable" preceded the English names of all Secretaries. In the early period, many government officials were addressed the "Honourable". Later, only the top three Secretaries are entitled to such an address. In the end, no other Secretaries are given such a title. Is it because they are no longer called Members of the Council? Is it because they are no longer one of the 60 of us in this Council and so our status is substantially downgraded? Insofar as this point is concerned, I share Miss Emily LAU's view.

Mr Deputy, as regards other issues, I will wait until the Committee stage. Thank you, Mr Deputy.

**MR JAMES TO** (in Cantonese): Mr Deputy, I do not often talk about questions related to the political system such as the question of democracy. However, today, on an impulse, I would like to make some comments for the record before 2000.

I would like to respond briefly to Mr James TIEN's comments just now. First, I believe that democracy is a system for dealing with conflicts and interests. It is not an inherent system. However, it is bound to create prosperity and conducive to the long-term and stable development of a place. This is because the protection of freedom and of the rule of law offers the best conditions for the creation of an economic environment. This is my appreciation and view of the nature of democracy. Whether in this debate or in future debates, I do not think that the SAR Government will be able to decide on this matter or on the review to be conducted in 2007 according to the Basic Law. At least, I do not think that it will be able to do so. Actually, no matter who serves as Chief Executive, the decision on this will not be made in Hong Kong. I believe that decision will be made at the Central Government. I do not believe that the matter will be decided by us as the Basic Law says. While I will continue to fight for it, this is still the political reality.

For the Central Government or the Chinese Communist Party, the most

important issue that concerns Hong Kong is the transfer and control of power. In their view, despite the recovery of Hong Kong's sovereignty — or perhaps I should use the expression "the resumption of the exercise of sovereignty", the people have not been won over. From the demonstration of a million people during the 4 June incident in 1989, they knew very well that they had not won popular support. They have even described Hong Kong as a base of subversion. They know this very well. Winning popular support and shaping public sentiment need time. They think the reforms they have adopted will gradually be recognized. Undoubtedly, the progress of reforms over the past few years has been recognized by more and more people.

As DENG Xiaoping once commented on Hong Kong, could patriots be returned through elections? This is really a subtle question. Take the tension on both sides of the straits over the past few days as an example. LEE Teng-hui was elected by universal suffrage in Taiwan. The Taiwanese voted for LEE Teng-hui, who believes he should lead Taiwan towards independence and considers the relationship between Taiwan and China as a relationship between two states. From DENG Xiaoping's point of view, could people who love the Chinese Communists be returned through elections? Could people who love China be returned through elections? In Hong Kong, could people like TUNG Chee-hwa be returned through elections? In the Central Government's view, this is not possible. It does not think that someone whom it can trust could be returned through elections. No one that the Chief Executive can trust could be returned through the Legislative Council election in Hong Kong to exercise the political power delegated by him. Instead, many Legislative Council Members will be returned to obstruct the implementation of policies and might even challenge the Chief Executive's power. Thus, if the majority of members of the legislature are returned through elections, the election will be out of the control of the Central Government. Hence, such an election method cannot be tolerated. For the sake of control and holding onto its powers, it will certainly not allow such an election method to be implemented.

Actually, the Central Government is very much afraid of the power of the people of Hong Kong. It is not afraid of the power of a few million people, but of democratic elections by a few million people. Neither the power of the Legislative Council nor that of the Executive Council is in its control. We must remember that even if this power can be controlled to a certain extent, it will not feel assured. For instance, there are many members of the DAB whom

it can trust or influence. But even if the DAB has the same number of seats as the Democratic Party or more seats than the Democratic Party, it will not feel assured. So long as some Members are elected by the people on a one-person-one-vote basis, there is still a chance that things might get out of hand and out of its control. There is a chance that some people who were loyal to it might switch their loyalty after they have won the people's mandate. Therefore, it is people's power that it is most afraid of.

Besides, Chinese leaders do not believe that democracy has any intrinsic value or that there is any value in promoting it. As DENG Xiaoping said, the separation of powers would merely mean that there are three governments fighting one another. How can it have any efficiency? Such a system is unthinkable in China. Nor should it be adopted in Hong Kong, since Hong Kong is executive led and the three powers cannot be allowed to "fight one another". There is a recent example to demonstrate this. Although the Central Government controls the TUNG Chee-hwa Administration and the majority vote in the Legislative Council through various ties and threats and advantages offered, the situation still went out of control. For the perverse Judiciary had the nerve to say that the interpretation of the law made by the Standing Committee of the National People's Congress could be examined or even reviewed and declared unconstitutional. That is totally unacceptable. Actually, the mentality of the Central Government or its leaders is such that they can never accept the intrinsic value of democracy expressed by us. For these three reasons, I am personally quite pessimistic about the future of our democracy.

Mr Deputy, another point I would like to make is the concept of government party as mentioned by a Member just now. I believe that for the Central Government or the Chinese Communist Party, the idea of forming a government party in Hong Kong is unacceptable. Why? Because to them, the Chinese Communist Party controls the political power in China and the Chinese Government authorizes the Chief Executive of Hong Kong to govern the SAR. It has no wish to see the Chief Executive given another power base. The Central Government will never approve a government party or group formed by TUNG Chee-hwa or any person without the Central Authorities' instruction and which wins the majority of seats through whatever elections to govern Hong Kong, independent of the Central Government's control and authorization. It will surely oppose party politics and even a government party.

Those were some of my private thoughts. I talk about them very rarely. But today, on an impulse, I have made a few comments for the historical record. Thank you.

**MR CHEUNG MAN-KWONG** (in Cantonese): Mr Deputy, the Legislative Council (Amendment) Bill 1999 that we discuss today is actually a handicapped bill. Since this handicapped Council is threatened by the three knives in the Basic Law, no matter what amendments we propose at the Committee stage today, they will be just like carvings on a rubber stamp. The relevant amendments will no doubt make the carved rubber stamp more beautiful. However, due to the restrictions of the Basic Law, it is still nothing but a rubber stamp or a speaker that has been soaked in water, having very little influence on the Government. The people's wishes cannot be manifested through the Legislative Council. The present Government and the TUNG Chee-hwa clique have put three knives to the throat of the Legislative Council with the intention of crippling the Legislative Council at different times and at different levels. As a result, the Legislative Council is unable to effectively reflect the voters' wishes and the community's aspirations.

The first knife cripples this Council through the structure and method of election. At present, we have 30 functional constituency Members. In the next election, six Members will still be returned by the Election Committee, while only 24 Members will be returned by geographical constituencies through direct elections, which represent the wishes of all voters. After this number is increased to 30 — I do not know whether it will be increased any further — with such a handicapped Council and such an unfair combination, the wishes of the people cannot be fully and forcefully represented. This is the first handicap.

The second handicap is the mechanism of counting the votes of the two groups of Members separately. A whole year has elapsed since we were re-elected to the Legislative Council. During this period, we have seen a number of motions and amendments to laws which had the support of an absolute majority, that is if the absolute votes were counted, but were eventually negated because of the separate counting of votes. While the separate counting of votes is not applied to government motions, it is applied to motions introduced by Legislative Council Members. Why is it so unfair? The purpose of this design in the Basic Law is to cripple and split the Legislative Council. The Legislative Council is not only split by the electoral system, but

also by the voting system. As a result, it is unable to discharge fully the function of monitoring the Government. This is the second knife put to the throat of the Legislative Council.

Then there is a third knife. The third knife imposes restrictions on the bills that we introduce in accordance with legal procedures into this Council, that is, they may not relate to public expenditure or political structure or the operation of the Government. Bills relating to these areas require the consent of the Government. But what is meant by the operation of the Government? What is meant by government policies? What is meant by public expenditure and political structure? The Legislative Council can be overruled with the sole excuse that it has contravened government policies. Even bills that have been passed can be overruled. The example that I remember most clearly and Miss Emily LAU might also remember is the Lingnan University Bill. The Legislative Council was of the view that the Council of Lingnan University should include two Legislative Council Members, to be elected by Members among themselves. However, a government official told me that if I proposed that there should be two Legislative Council Members on the Council of Lingnan University and if it was allowed by the President of the Legislative Council (the President would certainly allow it since the Legislative Council Members on the Councils of the University of Hong Kong and the Chinese University of Hong Kong were elected in the same manner), the Government would not hesitate in withdrawing the Lingnan University Bill, if I was lucky enough to get the permission. The result would be that Lingnan could not be converted into a university in this Legislative Session. Members can imagine the price I would have to pay, if the students could not obtain a university degree after studying so hard for so many years. Should I introduce the proposal? When the Government uses the students' interests as a threat, what should the Legislative Council do? I asked the official why the Government did not want Legislative Council Members to elect two representatives among themselves, but insisted on appointment by the Government. The official replied that it was a decision of the top leaders. At last I understood what is meant by government policy. This is simply a case of the rule of man. Decisions are made by top leaders of the Hong Kong Government or bureau officials. When motions introduced in the Legislative Council are considered as contradicting their policies, they may not be introduced. Someone also reminded me of what the consequence of my motion would be. The authorities were dealing with the amendments proposed by Mr LEE Cheuk-yan and Mr Andrew CHENG and their amendments also contradicted government policies. If my motion was

passed, there would be no reason not to allow the introduction of the amendments by Mr Andrew CHENG and Mr LEE Cheuk-yan. Honourable Members, that is the third knife put to the throat of the Legislative Council.

The first knife is an undemocratic electoral system. This system prevents the Legislative Council from exercising checks and balances on the Government. It leads to an internal split in the Legislative Council so that it cannot accomplish anything.

The second knife is the mechanism of the separate counting of the votes of the two groups of Members. Under this mechanism, proposals that have majority support in this Council are annulled instead of being implemented.

The third knife strikes at the scope of powers of the Legislative Council. Without the Government's consent, bills in the Legislative Council that relate to public expenditure and government policies may not be introduced.

Is this not a handicapped legislature? Is this not a legislature that fails to represent the people's wishes? While the Administration urges the people to cast their votes to elect their representatives in the legislature, it uses its knives to remove the power of the Legislative Council stroke by stroke. On the scales of this community, the people's power is nothing compared to the Government's power. Today, in making these amendments, are we not just making carvings on a rubber stamp or on an unplugged speaker that has been soaked in water?

Of course, I know that Rome was not built in a day. Similarly, democracy cannot be achieved within a term of the legislature. People must suffer countless defeats before they truly appreciate the importance and value of democracy under a democratic system. During the '70s, many Hong Kong people suffered setbacks in various social affairs. In the '80s, Hong Kong people experienced defeats in many political affairs. Similarly, in the '90s, Hong Kong people have seen the failure of parliamentary politics. However, they value democracy. Even though they are concerned about economic affairs at present, as Mr James TIEN said, they will agree that the economy cannot be safeguarded without democracy. Even if we are concerned about the

environment like Miss Christine LOH, the environmental policy will not come up to people's expectations without democracy. Ultimately, all issues related to the people's livelihood must be dealt with under a political system, under a democratic system. Otherwise, they will only reflect the bureaucrats' wishes, not the people's wishes. That is the key to the problem.

Today, we have to suffer one defeat after another. But the Government and the TUNG Chee-hwa clique should beware. Each defeat only results in a postponement of the "payment of interest". Each defeat could further undermine the popularity of TUNG Chee-hwa's government. If its popularity rate drops by 10 percentage points each year, I wonder if he will have the nerve to run for the Chief Executives office in five years. Just wait and see what will happen if it drops by 10 percentage points each year. Will he be re-elected? Of course, someone will still get re-elected, but he will have to pay an even higher price. In this community, if the people's will is suppressed, one will have to pay the principal in the long-term historical context. However, if the people are allowed to exercise their will, society will enter a new stage and new harmony will be achieved. There are many lessons and experiences to be drawn from history. There is a Chinese saying that "the mountains cannot stop the river from flowing eastward". The current of democracy cannot be halted and will continue on its eastward course. Who can suppress the aspirations for democracy forever? Who can suppress the people's power forever? Whoever defeats this democratically elected Council continually will eventually see the triumph of this power.

Today, I will honestly introduce my amendments. I will honestly face defeat and let the people see that one will suffer defeat even if one possesses a democratic will. They will have to pay a price. The price might have to be paid today or later. It might be Hong Kong's future or interest. I have pointed out more than once that Hong Kong is an example for Taiwan. They say that LEE Teng-hui is a traitor. That is true. But why can he sell this treason so self-righteously in Taiwan? Why is it that the Taiwanese sympathize with his views and even voted for him? This is because Hong Kong has failed to effectively implement the concept of "one country, two systems". If the concept worked well, Hong Kong would naturally become a model for Taiwan, whereas Hong Kong's failure in this respect would leave Taiwan no choice. What is the use to talk of reunification? Reunification can only be achieved

with reason and facts, not threats. What can Hong Kong offer as an example that will move Taiwan towards reunification and accepting reunification. It will only move further and further away.

A long time ago, I went to Taiwan. I saw that the Democratic Progressive Party (DPP) had put a whale on its election logo. The island of Taiwan was placed horizontally so that it became a whale. I asked them why they had turned Taiwan into a whale. They said that they wanted Taiwan to swim further and further away like a whale in the ocean. How sad it was! As a Chinese, I really felt sad. The DPP asked the foreign minister to receive us. It was dealt with by the foreign ministry because they considered the exchanges with us as foreign affairs (waishi), which does not mean that they thought that we stood in the way of Taiwan's independence (aishi), but rather that they treated us as foreigners. Why? Because China has not handled its affairs properly and Hong Kong has not handled its affairs properly after the reunification, leading to today's state of affairs.

If Honourable Members think of themselves as patriots and if they hope that China will be united, they should not adopt a short-sighted attitude towards this issue and be concerned only with immediate interests. Otherwise, it would harm the long-term interest of the Chinese nation. This is not just about the interest of the democrats and those who support democracy in Hong Kong. I speak in earnest on this question and I hope Members would listen. What they do today will have a very bad effect on the principle of "one country, two systems". No one who loves the Chinese nation would like to see this happen.

Whether on account of the nation or democracy, we are distressed by what we see. But we must fight on. We fought for democracy in the '70s and '80s. In the '90s, we have fought for democracy in the legislature. "The road stretches endless ahead, I shall search heaven and earth". This is what democracy is about. However, we do not want to see people pay too dearly and the community suffer too much for democracy. Even if Members do not want to listen, I have to speak on this issue. I hope Members will turn back before it is too late and think about this question carefully.

Thank you, Mr Deputy.

**MISS CHOY SO-YUK** (in Cantonese): Mr Deputy, as a Member returned by the Election Committee, I rise to talk about how I felt and what I experienced over the past year.

Over the past year, I have seen many colleagues in this Council wittingly or unwittingly, openly or not so openly treat Members returned by the Election Committee as a coterie lacking in representativeness. Based on my experience over the past year, I have to solemnly declare that I do not agree with this view at all. Actually, over 30 different sectors are represented in the Election Committee, with each sector having its own interest. They compete against and co-operate with one another. The over 30 sectors never can reach a consensus or a unanimous agreement over any issue. As a result, as Members representing them, we very often have to listen to the views of various sides. Therefore, it is actually a highly representative mechanism.

I would also like to point out that the Election Committee is in fact a very good channel to canvass the views of different sectors. I recall that last year, in the Provisional Legislative Council, I did not quite know how to begin when people's opinions were sought on some issues. Finally, I had to conduct surveys on the streets and distribute questionnaires. The response rate might not be very high and yet we had to spend a lot of time on it. Now, with 800 voters from different sectors, it is easier to find out the views of each sector. Through meeting them in the election period, we got to know them and learnt about their views. This makes it easier for us to understand the different professions and sectors. It is actually a very good channel through which we can understand and represent the views of different sectors.

From their point of view, they can very easily get in touch with us through this channel and ask us to express views on their behalf. The over 30 sectors represent different trades. When they wish to express their views, they would not do it through demonstration or procession. The political parties and groups might not be willing to listen to them. However, they can easily get in touch with the 10 Members they elected. Over the past year, members of various sectors have been in touch with me, including lawyers, Western medical practitioners, Chinese medicine practitioners, members of the catering and hotel

sectors, as well as members of other sectors, such as engineers. This mechanism provides a good channel for them to get in touch with us.

From my work over the past year, I feel that we must reflect the views of these sectors and be accountable to them. Thus, to me, comments that the Members returned by the Election Committee are not representative are both unfair and insulting to the 800 representatives who were themselves elected by their own sector. Mr Deputy, I so submit.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Mr Deputy, I move that the Second Reading debate on the Legislative Council (Amendment) Bill 1999 be resumed.

The purpose of the Bill is to amend the Legislative Council Ordinance to establish in pursuance of the relevant provisions set out under the Basic Law a legal framework for the second Legislative Council Election to be held in 2000.

In early February, the Government submitted the Bill to this Council for scrutiny. A Bills Committee was subsequently formed under this Council and conducted a total of 23 meetings to examine in detail the various provisions contained in the Bill. I should like to express my heartfelt gratitude to the Honourable Ronald ARCULLI, Chairman of the Bills Committee, and the 30-odd members under his chairmanship for their efforts in enabling the Bill to resume its Second Reading debate as scheduled before the Council rises for the summer recess.

Many invaluable views were raised by the Bills Committee in the course of scrutinizing the Bill. After taking the recommendations into careful consideration, we have accepted quite a number of them and formulated amendments accordingly.

Today, this Council will deal with the various amendments proposed to the Bill by Honourable Members in accordance with the Rules of Procedure. First of all, I need to make it clear that the Government fully respects the autonomy of this Council in drawing up the Rules of Procedure. Nevertheless, the Government also expressed last year its reservations about the manner in

which the Rules of Procedure deal with the application of certain provisions of the Basic Law to the operation of this Council. I consider it necessary for this stance of the Government to be put on record.

Having reviewed in detail the arrangements for the 1998 Legislative Council Election and the relevant policies, the Government has come to the view that the various electoral arrangements proposed under the Legislative Council (Amendment) Bill 1999 are most suitable for the 2000 Legislative Council Elections. We therefore recommend them to this Council for adoption. Many of these arrangements have been proven effective in previous elections, one very good example is the restrictions on canvassing activities.

A proposal for a cooling-off period has been put forward by a Member to prohibit candidates from conducting canvassing activities on polling day. With regard to electioneering activities, it has all along been the Government's policy to allow candidates to choose in accordance with their practical needs the various canvassing activities they wish to conduct, provided that the activities are in line with the relevant provisions and guidelines. We hold that full-scale canvassing activities constitute an ideal process of civic education. Through the various canvassing activities, members of the public could gain a better understanding of the meaning of election, which would in turn contribute to their incentive to vote. As such, canvassing activities are helpful in enabling the public to understand better the meaning of elections, as well as in bolstering the enthusiasm for voting in elections among the public. That way, the democratic development of Hong Kong would also be given a stronger impetus. Moreover, we are also concerned that if all canvassing activities should be prohibited on polling day, both the election atmosphere and the incentive of voters to vote would be affected. We believe it is the common hope of Members that more voters will turn out for the polling day.

Having examined in detail the proposed amendments, we have, however, found with them a number of technical and enforcement problems. I will discuss them in detail when speaking on the relevant amendments later on.

A proposal has been put forward by a Member to restore the "single-seat, single-vote" system in the geographical elections. We consider this proposal inappropriate on the ground that compared to the "single-seat, single-vote" system, the proportional representation system is more effective in reflecting voter preference in terms of allocation of seats. Moreover, after the 1998

Legislative Council Election, the proportional representation system has become familiar to and accepted by the people of Hong Kong. The arrangement has also worked well. We really cannot see any need to replace it with another system.

In addition, there was also a proposal put forward by a Member to empower the Chief Executive in Council to make regulations for the setting up of a system of reimbursement of election expenses. I need to point out here that the Government is actually providing candidates running in the Legislative Council Election with considerable subsidies in kind. These include two rounds of free mailing service, a series of publicity programmes produced by Radio Television Hong Kong, election forums, as well as information leaflets produced by the Registration and Electoral Office to introduce the candidates. In view of the subsidies in kind mentioned, we do not consider there is any need to further subsidize candidates' campaigning activities with additional public funds. On the contrary, if the Government should consider practically subsidizing the campaigning activities of candidates with public funds, we would need to consider cancelling the various subsidies in kind we have been providing candidates. For this reason, we consider it neither appropriate nor necessary to set up a system of reimbursement of election expenses. Hence, there should not be any need for the provision to empower the Chief Executive in Council to make regulations for this purpose.

We are also aware that Members have proposed quite a number of amendments to try to revise the arrangements for the 2000 election. These include adopting the proportional representation system as the voting system of the Election Committee, substituting the drawing of lots for the existing method specified in the Ordinance to determine which 12 of the FCs are to allow candidates not of Chinese nationality to stand for election, as well as bringing forward the date after which no by-election is to be held for the Urban Council FC or the Regional Council FC to the day of publication of the Ordinance in the Gazette.

Having regard to the proposed amendments concerned, we have come to the view that the various arrangements provided for by the Bill are more appropriate. For this reason, we are opposed to the proposed amendments mentioned. I will give a detailed account of our reasons when I speak on the relevant proposed amendments later on.

Regarding FC elections, we propose to establish two new FCs, namely, the Catering Functional Constituency and the District Councils Functional Constituency. The catering sector is an important pillar of the economy of Hong Kong, employing a total of 200 000 workers; hence, it should be justifiable to establish a FC for the sector. As to the District Councils Functional Constituency, it is established to help strengthen the tie between this Council and the various District Councils.

One of the proposed amendments advanced by Members has suggested replacing the District Councils Functional Constituency with a Hotel Functional Constituency, while another has suggested replacing the Catering Functional Constituency with a Chinese Medicine Functional Constituency. The Government is opposed to these two amendments proposed by Members. With respect to the proposal to establish a Hotel Functional Constituency, we believe the hotel industry has adequate representation in this Council, bearing in mind that it has already been included in the Tourism Functional Constituency. We consider it not advisable to establish separately a new FC for the hotel industry. As regards the proposal for a Chinese Medicine Functional Constituency, our view is that since Chinese medicine is an integral part of the medical and health services in Hong Kong and makes contribution to the protection of public health like Western medical science does, it is not appropriate to establish a separate FC for the Chinese medicine industry.

Members have put forward a number of proposed amendments in respect of the delineation of electorates for certain FCs. Of these proposed amendments, one has suggested including registered veterinary surgeons in the electorates for the Medical Functional Constituency. The Government objects to this proposed amendment. At present, the Medical Functional Constituency is composed of two groups of electors, namely, the registered medical practitioners and the registered dentists. While both of the two electorates are concerned with the health of human beings, the veterinary surgeons whom the relevant Member has sought to add into the Medical Functional Constituency are primarily concerned with the health of animals. In view of the clear distinction between the clients they serve, we do not think we should include veterinary surgeons in the Medical Functional Constituency.

Amendments have also been proposed by Members to include certain organizations as eligible electors for the Transport Functional Constituency and

the Wholesale and Retail Functional Constituency respectively. We have examined in detail the organizations concerned and found them either not of a broadly representative nature, or not meeting the requirements we have adopted for the delineation of electorates. Hence, we also object to the relevant proposed amendments.

On the delineation of electorates for the Information Technology Functional Constituency, it has been suggested by a Member that holders of qualifications relevant to information technology who possess a certain number of years of professional working experience in information technology proven by employers should be deemed eligible to be registered as electors for the FC. We consider the eligibility requirements proposed under this amendment not clear enough, and if the amendments should be passed, it would pose significant problems to the enforcement of the provisions. For this reason, the Government is opposed to the amendment. I will come back to that in greater detail at the Committee stage.

As regards the other amendments proposed by the Government, with the exception of those which are purely technical in nature, the majority of the amendments have been proposed in response to the invaluable comments made by Members. Since Members have referred to the question of whether they have the power to influence the Government in their speeches just now, I should like to make a brief response here.

I feel that Members really should not belittle themselves or play down the importance of their contribution in this respect. Nor should they distort the truth to support their so-called "executive hegemony" allegations. As I said just now, we have actually taken on board many of the views raised by Members. The majority of the amendments we move today are the fruits of the 23 lengthy meetings that we have held with Members. I hereby give recognition to the contributions that Members have made. Although the relationship between the legislature and the executive is not recommendable in the eyes of Members, I think that we have just proven that we could really work in co-operation.

On the advancing polling arrangement, the Government has originally

proposed in the Legislative Council (Amendment) Bill 1999 to introduce a pilot scheme of advance polling in respect of the 2000 Legislative Council Election. Taking into consideration the interval of one to two weeks between the advance polling day and the general polling day, in scrutinizing the Bill many Members expressed their concern that in the run-up to the general polling day, results of the exit polls conducted on the advance polling day might be disclosed by the media, thereby undermining the fairness and impartiality of the election. After careful considerations, we agreed that the scheme of advance polling should not be implemented in the 2000 Legislative Council Election before the grave concern mentioned could be overcome. Hence, we will propose to delete from the Bill the provisions on advance polling. Nevertheless, we will give thorough consideration to the relevant issues later, with a view to submitting for Members' consideration and approval effective arrangements in respect of the 2004 election.

I will now turn to arrangements for the termination of election proceedings. After taking into consideration the views raised by Members, we propose to delete the provision which allows the Returning Officer of a Geographical Constituency to add the name(s) of the surplus nominee(s) to the list to make up the difference arising from the death or disqualification of a validly nominated candidate after the close of nomination. In addition, we will also propose amendments to require the Returning Officer of a FC election to terminate the election proceedings if he becomes aware of the death or disqualification of a validly nominated candidate after the close of nomination but before the polling day.

Further to the amendments mentioned, the Government will also propose minor amendments to the composition of certain individual FCs. We suggest incorporating into the Transport Functional Constituency, the Wholesale and Retail Functional Constituency, as well as the Textiles and Garment Functional Constituency a number of organizations which are broadly representative in their respective sector. On the request made by Members, we will also propose some technical amendments to re-arrange the list of electors set out in the schedules, with a view to rendering the lists more comprehensible to all parties concerned.

Having regard to the recommendations made by Members, we will propose amendments to provide for a mechanism for updating the *ex officio* membership of the Election Committee. Under the arrangement, all

Legislative Council Members and the Hong Kong Deputies to the National People's Congress (NPC) holding office on 30 June 2000 should be registered as *ex officio* members of the Election Committee. When there are subsequent changes to the membership of the Legislative Council or the Hong Kong Deputies to the NPC, the names of those who no longer hold either of those offices should be removed from the final register of the Election Committee. The names of those newly elected to the new term of the Legislative Council or the NPC will be added in the register as *ex officio* members of the Election Committee.

We will also propose technical amendments to the nomination procedures of the religious sub-sector. Under the existing arrangement, if the number of nominees of any specified religious organization should exceed the number of seats allocated to it, the religious organization concerned is required to specify the priority order of the nominees. However, the provisions concerned have not prescribed the procedures to deal with the situation in which the specified religious organization concerned has not set out the priority order. For this reason, we need to move a technical amendment to specify that the Returning Officer shall draw lots to determine the nominees to be appointed as members of the Election Committee in the event that the situation mentioned should occur.

We are convinced that the arrangements provided for under the Legislative Council (Amendment) 1999 Bill are most suitable for the 2000 Legislative Council Election. I hope Members will lend their support to the Bill and the amendments to be proposed to it by the Government. As regards the contents of the amendments proposed respectively by the Government and by Members, I will expound on them in detail one after another; besides, I will also explain the stance adopted by the Government in respect of the amendments.

Just now several Members have requested the Government to clarify the matters relating to the Government's intention to propose amendments to the composition of the Social Services Functional Constituency and that of the Medical Functional Constituency. I am afraid some Members might have misunderstood the proposal put forward by the Government. I should like to point out here that compared to the original amendments proposed by the relevant Members, the amendments proposed by the Government have improved on the arrangements in certain details. I should like to speak a few words on

our objective as well. After some extensive discussions with several Members, we have learned that quite a number of Members had indicated their support to the proposed amendments, thereby enhancing the chances of the amendments to be passed. In view of the circumstances, we need to consider carefully whether the relevant amendments should be refined in the light of the relevant provisions to facilitate enforcement. So, this is our simple objective. All we are trying to do is to enable the relevant amendments to work better. I should like to stress that the request we made is fully in line with the provisions of the Rules of Procedure of the Legislative Council, for we have made the request in pursuance of the Rules of Procedure of the Legislative Council. Naturally, the Honourable President of the Council has already passed her ruling in respect of our request. Our respect for this Council is beyond any doubt, and we will not dispute the rulings made by the President of the Council. For this reason, I can hardly understand why just now certain Members have criticized the Government for disrespecting this Council in proposing the amendments in pursuance of the Rules of Procedure. Nor could I subscribe to that view.

Last but not least, I should like to respond to matters not of relevance to this Bill that several Members have raised. In regard to the remark made by Mr LEE Wing-tat that the Government "has only the power but not the mandate" while Members "have only the mandate but not the power", I think this remark of Mr LEE's merits introspection, for he has pointed out sharply the tight corner that we are now in. I do not think this is the right time to start a debate over the issue, but I can assure Members that the Government is also deeply concerned about the situation. I hope to thoroughly discuss it with Members on a more suitable occasion in the future.

As I conclude my speech, Mr Deputy, I should like to thank you for allowing me the chance to explain the Government's stance on the Bill. I look forward to speaking on the amendments proposed by the Government later tonight. Thank you.

THE PRESIDENT resumed the Chair.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Legislative Council (Amendment) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

**PRESIDENT** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Miss Emily LAU rose to claim a division.

**PRESIDENT** (in Cantonese): Miss Emily LAU has claimed a division. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Are there any queries? If not, voting shall now stop and the result will be displayed.

Mr Kenneth TING, Mr James TIEN, Mr David CHU, Mr Edward HO, Mr Albert HO, Mr Michael HO, Dr Raymond HO, Mr LEE Wing-tat, Mr Martin LEE, Mr Eric LI, Mr LEE Kai-ming, Mr Fred LI, Dr LUI Ming-wah, Mr NG Leung-sing, Prof NG Ching-fai, Miss Margaret NG, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr MA Fung-kwok, Mr James TO, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Miss Christine LOH, Mr CHAN Kwok-keung, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Wing-chan, Mr CHAN Kam-lam, Dr LEONG Che-hung, Mr Gary CHENG, Mr SIN Chung-kai, Mr Andrew WONG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Mrs Miriam LAU, Mr Ambrose LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr Timothy FOK, Mr LAW Chi-kwong, Mr TAM Yiu-chung and Mr FUNG Chi-kin voted for the motion.

Miss Cyd HO, Mr LEE Cheuk-yan, Mr Ambrose CHEUNG, Mr LEUNG

Yiu-chung, Mr LAU Chin-shek, Mr LAU Wong-fat, Miss Emily LAU and Dr TANG Siu-tong voted against the motion.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that there were 57 Members present, 48 were in favour of the motion and eight against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

**CLERK** (in Cantonese): Legislative Council (Amendment) Bill 1999.

Council went into Committee.

### **Committee Stage**

**CHAIRMAN** (in Cantonese): Committee stage. Council is now in Committee.

### **LEGISLATIVE COUNCIL (AMENDMENT) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Legislative Council (Amendment) Bill 1999.

**CLERK** (in Cantonese): Clauses 4, 7, 9, 14, 15, 17, 19, 23, 24, 28, 29, 33, 34, 37, 38, 39, 40, 41 and 46.

**CHAIRMAN** (in Cantonese): Will those in favour please ..... Mr LEE Wing-

tat?

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, although these are not clauses subject to amendments, may I speak on them?

**CHAIRMAN** (in Cantonese): Yes, Mr LEE Wing-tat, you may speak now.

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, I shall be very brief. Some of these clauses are of a technical nature. Other clauses, such as clauses 14 and 15, relate to the establishment of the second Election Committee and changing the number of Members to be returned by the Election Committee from 10 to six. Since the Democratic Party does not agree to these proposals, we will oppose them. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Does any Member wish to request that separate voting be carried out?

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, since you have mentioned it, I request that separate voting be carried out.

**CHAIRMAN** (in Cantonese): In that case, I will have to sort out the relevant procedures before putting them to the vote. The meeting is now suspended.

8.30 pm

Meeting suspended.

8.38 pm

Council then resumed.

**CHAIRMAN** (in Cantonese): Members, I am sorry about this delay. I will divide the clauses into two groups: the first group contains clauses that Mr LEE Wing-tat has not raised objection to; the second group contains clauses that he has raised objection to. We will vote on the first group first, and then on the second group.

I now put the question to you and that is: That the following clauses stand part of the Legislative Council (Amendment) Bill 1999.

Clauses 4, 7, 9, 17, 19, 23, 24, 28, 29, 37, 38, 39 and 40.

Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): We will now proceed to the second group, which contains clauses that Mr LEE Wing-tat has raised objection to: clauses 14, 15, 33, 34, 41 and 46. Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Mr Andrew WONG.

**MR ANDREW WONG** (in Cantonese): May I speak on the clauses which are put to the vote separately?

**CHAIRMAN** (in Cantonese): Since I allowed a Member to speak just now, I will of course allow you to speak too. You may speak on these clauses.

**MR ANDREW WONG** (in Cantonese): Madam Chairman, could you repeat what those clauses are?

**CHAIRMAN** (in Cantonese): Clauses 14, 15, 33, 34, 41 and 46.

**MR ANDREW WONG** (in Cantonese): Madam Chairman, just now I did not know which clauses were to be voted on separately. With regard to clauses 14 and 15, a very interesting situation might arise. Clause 14 is about the Election Committee. It amends section 22(1) of the Ordinance by repealing the first term of office and substituting the second term of office. Clause 15 changes the number of Members to be returned by the Election Committee from 10 to six. Should clauses 14 and 15 be negatived, in the second term of the Legislative Council .....

**CHAIRMAN** (in Cantonese): Dr Philip WONG, do you have a point of order?

**DR PHILIP WONG** (in Cantonese): Yes, I have a point of order. Madam Chairman, it seems that the voting result just now has not been announced.

**CHAIRMAN** (in Cantonese): Thank you, Dr WONG, for reminding me. It was a bit confusing just now. The first group of clauses includes clauses 4, 7, 9, 17, 19, 23, 24, 28, 29, 37, 38, 39 and 40. The question is agreed by a majority of the Members present. I declare the motion passed.

We will now vote on the second group of clauses. I now propose the question to you and that is: That the following clauses stand part of the Legislative Council (Amendment) Bill 1999. Clauses 14, 15, 33, 34, 41 and 46.

Mr Andrew WONG, please continue.

**MR ANDREW WONG** (in Cantonese): Thank you, Madam Chairman. Actually I wanted to speak on clauses 14 and 15. But I did not know that clauses 33, 34, 41 and 46 were also involved. Could we have some time to look at those clauses first?

**CHAIRMAN** (in Cantonese): You can speak first.

**MR ANDREW WONG** (in Cantonese): But I cannot look at clauses 33, 34, 31 and 46 while speaking on clauses 14 and 15. That is impossible.

I just want to point out an interesting question. If clause 14 is negated, the section will remain and refer to the first term of office of the Legislative Council. There will not be a second term. If clause 15 is negated, the number of Members will remain at 10 instead of six. In that case, there will not be any section on the Election Committee for the second term of office of the Legislative Council, since these sections only apply to the first term. Then Madam Chairman will have lost her original seat. Thus, some strange things might happen. Some people might say that the second term of office of the Legislative Council should be composed in accordance with Annex II to the Basic Law. If we did not comply with the numbers stipulated there in enacting legislation, they might consider it a breach of the Basic Law and might again seek an interpretation by the Standing Committee of the National People's Congress. Madam Chairman, I gave the above views on clauses 14 and 15 for Members' reference.

**CHAIRMAN** (in Cantonese): As Mr Andrew WONG said, I should tell Members what clauses 33, 34, 41 and 46 are about. Clause 33 is about the system of voting and counting of votes for the Heung Yee Kuk, the agriculture and fisheries, the insurance and the transport FCs. Clause 34 is about the system of voting and counting of votes for other FCs. Clause 41 states that the Chief Executive in Council may amend Schedules 1 to 2. Clause 46 is a consequential amendment about the allocation of the full members in the Federation of Hong Kong Industries Ordinance to scheduled groups, and so on.

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, I must apologize to colleagues. Just now I glanced at it too quickly. Actually, we just oppose three of the clauses. I am sorry. I wish to rectify. We only oppose clauses 14, 15 and 34. After I have explained it, we can complete this procedure. Since clauses 14 and 15 deal with the establishment of the Election Committee, we oppose them. Clause 34 repeals Part 3 of Schedule 1 and substitutes sections 20(1)(e) to (zb). This clause is related to the abolition of the two Municipal Councils. The Democratic Party will oppose these three clauses. Madam Chairman, I beg your pardon again. As for the other three clauses, we will not request voting on them separately. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Mr LEE, since I granted you permission once, I will grant it again.

I now propose the question to you and that is: That the following clauses stand part of the Legislative Council (Amendment) Bill 1999. The clauses are clauses 14, 15 and 34. Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Mr Andrew WONG, do you have a point of order again?

**MR ANDREW WONG** (in Cantonese): Madam Chairman, I have a point of order. Just now I said that I could only speak on clauses 14 and 15, since there was no time to look at the other clauses. Then Mr LEE Wing-tat said that they only oppose the above clauses and clause 34, but not the other clauses, and Madam Chairman immediately put the question to vote. But we had no time to consider the question. Just now I asked Madam Chairman whether we could have a little time to look at the relevant clauses. If Members have any questions, they could ask Mr LEE Wing-tat to explain at once. If clause 34 is negated, what would be the consequences? The consequence is that the two Municipal Councils will be gone. But what about the system of voting and counting of votes for other FCs?

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, thank you for letting me explain. I think everyone understands about clauses 14 and 15 and I need not explain them. Regarding clause 34, it amends section 51(1) by repealing "Part 3 of Schedule 1" and substituting "section 20(1)(e) to (zb)". Actually, (za) and (zb) refer to the two new functional constituencies, that is, the Catering and District Councils Functional Constituencies. Indirectly, this means that (za) and (zb) will only appear in the new schedule after the dissolution of the two Municipal Councils. That is why the Democratic Party opposes it. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Does any other Member wish to speak?

**MR ANDREW WONG** (in Cantonese): Madam Chairman, thank you. If the two FCs were established but there was no system of voting and counting of votes, what would happen?

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, it is very difficult for me to persuade Mr Andrew WONG to support me, because our stand is clear in opposing the scrapping of the two Municipal Councils. As to what should be done if the Government's amendments are negated, it is the Government's business, not ours. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr LEE Wing-tat has claimed a division. The division bell will ring for three minutes.

**CHAIRMAN** (in Cantonese): For the benefit of those Members who have just returned to the Chamber, the question now put is: That clauses 14, 15 and 34 stand part of the Legislative Council (Amendment) Bill 1999. Mr LEE Wing-tat has claimed a division.

**CHAIRMAN** (in Cantonese): Will Members please proceed to vote.

**CHAIRMAN** (in Cantonese): If there are no queries, the result will now be displayed.

Mr Kenneth TING, Mr David CHU, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Dr LUI Ming-wah, Mr NG Leung-sing, Prof NG Ching-fai, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr MA Fung-kwok, Mr HUI Cheung-ching, Miss Christine LOH, Mr CHAN Kwok-keung, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Wing-chan, Mr CHAN Kam-lam, Dr LEONG Che-hung, Mr Gary CHENG, Mr Andrew WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Mrs Miriam LAU, Mr Ambrose LAU, Miss CHOY So-yuk, Mr Timothy FOK, Mr TAM Yiu-chung and Mr FUNG Chi-kin voted for the motion.

Mr Albert HO, Mr Michael HO, Mr LEE Wing-tat, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHEUNG Man-kwong, Mr Ambrose CHEUNG, Mr SIN Chung-kai, Dr YEUNG Sum, Mr LAU Wong-fat, Mr Andrew CHENG, Mr SZETO Wah, Mr LAW Chi-kwong and Dr TANG Siu-tong voted against the motion.

Miss Margaret NG abstained.

THE CHAIRMAN, Mrs Rita FAN, did not cast any vote.

THE CHAIRMAN announced that there were 49 Members present, 32 were in favour of the motion, 15 against it and one abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Legislative Council (Amendment) Bill 1999. Clauses 33, 41 and 46. Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**DR LEONG CHE-HUNG** (in Cantonese): Madam Chairman, in accordance with Rule 49(4), I move that in the event of further divisions being claimed in respect of other motions of the Legislative Council (Amendment) Bill 1999 during this meeting, the Committee of the whole Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That in the event of further divisions being claimed in respect of other motions of the Legislative Council (Amendment) Bill 1999 during this meeting, the Committee of the whole Council do proceed to each of such divisions immediately after the division bell has been rung for one minute. Does any Member wish to speak?

**MR SIN CHUNG-KAI** (in Cantonese): Point of order. Does this apply to the meetings from today to 16 July?

**CHAIRMAN** (in Cantonese): I hope that this Council will not need so much time to discuss the Legislative Council (Amendment) Bill 1999.

**MR SIN CHUNG-KAI** (in Cantonese): I know. But we might need three days to discuss this Bill. That is what I mean.

**CHAIRMAN** (in Cantonese): The voting result of this motion will apply to the Committee stage of this Bill. The question is: That in the event of further divisions being claimed in respect of the Legislative Council (Amendment) Bill 1999, the Committee of the whole Council do proceed to each of such divisions after the division bell has been rung for one minute. Is that clear?

**CHAIRMAN** (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority respectively from each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

**CLERK** (in Cantonese): Clauses 3, 5, 8, 18, 31, 36, 43 and 48.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, I move the amendments to clauses 3, 5, 8, 18, 36, 48, the amendment to section 48(3) under clause 31 and the addition of sections 48(3A), (3B) and (3C) under clause 31 and the addition of paras. (aa), (ab), (ca), (zca) and (zda) to clause 43, and the amendments to paras. (b), (c), (d), (g) (ii), (i), (j) and (zd) (ii) of clause 43, as set out in the paper circularized to Members.

The amendments to clauses 3, 5 and 8, as well as the addition of paras. (zca) and (zda) to clause 43 are all technical in nature.

As regards the amendments to clause 18, 31, and 36, as well as the addition of paras. (aa) and so on to clause 43, they are proposed to provide for the establishment of a new mechanism whereby the *ex officio* seats could be renewed. Since I have explained the rationale earlier on, I am not going to repeat my points here.

The amendment clause 43(i) is aimed at amending the nomination arrangements for the religious sub-sector of the Election Committee. Since I have also explained the rationale earlier on, I am not going to repeat my points here.

Last but not least, the amendment proposed to clause 48 is meant to give the provision greater clarity. This is also a technical amendment.

The aforementioned proposed amendments have been agreed to by the Bills Committee. I therefore urge Honourable Members to vote in support of them.

*Proposed amendments*

**Clause 3 (see Annex III)**

**Clause 5 (see Annex III)**

**Clause 8 (see Annex III)**

**Clause 18 (see Annex III)**

**Clause 31 (see Annex III)**

**Clause 36 (see Annex III)**

**Clause 43 (see Annex III)**

**Clause 48 (see Annex III)**

**CHAIRMAN** (in Cantonese): Does any Member wish to speak?

**DR YEUNG SUM** (in Cantonese): Madam Chairman, we in the Democratic Party oppose these amendments, since they concern mainly with clause 43 which is about the Election Committee. The Democratic Party opposes election by the Election Committee. Therefore, we oppose these amendments.

**CHAIRMAN** (in Cantonese): Secretary for Constitutional Affairs, do you wish to reply?

(The Secretary for Constitutional Affairs indicated that he did not wish to reply)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Constitutional Affairs be passed. Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Clauses 3, 5, 8, 18, 36 and 48 as amended.

**MR LEE WING-TAT** (in Cantonese): According to the script, clauses 3, 5, 8, 18, 36 and 48 should now be read out. But in the preceding page of the script, amendments to clauses 3, 5, 8, 18 and 43 are moved.

**CHAIRMAN** (in Cantonese): As other amendments will be moved to those clauses later, they will be voted on separately, while these clauses belong to one group. Does any other Member wish to speak? Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

**CHAIRMAN** (in Cantonese): We will now deal with the parts of the Bill relating to advance polling.

**CLERK** (in Cantonese): Clauses 2, 6, 25, 27, 30 and 47.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, I move the amendments to clauses 25 and 47, para. (1) of proposed section 46A in clause 30, the further amendments to clause 31, and the deletion of para. (a)(iii) from clause 2, and clauses 6 and 27, as set out in the paper circularized to Members.

We have proposed to introduce under the Legislative Council (Amendment) Bill 1999 an advance polling pilot scheme for the 2000 Legislative Council Election. In the course of scrutinizing the Bill, members of the Bills Committee expressed concern over the possible disclosure of the results of exit polls by the media before the general polling day, as there would be an interval of one to two weeks between the advance polling day and the general polling day. Members therefore requested the Government to legislate against the release of exit poll results to ensure that voters would be free of any influence when they cast their votes on the general polling day.

As we pointed out at the meeting of the Bills Committee, there was a precedent in Canada last year in which the court ruled that the provision against the release of exit poll results before the general election day was a breach of the freedom of speech. Having regard to this Canadian court ruling, we believe we need to further consider the matters concerned in a more meticulous manner and fully consult the various sectors of the community before making any decision on whether we should legislate against the release of exit poll results. On the other hand, we do understand Members' concern over the fairness and impartiality of the election; besides, we have also taken into account the

possibility that other members of the public may also harbour similar concerns.

After careful consideration, we have agreed that advance polling should not be introduced to the 2000 Legislative Council Election before the serious problem mentioned could be resolved. We therefore propose to delete from the Bill all the clauses on advance polling. I hereby earnestly urge Members to lend their support to the amendments.

*Proposed amendments*

**Clause 2 (see Annex III)**

**Clause 6 (see Annex III)**

**Clause 25 (see Annex III)**

**Clause 27 (see Annex III)**

**Clause 30 (see Annex III)**

**Clause 47 (see Annex III)**

**CHAIRMAN** (in Cantonese): Does any Member wish to speak?

**DR YEUNG SUM** (in Cantonese): Madam Chairman, the Democratic Party opposes the Administration's proposal to delete clauses related to advance polling.

Madam Chairman, many of our colleagues have actually been asking for advance polling since 1991. Our request was based on the fact that a lot of people may lose their right to vote on the general polling day because they are away on business and pleasure trips or because of family commitments. In fact, in addition to the Democratic Party, other Members and the Administration have also agreed that advance polling should be introduced, and that is why the

provisions on advance polling have been included in this Bill.

However, the issue of exit poll was raised at the Bills Committee during our discussions on advance polling. The Secretary has just cited the case of Canada to show that it is unconstitutional to prohibit the media from disclosing the results of exit polls. But in fact, the Democratic Party and other Members have never asked for legislation against exit polls, because we think that this is a way for the public to express their opinion. Moreover, in past Legislative Council elections, even if the TV stations and the press have conducted exit polls, they will usually wait until the end of the polling day before they will release the results. Therefore, we should not simply assume that the media will "jump the gun," and the outcome of the election will be affected by the early disclosure of exit poll results.

We feel that an advance polling system should be introduced to enable more voters to exercise their right to vote. The Democratic Party therefore opposes the Administration's proposal to delete clauses related to advance polling.

**MR RONALD ARCULLI:** Madam Chairman, I rise to support the Government's position of withdrawing or asking us to annul the provisions dealing with advance polling. We certainly welcome the concept of advance polling. But I think it is fair to say that when the Bills Committee looked at the provisions, we tested the Administration and sought a lot of information from the Administration, including the possibility of conducting advance polling by postal method. But members of the Committee were of the view that postal voting could be susceptible to undesirable conduct in terms of persuading people on how to vote and simply putting a ballot paper in an envelope and posting it to the authorities.

In fact, Members at one stage even asked the Administration to consider enacting legislation to prohibit the disclosure by the media of any exit polls conducted on advance polling dates. So, I think it is fair to say that taking everything into account, those Members who would support the deletion today would support the concept of advance polling. But what we are not satisfied with is that in the time available, we are unable to find solutions to the various concerns that we have expressed. Therefore, as far as the Democratic Party is

concerned, I do not think that we disagree with them that advance polling should be brought back at some stage, provided that we can find satisfactory solutions. We all know that a number of people do travel, part of the workforce is inconvenienced, and indeed, the whole discussion started with the civil servants who are actually on duty at various polling stations on general election day. They would have great difficulty in going back to their own district or geographical constituency for voting.

I do not think there is actually any disagreement that advance polling is a good thing and is of service to the community. But I think where we do part company with the Democratic Party is that we are not satisfied as yet, as of this moment, that we are unable to find solutions to the problems that I have enumerated.

**MR ANDREW WONG** (in Cantonese): Madam Chairman, we have been asking for advance polling ever since 1990 when the previous Legislative Council started to scrutinize the electoral regulations. So, it was not in 1991, as mentioned by Dr YEUNG Sum, but in 1990 that we started to request for advance polling. Many other proposals, such as postal polling, were also put forward at that time, but we did not think that those proposals were suitable. While I was the Chairman of the then Legislative Council Bill Committee, it occurred to me that the voting system of Canada may answer our need. Some voters may not be able to vote because of business commitments, and the family members of those who are hospitalized may not be able to accompany them to the polling stations. In such cases, it would be best if advance polling can be arranged for those people to vote at an earlier date so that their family members can vote on the election day.

Mr Ronald ARCULLI has just asked about the voting arrangements for the staff of polling stations. Though this could also be solved by advance polling, a more simple solution to the problem is to enhance our computer system to allow the staff of polling stations to vote at the particular station they worked. Therefore, this is really not a great problem.

As to whether the outcome of the election will be affected by exit polls, I think it will certainly be affected to a greater extent if advance polling was conducted one week before the polling day and the results of exit polls were announced in the newspapers. However, we must not forget that during the

Second Reading debate, someone has pointed out that exit polls on advance polling is different from that conducted on the polling day. But, that is really not the case. Even if the radio and TV stations announce the results of the exit poll three hours before the polling day, the outcome of the election will still be affected. Therefore, I think we still need to look into the possible effects of exit polls to see whether they will pose a great obstacle to advance polling. If exit polls are really found to be an obstacle, then we can still introduce legislation in October to prohibit exit polls.

I think the emphasis of advance polling is totally different from the issue under discussion, for it will allow more people to exercise their voting right. I am therefore against the withdrawal of the provisions on advance polling by the Administration.

Thank you, Madam Chairman.

**MR ERIC LI** (in Cantonese): Madam Chairman, I recalled that I had personally written to the Constitutional Affairs Bureau last year before the election, asking them to actively consider the postal voting method. After some time, I received a reply from the Bureau informing me that this voting method could not be introduced at the last Legislative Council election because it did not have enough time to consider the proposal. The Bureau also informed me that it hoped that the postal voting method could be introduced at the next election. I was very disappointed to learn that the Administration has to withdraw the relevant clauses because a consensus cannot be reached during the discussions on the electoral arrangements for the coming election. But, the Administration has at least shown its good faith by introducing the relevant clauses and withdrawing them only after failing to reach a consensus.

However, I feel that if I support the withdrawal today, there will no longer be any pressure on the Secretary to speed up its deliberations on this voting arrangement. In fact, we still have more than a year before the next election. So, even if imperfections are found after the proposal has been passed, I believe that the Administration will still have sufficient time to move amendments to the relevant provisions during the interim, in order to perfect the advance polling system.

So, under such circumstances, in order to express my disappointment with the withdrawal of the relevant clauses, I shall vote against these amendments.

**MR TAM YIU-CHUNG** (in Cantonese): Madam Chairman, at the initial stage, the original intention of including clauses on advance polling in the Legislative Council Bill was for the benefit of voters who are unable to vote on the general polling day. Voters who are away from Hong Kong on business and pleasure trips on that day can vote in advance for the candidates they support.

However, upon deliberation, we felt that this arrangement might result in unfairness in the election. Why? The reason is, everyone knows that exit polls are very common on the general polling day in every election. Apart from academic institutions, the media will also mobilize a lot of manpower and resources to conduct exit polls, and all sorts of forecasts and comments based on data collected during the exit polls will be made. These forecasts and comments may affect the voting inclination of voters on the general polling day and may also affect the outcome of the election.

Therefore, after the introduction of advance polling, the media and other organizations may manipulate the exit poll results of the advance polling to make forecasts on the outcome of the election, and candidates may also change their strategies and adjust their plans accordingly. So, if the final outcome of the election were distorted as a result, the fairness of the whole election might be open to question.

We are also clearly aware that, in order to safeguard the freedom of press and publication, it is impossible for the Government to enact laws to prohibit the media from disclosing the results of the exit polls before the actual results are announced. Some people suggest that the existing guidelines of the Electoral Affairs Commission (EAC) should be extended to prohibit the media from disclosing the results of exit polls on advance polling until polling closes. However, we are afraid that we may not be able to achieve the desired results because the guidelines of the EAC are not binding in nature. Though the EAC may repeatedly remind the media of the guidelines, in past elections, some members of the media, knowing that they would be reprimanded, would still disclose the results of the exit polls in advance. Moreover, the above proposal will only benefit candidates who are on good terms with the media, because it is virtually impossible for the Administration to stop the media from informing

individual candidates of the exit poll results. As a result, other candidates will be placed in a disadvantageous position.

So, if advance polling is casually introduced before the above problems are solved, the fairness of the election will certainly be questioned. Therefore, in order to provide against possible trouble, the Democratic Alliance for the Betterment of Hong Kong supports the deletion of clauses related to advance polling.

Thank you, Madam Chairman.

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, we have discussed this issue many times at the meetings of the Bills Committee. First of all, I would like to make a very important point, and that is, it is very important that we should exercise our civic rights. Except under circumstances which are really impossible, we really should not deprive the public of their civic rights. In the course of our scrutiny, I had actually asked why should people who were hospitalized not be allowed to vote. Unfortunately, we failed to come up with a solution after giving a lot of thought to this matter and were compelled to give up the idea in the end. However, I will certainly look into this issue again during the next term.

I am a bit disappointed that the Administration has to withdraw the clauses on advance polling because it has failed to research the matter thoroughly. In fact, the example of Canada was not quoted by the Administration at the early stage of our discussion and it was only brought to our attention at the very last minute. We were told that to prohibit the media from disclosing the results of the exit polls will be in contravention of the Hong Kong Bill of Rights Ordinance. I recalled that we had a very heated debate at that time. The Honourable Andrew WONG had used a very strong term to criticize the Administration, and I will not repeat that word in this Chamber for I am afraid that it might be "unparliamentary". Mr WONG said there was no reason why the Administration should quote the case of Canada at such a late stage .....

**MR ANDREW WONG** (in Cantonese): Madam Chairman, I have a point of order. Mr LEE Wing-tat said that I had used some "unparliamentary language", and that means language which should not be used in this Chamber. I hope he can clarify this.

**CHAIRMAN** (in Cantonese): He only said he is afraid that it might be "unparliamentary".

**MR LEE WING-TAT** (in Cantonese): Yes Madam Chairman, you are correct, I only said "might" and I am afraid to repeat that word.

I only wish to point out that the Administration has not done its homework before putting forward this amendment. The Administration later found out that it could use a very grand excuse to withdraw the relevant clause, and that is, if the media was prohibited to report the exit poll results, then it could be said that we might violate the International Covenant on Civil and Political Rights. We were very unhappy at that time for that was really a very serious accusation.

I just want to state one or two more points. First of all, I would like to ask how great is the difference between an exit poll and a general opinion poll? I think the answer will vary from person to person. Under the existing legislation and guidelines, in fact, the press, media, newspapers, radio and TV stations had reported the results of different polls almost every day during the 1998 Legislative Council Election. To what extent will voters be affected by the surveys and polls which are all over the place? I really cannot say that the effect will be as great as what some Members have imagined and unfairness will be resulted. For those who have won or lost in the polls, their opinions on these polls will certainly be different. If A should win in an exit poll, the general conclusion is that it will be to his advantage for he has won in the poll. However, some people may have another opinion, and that is the party that has lost in the poll will enjoy a competitive edge over his counterpart. Upon learning the results of the polls, the party that has lost will mobilize more resources and use them in a more strategic manner, and it may actually win eventually. So, I do not think that the disclosure of exit poll results, no matter whether A, B or C has won or lost, may not necessarily result in unfairness.

Secondly, I have repeatedly asked the Administration a question at the Bills Committee, but it has never received an answer. If the Administration really applies the ruling of the Federal Court of Canada to our election and allow the media to report the exit poll results at all times on the general polling day, then it will actually mean that the TV stations of the HK-TVB Television Broadcasts Limited, the Asia Television Limited, the Cable Television and the three radio stations may announce the results of the exit polls at 9 am, 12 noon, 3 pm, 6 pm and 6.30 pm after polling starts at 7 am on the general polling day. The number of voters involved in these polls will be greater than those involved in advance polling. According to the Administration, members of the media will not be prosecuted, so what can the Administration do? I repeatedly asked this question at the meetings of the Bills Committee, and Mr Andrew WONG also asked the same question, but the Administration never gave us an answer.

In fact, if the argument of the Administration holds, then it is saying that if the results of the exit polls are released any time before polling closes on the general polling day, unfairness will be resulted. In other words, the fact that the media will be reporting the exit poll results from 7.30 am to 10.30 pm on the general polling day will also result in unfairness. But, in fact, it is perfectly legal for the media to do so, then what could we do? I really think that the argument of the Administration is not correct. What we should do now is to face the problem instead of evading it. So, Madam Chairman, I really cannot accept the Administration's argument.

**MR ANDREW WONG** (in Cantonese): Madam Chairman, in response to Mr LEE Wing-tat's speech, I would like to say a few words. In fact, I was not talking about this issue at that time. At that time, I used the word "cheap" in English, but a Member forced me to provide a translation in Chinese, so I used the word "賤" since I do not mean "便宜" by "cheap".

In fact, we were actually discussing the amendment on "the cooling-off period" and that means there should not be any canvassing activities on the general polling day, and we were not discussing advance polling when I used that word. However, the two issues are actually related. If we are worried that the outcome of the election will be affected if the results of the exit polls are reported once every hour, then such activities should be banned, and that means

such activities should not be allowed for the sake of fairness. So, the two issues are actually related. I think Mr LEE Wing-tat has made a mistake for we were discussing the "cooling-off period", not "exit poll" at that time.

I would also like to answer the Honourable TAM YIU-chung's question, but of course, he has already formed his own opinion. I hope that he would understand that if the media refuses to co-operate, then according to the ruling of the Federal Court of Canada, they are really allowed to report the exit poll results once every hour and the effect will be even more significant. In my opinion, if advance polling is conducted one week ahead of the general polling day, the results of the exit polls will not be a representative sample. However, it will be different if someone wants to create a false impression, which means that we could get some newspapers to publish the results of an opinion poll which is to his great advantage. If a person can do so, then another person can certainly do so as well. Though this is not something that should be encouraged, it could certainly be done. However, Madam Chairman, I must emphasize that this is illegal and incorrect.

Since the Administration has already taken a very bold step to propose advance polling though it does not support postal voting, I think it should follow through with the plan and implement the proposal.

Thank you, Madam Chairman.

**MR AMBROSE CHEUNG** (in Cantonese): Madam Chairman, I oppose the Administration's deletion of the advance polling arrangements. Generally speaking, I agree with my colleagues that the Administration has not done enough research before it put forward the proposal. It has also not promised us that advance polling will be introduced at the next election. So, as the Honourable Eric LI has said, we really do not know how long we have to wait before advance polling will be introduced if this arrangement was withdrawn today.

Advance polling is an arrangement that can safeguard the civic rights of people with special needs. I think that it will be inappropriate for us to digress from the subject and focus our discussions on whether the disclosure of the polling results will adversely affect the fairness of the election. I suggest that

the Administration should look at the example of countries where advance polling is practised and see how big is their "sample". In Hong Kong, more than a million voters turned out to vote on the general polling day. So, according to Members' estimate, what will be the size of our "sample"? Will it be 10 000, 50 000 or 100 000?

Exit polls are very accurate. About 5% to 10% of the voters will be interviewed just when they leave the polling stations, and the rate of deviation may only be 3% to 5%. The exit polls results are very accurate insofar as a particular polling station and a particular election are concerned. However, the "sample" involved in advance polling is very small compared to that of the whole election. I think that we will be underestimating the members of the public, if we say that the exit polls conducted at one polling station on the advance polling day will affect the voting decision or voting inclination of the public.

Therefore, Madam Chairman, I think that we should not digress from the subject of our discussion. Unless the Administration makes an undertaking that advance polling will be introduced at the next election, otherwise, I think that our first and foremost concern should be to protect the civic rights of those who are unable to cast their vote on the general polling day. We should not be overly worried that the fairness of the election will be compromised, for I do not think that will happen.

Thank you, Madam Chairman.

**MR MARTIN LEE** (in Cantonese): Madam Chairman, I think that the Administration is really very illogical. However, this applies not only to the Administration, for the DAB also acts in the same manner.

Mr TAM Yiu-chung said unfairness may occur and the voting inclination of voters may also be affected. However, the fact is, though some voters may feel that they do not need to cast their votes because the DAB is already leading; others may be anxious to vote for the DAB because they would like to bet on a horse that will certainly win. This really makes me very puzzled. If everyone does not know what the consequences will be, then why should we say that it

must be unfair?

If we must say that it will be unfair, then the situation in the United States and Canada will certainly be far more serious for there is a time difference of four hours between the East Coast and the West Coast. Polling on the West Coast will still be going on by the time when all the votes have been counted on the East. However, these countries are still using this system. It has always been the practice of our Government to follow the example of others on a piecemeal basis. In fact, how many people will actually be voting on the advance polling day? It is obvious that only very few voters will turn out to vote on that day, then how far can the exit polls of the advance polling day affect the outcome of the election?

Mr LEE Wing-tat was right in saying that the Administration had always allowed exit polls to be conducted. If it is really worried that exit polls will affect the outcome of the election, then it should not set such long polling hours as from 7.30 am to 10.30 pm. Candidates are usually tired to death after long hours of standing. If the Administration is really worried, then the polling hours should be limited to one hour, then it can rest assured that the exit polls results will not affect the outcome of the election. However, the Administration is extending the voting hours instead. What is it really trying to do? This is really illogical.

Since the Administration is brave enough to propose this arrangement, I think that it should also be brave enough to go ahead with the proposal. We will certainly support the Administration, then why should it be scared? If the DAB does not like this arrangement, then do not be bothered with them!

**MR JASPER TSANG** (in Cantonese): Madam Chairman, I think when we talked about the development of the electoral system and electoral arrangements of Hong Kong, we should first look at its actual situation. Many elections have been held in Hong Kong over the years. In fact, the former "Election Committee" which is now renamed as the "Election Affairs Commission" has issued guidelines to urge the media to exercise self-discipline and not to release the exit polls results too soon. In general, these guidelines are quite effective.

Some colleagues just said they cannot see how will the exist poll results affect the outcome of the election. They said some voters may decide not to vote when they see that the DAB is leading; and others may vote for the DAB

when they see that it is leading. However, I think those are exactly the situations which we would not like to see, am I correct? If we say that the disclosure of exit poll results can work both ways and the two effects can offset one another and it will not affect the outcome of the election, then why should we set those guidelines in the first place. We should actually oppose those guidelines, for the purpose of the guidelines is to urge the media not to release the exit polls results too soon. Why should we infringe upon the freedom of the media?

What are we going to do, now that we have learned about the case of Canada? I think we should really conduct an in-depth study, rather than twisting this over to say that there is no problem when the exit polls results can be released. We really do not want the outcome of the election to be affected by exit polls results, and we hope that this will not happen. Reviews could be carried out, but we must also not forget the concept which we have all along been adhering to. We do not want the decision of the voters to be influenced by exit polls results, no matter whether they are backing the winner or casting aside the loser. Nor do we want the voters to be influenced by the exit polls figures. Voters may not vote for the candidate they support when they see that their candidate is leading. So, am I right to say that we should oppose this proposal because of the above reasons?

If the advance polling day is set at a day which is very close to the general polling day, then it will not be very useful because this arrangement is made for the benefit of those who are out of town. Those people who are not in Hong Kong may also be unable to vote on the advance polling day if it is too close to the general polling day. However, if there is a very long gap between the two polling dates, then it would be very difficult to ask the media to hold back the exit polls results for two to three weeks.

Since we will encounter the above problems and Mr Martin LEE also said that not many people will turn out on the advance polling day, then is it really worthwhile to introduce advance polling in such a hasty manner without considering all the problems?

I share Mr Ronald ARCULLI's view that though we do not oppose to advance polling in principle, we should give the matter some more thoughts for we can see that there are still some practical problems.

Thank you, Madam Chairman.

**MR MARTIN LEE** (in Cantonese); Madam Chairman, I think this once again shows that the DAB does not know what is meant by civic rights. When it comes to voting and civic rights, I think it would still be undesirable even if a small number of people lose this right. Since we are working towards this end, we should not support the deletion of the clauses related to advance polling.

The Honourable Jasper TSANG said that the DAB supports the Administration's amendments because no one knows how the exit polls results will affect the election proper. In fact, I think it is rather silly for the Administration to issue a set of guidelines. It should understand that the more often the media is asked not to report the exit polls results, the harder they will try to report it, for they will think that they will have an exclusive story by doing so. However, if we ask everyone to report it, then they may not be interested. Since only a few hundred voters in a big constituency may vote on the advance polling day, the Administration should give the media a free hand to report what they like. Everything will be fine if it lets the media have their own way and stops giving them instructions. If the media think that the Administration is nervous about the disclosure of exit polls results, then they will certainly disclose them. So, those guidelines are really not very useful for the more we ask the media to exercise self-discipline, the more they will feel that we are being unreasonable. Moreover, they will say that it is the freedom of the press to report the results, so why should they be prohibited from doing so?

I think that the Administration should not be unduly worried. Nobody will know how will the exit polls results affect the decision of the voters, and who is going to benefit or suffer. So, just let more people cast their votes. It is just that simple.

**MR GARY CHENG** (in Cantonese): Madam Chairman, it appears to me that it is the Honourable Martin LEE, SC, who does not understand what is meant by civic rights. Are we talking about stripping people of their voting right? They have the right to vote, but they cannot vote because they have to go on a trip or leave Hong Kong on business. Are we stripping them of their right to vote? Or their civic rights? Do we not know what civic rights are? This is the first point.

Secondly, several Members mentioned the idea of being benefited or being disadvantaged. Are we talking about them all? We are talking about the system. Mr Martin LEE said the DAB supported scrapping the Municipal

Councils. We have members in the Municipal Councils, and so we stand to lose. Is it right to support or reject the proposal just because we have something to lose or gain? We are talking about rules, not advantages or disadvantages. Mr LEE Wing-tat was right when he said that some people may follow the tide, some may feel not much could be done, or some may want to catch up fast. All this shows exit polls do influence the outcome. Nobody is saying we should oppose it because there is only one kind of impact, or two kinds do not count. How can we say that the fairness and impartiality of election will not be subject to influence by exit polls when there could be three or four scenarios?

Some say very few voters will show up at advance polling. That is exactly why the problem is more serious than we thought. If 10 people voted in advance and if an exit poll is conducted in which three of the voters were interviewed, and if two said they voted for candidate A and the third said candidate B, then the result of the exit poll would be 66% of the voters supported A. Is the exit poll not exerting some influence on later voting? Is this fair? Is this not misleading?

Thank you, Madam Chairman.

**MR RONALD ARCULLI:** Madam Chairman, I should not say that I do feel sorry for the Administration because of what they tried to do to us earlier. But that having been said, I must say that I feel a measure of sympathy for them on this particular occasion, because after all, they brought out the provision of advance polling day in the Bill. As Chairman of the Bills Committee, I suspect that I share quite a large part of the responsibility for the current state of affairs.

In fact, the concern about the influence of exit polls was expressed not only by Members who are supporting the Government today, but also by some Members who are against withdrawing those provisions. Indeed, when we look at the guidelines prepared by the Election Affairs Commission, some Members suggested that the Government should legislate in identical terms to prevent publication of exit polls. When the Canadian case came about and we found out that we could not and should not legislate against disclosure, I think one or two Members suggested, if I remember correctly, that perhaps the Government should actually talk to editors and media people to use moral

suasion, and to say to them, "Look, you should really behave yourselves and not disclose the exit polls."

Hence, there is sufficient doubt, to say the least, as to whether or not exit polls would in fact be an influence. I think the experience of other countries does not really help, because from what I can remember, advance polling, let us say, in Australia, is not just on one day, but on a whole series of days, and polling is conducted by postal ballots in the country itself. Outside the country, Australians can go to either their embassies or consulates or trade commissions to cast their votes. And that could be over a two-week period. When you have such a widespread territory where voters can vote in advance, it is almost impossible to conduct any form of exit polls. But under our provision, if it goes through, the number of polling stations would be limited initially. As I said, the Administration thought about one polling station. But when we discussed, we said that there should at least be five stations in each of the geographical constituencies. In fact, that is not decided yet. But, if there are five stations and there are voters going there, it is in fact quite easy to concentrate on five polling stations. I do not want to argue the toss as to whether it will definitely influence or definitely would not influence, but I think there is sufficient doubt.

Thank you.

**MR JAMES TO** (in Cantonese): Madam Chairman, I think we need to understand clearly the concept of civic rights. I am not so skeptical as to say that the Government may be stripping people of their rights and hence is acting against the Human Rights Covenant or the Hong Kong Bill of Rights Ordinance because it is not doing enough to urge people to vote or to facilitate the voting by voters. But I suspect legal proceedings may arise and I would like the Government to give some thoughts to the matter. But as the Honourable Gary CHENG said, we are not stripping them of their civic rights. We must, however, not forget that the rights have been conferred upon them. They are not necessarily relinquishing them conscientiously. For instance, they may have to leave Hong Kong on business. They can choose not to leave, you may say. Then they may be ill or have to undergo an operation on polling day to survive. So, they may have to vote two weeks in advance.

Therefore, the whole idea of civic rights is that since these are their

political rights, the Government must do all it can to enable them to exercise these rights. If the Government is not doing enough so that they can exercise the rights under all circumstances as best they can, then the Government is in effect stripping them of their civic rights. This is the first point.

Second, Mr Jasper TSANG said the Electoral Affairs Commission or the past Election Committee had laid down guidelines regarding exit polls. They did not want such results to be published so soon to avoid undue influence.

My idea on this issue is that voters can make their choices at any time anywhere in any way as they vote. They can even consider results of exit poll as a source of information. Maybe they very much desire to take the information into account and vote for the likely winner. This can be a choice. Any influence, positive, negative or whatever, or none in fact, or the polling results are only used as information to assist the voter in making a decision to go to vote with difficulty, or not to vote at all in order to save some travelling expenses, then no matter how small the degree may be, it can be helpful to the voter in making up his mind. I do not think there is any value judgment leading to a conclusion that it is right or wrong, positive or negative. So, under the circumstances, if a Member has not opposed to the guidelines drafted by the Electoral Affairs Commission, or expressed any opinions on the issue before, the Member may consider the matter again.

Nevertheless, I think rights are more important than other excuses or details. I agree with what the Honourable Ambrose CHEUNG said. That is, we need to facilitate their voting as much as possible, because it is their right after all. Furthermore, the Government has not made any promises as to the implementation of the arrangement in future. Since the Government has put forward provisions on the arrangement, I do not think it is appropriate to withdraw them now.

**MR ALBERT HO** (in Cantonese): Madam Chairman, perhaps I should put it in another way so as to further clarify this concept about advance polling.

I would not say that electors will be deprived of their voting right without the arrangement for advance polling. I would not draw such a conclusion but I think Honourable Members will agree that any government which respects such a right should exert itself to create the conditions conducive to the exercise of this right by everyone.

In fact, this concept involves two aspects, namely, the geographical aspect and the time aspect. On the geographical aspect, if there are only a few polling stations in a large constituency where electors have to travel for hours to cast their votes, has the government fulfilled its duty if it fails to provide more polling stations? If electors have to walk for hours strenuously or if they are required to travel for a long time before reaching the polling station, is the government considered to have discharged its duty? Of course, one can argue that after all polling stations are already provided for electors to cast their votes, but I think that insofar as it is manageable and where the circumstances allow, a responsible government should try its best to create the necessary conditions by setting up more polling stations to further facilitate voting by electors.

Similarly, this also applies to the time aspect. In fact, advance polling is adopted in many countries and in some of these countries, electors are even allowed to vote within a designated period during which they may cast their votes by post. All in all, there is a certain degree of flexibility to enable electors to exercise their civic rights. Certainly, this voting system must be carefully designed to ensure fairness and most importantly, it cannot jeopardize the integrity and impartiality of the electoral system as a whole.

I do not see why this cannot be achieved with the introduction of the advance polling arrangement. My view is that since the Government has proposed these provisions and we have, in the past, repeatedly advocated this arrangement which we consider to be feasible and do not oppose in principle, it really has nothing to do with the number of people. Most importantly, we must uphold and respect this principle, making every effort to create the conditions to facilitate voting by electors. This is the first point.

The second point concerns the release of exit poll results. I am not sure if this will have any influence. Perhaps there may be but I do not know what the influence can be. It may be in such a way that the supporters of a political party are rallied to vote, to throw their weight behind that particular party, or that the supporters of another party may vote in favour of other candidates instead. Yet, these are not crucial factors at all. I think a lot of things do exert influences, including the continuous appeal made by the Government on the polling day asking electors to cast their votes because who knows whose supporters eventually turn out to vote in response to the appeal. Therefore, the

question lies not in whether there will be influences, but whether the impartiality of the election will be jeopardized. This is of utmost importance.

According to the provisions in the Covenant, any restriction on the dissemination of information should be supported by reasonable justifications, such as the protection of public interest. The impartiality of election is obviously regarded as public interest which definitely warrants protection. If there is no proof that the impartiality of election will be in jeopardy, the fact that it may only influence some electors as to whether to vote or not does not constitute any justification for restricting the dissemination of information. Judging from this angle, I believe that the precedent in Canada was also established on this basis, and that is, why does it need to impose restrictions?

Therefore, given the absence of justification or data to prove that the dissemination of such information as exit poll results will do harm to the election and thus give rise to unfairness, no restriction can be imposed on such. Otherwise, it may constitute a violation of the International Covenant on Human Rights or the Bill of Rights.

Thank you, Madam Chairman.

**MR ANDREW WONG** (in Cantonese): Madam Chairman, Mr Albert HO has said what I wanted to say in the first half of his speech.

I think time and place are important factors. If we required that in the 2000 election Hong Kong voters must go to Beijing to vote during a certain period on a certain day in a certain month of the year, I do not think many people could go there to exercise their civic rights.

Thank you, Madam Chairman.

**MR JASPER TSANG** (in Cantonese): Madam Chairman, it was Mr Martin LEE who brought up the issue of civic rights. After the senior counsel has completed his speech, the two lawyers sitting at the back, probably wishing to make remedy for Mr LEE, immediately said that the absence of advance polling does not mean a deprivation of voters' civic rights.

I would stay at the polling stations during many of the past elections until

polling closed. Almost every time I could see people arrive hurriedly at a station after 10.30 pm when polling closed. But the polling officer would say to them: "Sorry. The time is up." Is this a deprivation of their civic rights?

There are opening and closing times for polling on polling day. Even if there is an advance polling day, it is only a matter of degree, of balance. Therefore I think the two lawyers at the back were fairer when they said the Government should try its best to facilitate voting. This I agree.

Even if the Government tries its best, we need to strike a balance. I must reiterate that we support in principle the idea of fighting for arrangements for advance polling and at the same time we need to address our present concerns. As we have never had this in past years, we want to do it well from the start. We do not want to create any negative impact. Instead, we want to make sure that voters are really facilitated in their voting.

Regarding voting rights, I think there is an issue which is more serious and therefore merits our attention than the deprivation of voting rights. Voter registration stops several months before polling. A number of people may not register in time. They may not be unwilling to register; they are unable to register because they are either out of town or late for registration. Under the Basic Law, they are *bona fide* permanent residents, but unfortunately Article 26 of the Basic Law stipulates: "Permanent residents of the Hong Kong Special Administrative Region shall have the right ..... in accordance with law." That means they have the right to vote and the right to stand for election only if they act in accordance with law. So, they cannot vote if they have not registered in accordance with law.

I do not think there is any relationship between civic rights and the topic under discussion.

**MR MARTIN LEE** (in Cantonese): Madam Chairman, I did not intend to speak but it appears Mr Jasper TSANG wanted me to say something. He was not satisfied with the two Members sitting at my back.

To act "in accordance with law" is a must. We must abide by the law, but it is the law we are trying to amend. Why do we not amend the law so that more people can exercise their civic rights? The reason is very simple.

**MR SZETO WAH** (in Cantonese): Madam Chairman, Mr TAM Yiu-chung said he spoke on behalf of the DAB. He said he supported the Government. Mr TAM is also a Member of the Executive Council, and he observes the principle of collective responsibility. As he supports the Government, the position of the DAB is the same as that of the Executive Council.

Mr Jasper TSANG said polling stations would close at 10.30 pm, and some people would be late. He asked whether those who are late should be allowed to vote. He also said there are deadlines for registration by voters. These are all stated by laws enacted. Some people may pass away one day before voting. What can we do? I think what is important is that the Government should try its best to provide assistance, no matter how small, to the people to exercise their civic rights.

Mr TSANG has repeatedly stressed that influence will be caused, but he is not sure what kind of influence would it be. Indeed, by being present at the anniversary celebration of certain political parties, the Chief Executive is exerting some influence. Why is this allowed?

**CHAIRMAN** (in Cantonese): Does any other Member wish to speak?

**MR SZETO WAH** (in Cantonese): But I am not sure whether the influence was positive or negative.

**CHAIRMAN** (in Cantonese): Mr SZETO, next time you can stand a little while longer to add whatever you have in mind.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, just now Honourable Members have raised many interesting views. Moreover, they have also made brilliant expositions of the subject in question

from different angles. Today, I should like to stress that the sincerity of the Government is beyond any doubt, for, after all, it was we who proposed the relevant clauses.

In regard to the criticism made by certain Members to the effect that the research effort we made was not thorough enough, I will shoulder the responsibility for that. Indeed, we had not thought about the influence of exit polls on our proposal at first. The concern about the influence of exit polls was brought up by Members at the discussions of the Bills Committee. I admit that we have not taken the matter into careful consideration beforehand, and I must apologize for that. However, what beats me is that despite the concerns they have raised, just now many Members were saying that the influence of exit polls should not constitute a big problem. The remarks they made just now were completely differently from what they said during the scrutiny of the Bill.

As I understand, Members are concerned primarily with two issues. Firstly, fairness. This is not the most important consideration, since we all trust that advance polling will be conducted in a fair manner. Secondly, whether we can satisfy the public that fairness will be ensured, and that advance polling will not be turned to anybody's advantage.

In this connection, Members have raised two questions. The first one was on timing. As mentioned by Mr Ronald ARCULLI just now, if advance polling were conducted one week before the general polling day or on an even earlier date, could we ensure that no exit poll results would be disclosed before the close of all polls? We have doubts about that. Exit polls conducted on the advance polling day are not the same as those conducted on the general polling day. We need to bear this point in mind.

As regards the second question, some Members were concerned that some people might take advantage of the lapse of time in between to deliberately distort the impression that voters may get in relation to the advance polling result, or to encourage more supporters to vote on the advance polling day. While some other Members have considered the question a matter of representativeness, it is exactly this representativeness factor that we are unable to predict. As such, it is possible that the impression that voters may get in this respect would gravely impact on the polling result.

Given the potential for the situation mentioned to happen, and that Members have expressed their concerns, I believe we have a responsibility to give further consideration to the proposal. As mentioned by Mr Ronald ARCULLI, Members had suggested resolving the problems by means of legislation while we were still deliberating over the matter. And it was for this reason that we drew on the experience of other countries and eventually found a relevant court ruling made in Canada. Having regard to the Canadian case, we are of the view that we need to further consider the position in a more meticulous manner. Hence, I have made it clear earlier on that we would give further consideration to the matters concerned.

We have drawn the conclusion that unless we have given full consideration to the matters concerned and are satisfied that the problems mentioned could be resolved, we should not casually promise Members that advance polling would certainly be brought back to the next election. Nevertheless, I can assure Members here that we will expeditiously find solutions to the various concerns they have expressed. We look forward very much to introducing advance polling to the 2004 Legislative Council Election.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam Chairman, I did not intend to speak but I wonder if you would allow me to say a few words.

I was not quite satisfied with what Secretary Michael SUEN said a moment ago because he said Members seemed to be inconsistent with what they said and he was confused. He said the issue was raised in the Bills Committee and he said he needed to give more thoughts to it. Now he thinks the arrangement is not practicable. I would like to tell the Secretary we did not vote on the matter. All Members thought there was a problem, but we did not vote on it. What some Members said was that if advance polling was arranged, later polling results might be affected. That was what some but not all Members said. So, the Secretary should not put words into our mouths by saying all Members in the Bills Committee had that opinion and so he was confused. He was confused because he chose to listen to what some Members said but not the others. This is what I wanted the Secretary to clarify.

Secondly, Secretary Michael SUEN said the court ruling made in Canada had made him reconsider the situation. I think he needs to reconsider another issue. If the Canadian ruling was the real reason for Secretary's change of

heart, what can we do if some media workers flouted the guidelines by publicizing at noon the results of exit polls conducted in the morning? This would affect the polling results in the evening. Is that so, Secretary? The Canadian ruling allows exit poll results to be publicized by the hour. That can also affect the voting results eventually. So, it is not just advance polling that can affect the voting results. What shall we do? Why did the Secretary not think the problem over? Would Madam Chairman please allow the Secretary to answer my question, as that can also affect the voting results on that day. The document issued by Mr Justice WOO Kwok-hing was just some guidelines, not law, to prevent the publication of exit poll results. What shall we do? Why did the Secretary not consider that? I hope he can speak again to answer my question.

Thank you, Madam Chairman.

**MR JAMES TO** (in Cantonese): Madam Chairman, about the issue of timetable, I hope the Secretary would not have to wait until 2004. Later we will be scrutinizing the provisions for voter registration and we will be working on a tight schedule. I fully appreciate this. But as far as advance polling is concerned, we are saying it should be arranged next year, that is, the later part of 2000. In reality, it has nothing to do with voter registration. Will the Secretary spend several months to look into the possible arrangements for advance polling so that when the Council resumes in October the Government can table the supplementary legislation before us? I think this can be done. Mr Eric LI shares this view. Even if the amendment to withdraw the provisions is approved, I trust Members would in principle want the Secretary to consider the matter as soon as possible. Of course, if no possible arrangements can be thought of after several months, we have to let go. I hope the Secretary would not say he has no idea definitely and must wait until 2004. That is far from being positive.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, we are at the Committee stage of the Bill, and I do not wish to turn it into the question time. However, since the Honourable Member has raised this question, I have to give him a reply.

Perhaps the Honourable Member did not listen clearly to what I said just now. Actually, I was talking about a lapse of time. Since there is a lapse of one week to 10 days between the advance polling day and the general polling

day, the exit polls might be abused by some people to the effect that the voting results would be gravely twisted. If the exit poll results should be disclosed only on the general polling day, the time lapse would be shortened and there could hardly be any chance for the influence of exit polls to take effect.

Moreover, we can all see that the local media do respect very much the guidelines published by the Election Affairs Commission. Speaking of the Electoral Affairs Commission, Mr Martin LEE referred earlier to the guidelines as being issued by the Government. I am afraid Mr Martin LEE was wrong. The Government does not issue guidelines in this respect; they are issued by the Electoral Affairs Commission. Over the past years, as we can see, the majority of the media have exercised moral suasion in compliance with the guidelines and refrained from disclosing the exit poll results before the close of all polls.

Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Constitutional Affairs be passed. Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr LEE Wing-tat has claimed a division. The division bell will ring for one minute.

**CHAIRMAN** (in Cantonese): Will Members please proceed to vote.

**CHAIRMAN** (in Cantonese): Are there any queries? If not, voting shall now stop and the result will be displayed.

Mr Kenneth TING, Mr James TIEN, Mr David CHU, Mr Edward HO, Dr Raymond HO, Mr LEE Kai-ming, Dr LUI Ming-wah, Mr NG Leung-sing, Prof NG Ching-fai, Miss Margaret NG, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr MA Fung-kwok, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Miss CHAN Yuen-han, Mr CHAN Wing-chan, Mr CHAN Kam-lam, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr Gary CHENG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Ambrose LAU, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr FUNG Chi-kin and Dr TANG Siu-tong voted for the motion.

Mr Albert HO, Mr Michael HO, Mr LEE Wing-tat, Mr Martin LEE, Mr Eric LI, Mr Fred LI, Mr James TO, Mr CHEUNG Man-kyong, Mr Ambrose CHEUNG, Miss Christine LOH, Mr Bernard CHAN, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Mr Andrew WONG, Dr YEUNG Sum, Mr Andrew CHENG, Mr SZETO Wah and Mr LAW Chi-kyong voted against the motion.

THE CHAIRMAN, Mrs Rita FAN, did not cast any vote.

THE CHAIRMAN announced that there were 53 Members present, 34 were in favour of the motion and 18 against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

**CHAIRMAN** (in Cantonese): As the amendments to clauses 6 and 27, which delete the clauses, have been agreed, clauses 6 and 27 will therefore be deleted from the Bill.

**CLERK** (in Cantonese): Clause 31 as amended.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please raise their hands.

(Members raised their hands)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

### **SUSPENSION OF MEETING**

**CHAIRMAN** (in Cantonese): It is now two minutes to ten o'clock. I will suspend the meeting until tomorrow.

I have two announcements. First, Members may have dinner at the Dinning Hall tomorrow evening, but the meeting will go on without any breaks. Second, meeting shall resume tomorrow morning at 9.00 am.

*Suspended accordingly at two minutes to Ten o'clock.*

**Annex I**

### **WRITTEN ANSWER**

**Written answer by the Secretary for Education and Manpower to Mr HO Sai-chu's supplementary question to Question 6**

It is noted that the time taken by the Housing Department to issue a safety certificate is, on average, shorter than the Buildings Department's undertaking to conduct the first inspection visit within 45 days of the receipt of an application and then to issue a safety certificate, if the school premises meet the safety requirements specified by the Department. However, there were only three applications between the 1996-97 and 1998-99 school years.

#### Application for "Safety Certificates"

Between the 1996-97 and 1998-99 school years, the processing time required by the Housing Department to issue "safety certificates" to Kindergartens is as follows:

<i>School Year</i>	<i>No. of Applications</i>	<i>No. of Working days</i>		
		<i>Longest</i>	<i>Shortest</i>	<i>Average</i>
1996-97	-	-	-	-
1997-98	3	27	6	16
1998-99	-	-	-	-

## CHINESE MEDICINE BILL

## COMMITTEE STAGE

Amendments to be moved by the Secretary for Health and Welfare

<u>Clause</u>	<u>Amendment Proposed</u>
2	<p>(a) In the definition of "proprietary Chinese medicine", by deleting paragraph (a) and substituting -</p> <p>"(a) composed solely of the following as active ingredients -</p> <p>(i) any Chinese herbal medicines; or</p> <p>(ii) any materials of herbal, animal or mineral origin customarily used by the Chinese; or</p> <p>(iii) any medicines and materials referred to in subparagraphs (i) and (ii) respectively;"</p> <p>(b) By adding -</p> <p>"domestic premises" (住用處所) means any premises which are constructed or intended to be used for habitation;"</p>
4(b)(v)	By adding "or scientific research" after "educational".
7(a)(iii)	By deleting "composition or scheme of" and substituting "voluntary".

<u>Clause</u>	<u>Amendment Proposed</u>
11(2)	By adding -  " (ca) directing the boards to implement such policies and activities as it thinks fit;".
13(e)	By adding "or scientific research" after "educational".
14(b)(iv)	By adding "or scientific research" after "educational".
18(a)(iii)	By deleting "composition or scheme of" and substituting "voluntary".
26(c)	By adding "or scientific research" after "educational".
27(c)	By adding "or scientific research" after "educational".
28	By deleting paragraph (d) and substituting -  " (d) 2 persons who shall be lay members of the Practitioners Board. ".
29(c)(iv)	By adding "or scientific research" after "educational".
31(b)	By deleting subparagraph (v) and substituting -  " (v) 2 persons who shall be lay members of the Medicines Board. ".
35(a)(iii)	By deleting "composition or scheme of" and substituting "voluntary".

<u>Clause</u>	<u>Amendment Proposed</u>
45	By adding -  "(3) Notwithstanding subsection (1), the Council shall meet at least once every 6 months and as often as may be necessary to transact its business."
46	(a) By renumbering it as clause 46(1).  (b) By adding -  "(2) Notwithstanding subsection (1), where there is any defect in the appointment of any member of the Council, a board or committee, it shall constitute the special circumstances referred to in sections 97 and 103 for the purposes of determining the time for appeal."
48	By deleting "The" and substituting "Subject to any standing orders made under section 49(a), the".
49(a)	By adding ", including, but not limited to, the transaction of business by circulation of papers" after "business".
52(1)	In the Chinese text, by adding "有關該等人士的" after "適當的".
53(1)	By deleting everything after "the names" and substituting ", addresses and qualifications of all persons whose names appear in the Register in such manner as the Registrar may determine."

ClauseAmendment Proposed

- 56 (a) In subclause (1) -
- (i) in paragraph (e), by deleting everything after "98(3)(a)" and substituting "or (b).";
  - (ii) by deleting paragraph (f).
- (b) By deleting subclause (2) and substituting -
- "(2) The Practitioners Board may also order the removal from the Register the name of any person who fails to acknowledge within 4 months after the date of dispatch the receipt of a registered letter addressed to him at his address as recorded in the Register, or the last address supplied by him to the Registrar.
- (3) For the purpose of subsection (1)(c), the Practitioners Board may make recommendations to the Council to set up a committee under section 39 to assess the fitness or otherwise of any registered Chinese medicine practitioner before an order is made pursuant to that subsection."
- 57 (a) In subclause (1), by deleting ", (d) or (f)" and substituting "or (d) or (2)".
- (b) In subclause (2), by deleting ", (d) or (f)" and substituting "or (d) or (2)".
- 60 (a) By renumbering it as clause 60(1).

ClauseAmendment Proposed

(b) By adding -

"(2) Without prejudice to the generality of subsection (1), the Practitioners Board may appoint examiners for the purposes of the Licensing Examination."

62 By adding -

"(4) The Practitioners Board shall conduct and complete any such review as soon as practicable."

63 By deleting "may" and substituting "shall".

69 By adding -

"(1A) Upon approving an application for registration by a person who has been exempted from the Licensing Examination under section 93, the Practitioners Board may impose such conditions and restrictions on the practice of that person as it considers necessary.

(1B) Where the Practitioners Board has imposed conditions or restrictions under subsection (1A), it may amend, vary or revoke any of such conditions or restrictions."

74 By adding -

"(3) Where a registered Chinese medicine practitioner desires to use the addition or description referred

ClauseAmendment Proposed

to in subsection (2), he shall adopt one of the following formats -

- (a) in the English language as "Registered Chinese medicine practitioner of the Chinese Medicine Council of Hong Kong (General Practice)" or "Registered Chinese medicine practitioner of the Chinese Medicine Council of Hong Kong (Acupuncture)" or "Registered Chinese medicine practitioner of the Chinese Medicine Council of Hong Kong (Bone-setting)"; or in the Chinese language as "香港中醫藥管理委員會註冊中醫(全科)" or "香港中醫藥管理委員會註冊中醫(針灸)" or "香港中醫藥管理委員會註冊中醫(骨傷)", as the case may be; or
- (b) the abbreviation in the English language as "Registered Chinese medicine practitioner (General Practice)" or "Registered Chinese medicine practitioner (Acupuncture)" or "Registered Chinese medicine practitioner (Bone-setting)"; or in the Chinese language as "註冊中醫(全科)" or "註冊中醫(針灸)" or "註冊中醫(骨傷)" or "註冊中醫師(全科)" or "註冊中醫師(針灸)" or "註冊中醫師(骨傷)", as the case may be."

- 79 (a) In paragraph (a), by adding "forthwith" after "Registrar".
- (b) In paragraph (b), by adding "forthwith" after "Registrar".
- 83 (a) By renumbering it as clause 83(1).

ClauseAmendment Proposed

- (b) In the Chinese text, in subclause (1), by deleting "科學研究" and substituting "科研".
- (c) By adding -

"(2) For the purpose of subsection (1), the Practitioners Board shall publish from time to time by notice in the Gazette a list of educational or scientific research institutions from which applications for limited registration will be considered.

(3) For the avoidance of doubt, the notice published under subsection (2) is not subsidiary legislation."

84(1) In the Chinese text, by adding "向中醫組" after "格式".

85(4)(a) By adding "specified under section 83(2)" after "institution".

94 By adding -

"(3) The Practitioners Board shall publish by notice in the Gazette such information pertaining to the registration assessment as it thinks fit.

(4) For the avoidance of doubt, the notice published under subsection (3) is not subsidiary legislation."

97(1) (a) By adding "56(1)(c)," after "sections".

- (b) By adding "or within such further time as the Council may in special circumstances allow," after "notification of the decision,".

ClauseAmendment Proposed

- 103           (a)    In subclause (1) -
- (i)    by adding "(1)(a), (d) or (e) or (2)" after "section 56";
  - (ii)   by adding "or within such further time as the Court of Appeal may in special circumstances allow," after "service of the order,".
- (b)    In subclause (5), by deleting "1 month of the service of the order" and substituting "the time referred to in subsection (1)".
- 108           By deleting subclause (3) and substituting -
- "(3)   Subsection (2) shall not apply to -
- (a)    the dispensing of Chinese herbal medicines by a dispenser or person nominated under section 114(2)(b)(i) or (ii) at the premises in respect of which a retailer licence is in force;
  - (b)    the use of acupuncture, being of a type with distinguishable differences from acupuncture based on traditional Chinese medicine, in the course of the practice of -
    - (i)    a registered medical practitioner registered under the Medical Registration Ordinance (Cap. 161);
    - (ii)   a registered dentist registered under the Dentists Registration Ordinance (Cap. 156);

ClauseAmendment Proposed

- (iii) a physiotherapist registered under the Supplementary Medical Professions Ordinance (Cap. 359).".
- 114(2)(b) By deleting "a deputy to" and substituting "not more than 2  
(ii) deputies, one of whom shall".
- 128(1)(ii) In the Chinese text, by adding "進口商或" before "該中成藥".
- 132(1)(b) By deleting "a deputy to" and substituting "not more than 2  
(ii) deputies, one of whom shall".
- 145(2) By deleting "deputy" and substituting "deputies".
- 150 (a) In subclause (1), by deleting "Where an offence against this Ordinance is committed by a servant of a holder of a licence issued under this Ordinance" and substituting "Where a servant of a holder of a licence issued under this Ordinance commits an offence for contravening section 109, 110, 111, 119(1), 131, 134, 142, 143 or 144".
- (b) In subclause (2), by deleting "under section 154(1)".

ClauseAmendment Proposed

New By adding -

**"153A. Disclosure of confidential information obtained officially**

(1) No public officer, or member of the Council, boards or committees shall, except in the circumstances set out in subsection (2), disclose or give to another person any information that concerns a trade, business or manufactory secret which has come to his knowledge or into his possession in the course of the discharge of his functions under this Ordinance.

(2) A public officer, or member of the Council, boards or committees does not contravene subsection (1) if he discloses or gives the information to another person -

- (a) to discharge his functions under this Ordinance;
- (b) under an order of a court under subsection (3); or
- (c) with the consent in writing of all persons who appear to him, after reasonable inquiry, to be interested in the confidentiality of the information.

(3) Where in any proceedings a court considers that the justice of the case so requires, the court may order the disclosure of information referred to in subsection (1)."

ClauseAmendment Proposed

- 154(1) By deleting "or 153(3)" and substituting ", 153(3) or 153A".
- 160(5)
- (a) In paragraph (b), by deleting "to be followed" and substituting "and all such powers necessary for the purposes of and".
  - (b) In paragraph (c), by deleting "to be followed" and substituting "and all such powers necessary for the purposes of and".
  - (c) In paragraph (d), by deleting "to be followed" and substituting "and all such powers necessary for the purposes of and".
  - (d) By deleting paragraph (f) and substituting -
    - "(f) the format, procedures, requirements, powers and any matter ancillary or related to -
      - (i) the registration of Chinese medicine practitioners;
      - (ii) the Licensing Examination;
      - (iii) the issue or renewal of practising certificates; and
      - (iv) the transitional arrangements for Chinese medicine practitioners,
- under this Ordinance."
- New By adding -

ClauseAmendment Proposed**"Consequential Amendments****Public Health and Municipal  
Services Ordinance****161. Interpretation**

Section 2(1) of the Public Health and Municipal Services Ordinance (Cap. 132) is amended by repealing the definition of "drug" and substituting -

"'drug' (藥物) includes any medicine, Chinese herbal medicine or proprietary Chinese medicine for internal or external use by man;"

**Pharmacy and Poisons Ordinance****162. Section substituted**

Section 37 of the Pharmacy and Poisons Ordinance (Cap. 138) is repealed and the following substituted -

**"37. Ordinance not to apply to  
Chinese herbal medicines  
and proprietary Chinese  
medicines, etc.**

(1) Subject to subsection (2), nothing in this Ordinance shall apply to the sale, manufacturing, dispensing or compounding of Chinese herbal medicines or proprietary Chinese medicines as defined in section 2 of the Chinese Medicine Ordinance

ClauseAmendment Proposed

( of 1999) or other materials of herbal, animal or mineral origin customarily used by the Chinese for medicinal purpose.

(2) Notwithstanding subsection (1), this Ordinance shall apply to pharmaceutical products containing any such Chinese herbal medicines or proprietary Chinese medicines or other materials of herbal, animal or mineral origin customarily used by the Chinese for medicinal purpose as active ingredients."

**Medical Registration Ordinance****163. Unlawful use of title etc. and practice without registration**

Section 28 of the Medical Registration Ordinance (Cap. 161) is amended -

(a) in subsection (3) -

(i) in paragraph (f), by repealing "and";

(ii) in paragraph (g), by repealing the full stop and substituting "; and";

(iii) by adding -

"(h) by way of practising Chinese medicine by a

ClauseAmendment Proposed

Chinese medicine practitioner registered or listed under the Chinese Medicine Ordinance ( of 1999) or a person who continues to practise Chinese medicine provisionally by virtue of section 90(7) of that Ordinance.";

(b) by adding -

"(6) Without prejudice to any Ordinance relating to the prosecution of criminal offences or to the powers of the Secretary for Justice in relation to the prosecution of criminal offences, prosecutions for an offence in connection with the practice of Chinese medicine shall only be brought under the Chinese Medicine Ordinance ( of 1999).".

**164. Section substituted**

Section 31 is repealed and the following substituted -

**"31. Chinese medicine**

(1) Nothing in this Ordinance shall be deemed to affect the right of any Chinese medicine practitioner registered or listed under the Chinese Medicine Ordinance ( of 1999) or any person who

ClauseAmendment Proposed

continues to practise Chinese medicine provisionally by virtue of section 90(7) of that Ordinance, not being a person taking or using any name, title, addition or description calculated to induce anyone to believe that he is qualified to practise medicine or surgery under this Ordinance, to practise Chinese medicine in accordance with the provisions of that Ordinance.

(2) For the purposes of this section -

- (a) the taking or using in Chinese by any person of the name, title, addition or description of "西醫", "醫生", "醫師", "醫士", "醫學士", "醫學博士", "男醫", "女醫", "醫科", "醫家", "醫寓", "醫院", "醫務院", "醫所", "醫務所", "醫療所", "診療所", "療病院", and the taking or using of any words or characters implying specialization if preceded by or used in combination with words or characters other than "中" or "中醫" shall be deemed to be the taking or using of a name, title, addition or description calculated to induce anyone to believe that he is qualified to practise medicine or surgery under this Ordinance and that he is registered under this Ordinance;
- (b) the taking or using in Chinese by a Chinese medicine practitioner registered or listed under the Chinese Medicine Ordinance ( of 1999) or a person who

ClauseAmendment Proposed

continues to practise Chinese medicine provisionally by virtue of section 90(7) of that Ordinance of the name, title, addition or description of "醫生", "醫師", "醫士", "醫學士", "醫學博士", "男醫", "女醫", "醫科", "醫家", "醫寓", "醫院", "醫務院", "醫所", "醫務所", "醫療所", "診療所", "療病院" or any words or characters implying specialization, when preceded by or used in combination with the character "中" or characters "中醫", shall not be deemed to be the taking or using of a name, title, addition or description calculated to induce anyone to believe that he is qualified to practise medicine or surgery under this Ordinance or that he is registered under this Ordinance."

**165. Treatment of diseases of the eye**

Section 32 is amended -

- (a) in subsection (1) -
  - (i) by adding "and subject to subsection (1A)" after "section 31";
  - (ii) by repealing everything after "thereof" and substituting a full stop;
- (b) by adding -

ClauseAmendment Proposed

"(1A) Nothing in this section shall be taken to prohibit -

- (a) a person who is not a registered medical practitioner from holding himself out as being qualified, competent or willing to test refraction, visual acuity and colour vision, or to make or provide spectacles or other optical appliances for the remedy of defects of vision;
- (b) a Chinese medicine practitioner registered or listed under the Chinese Medicine Ordinance ( of 1999) or a person who

ClauseAmendment Proposed

continues to practise Chinese medicine provisionally by virtue of section 90(7) of that Ordinance from undertaking the treatment of diseases of the human eye or the prescription of remedies for such treatment, or the giving of advice in connection with such treatment in accordance with the provisions of that Ordinance."

**Undesirable Medical Advertisements Ordinance****166. Interpretation**

Section 2(1) of the Undesirable Medical Advertisements Ordinance (Cap. 231) is amended, in the definition of "medicine", by adding "a Chinese herbal medicine, a proprietary Chinese medicine," after "patent medicine,".

**167. Certain defences; provision as to Chinese medicine practitioners**

ClauseAmendment Proposed

Section 5 is amended -

- (a) by repealing subsection (1)(d) and substituting -

"(d) Chinese medicine practitioners registered or listed under the Chinese Medicine Ordinance ( of 1999) or persons who continue to practise Chinese medicine provisionally by virtue of section 90(7) of that Ordinance.";

- (b) in subsection (2), by repealing "native herbalist" and substituting "Chinese medicine practitioner".

### **Customs and Excise Service Ordinance**

#### **168. Ordinances referred to in sections 17 and 17A**

Schedule 2 to the Customs and Excise Service Ordinance (Cap. 342) is amended by adding "Chinese Medicine Ordinance ( of 1999)" at the end.

### **Medical Clinics Ordinance**

ClauseAmendment Proposed**169. Interpretation**

Section 2 of the Medical Clinics Ordinance (Cap. 343) is amended -

- (a) in the definition of "clinic", by repealing paragraph (f) and substituting -

"(f) premises used exclusively by a Chinese medicine practitioner registered or listed under the Chinese Medicine Ordinance ( of 1999) or a person who continues to practise Chinese medicine provisionally by virtue of section 90(7) of that Ordinance in the course of his practice;"

- (b) in the definition of "medical treatment", by repealing paragraphs (c) and (d) and substituting -

"(c) the dispensation of Chinese herbal medicines under the Chinese Medicine Ordinance ( of 1999);

(d) the treatment given by a Chinese medicine practitioner registered or listed under the

ClauseAmendment Proposed

Chinese Medicine Ordinance ( of 1999) or a person who continues to practise Chinese medicine provisionally by virtue of section 90(7) of that Ordinance;".

**Import and Export (General)  
Regulations**

**169A. Application and exemption**

Regulation 6(1)(c)(i) of the Import and Export (General) Regulations (Cap. 60 sub. leg.) is amended by repealing "item 1" and substituting "items 1, 1A, 1B and 1C".

**170. First Schedule amended**

Part I of the First Schedule to the Import and Export (General) Regulations (Cap. 60 sub. leg.) is amended by adding -

"2A. Chinese herbal medicines specified in Schedule 1 of the Chinese Medicine Ordinance ( of 1999).

2B. 5 Chinese herbal medicines specified in Schedule 2 of the Chinese Medicine Ordinance ( of 1999), namely, Flos Campsis (凌霄花), Processed Radix Aconiti (製川烏),

ClauseAmendment Proposed

Processed Radix Aconiti Kusnezoffii (製草烏),  
Radix Clematidis (威靈仙) and Radix Gentianae  
(龍膽).

- 2C. Proprietary Chinese medicines as defined in section 2 of the Chinese Medicine Ordinance ( of 1999).".

**171. Second Schedule amended**

Part I of the Second Schedule is amended by adding -

- "3A. Chinese herbal medicines specified in Schedule 1 of the Chinese Medicine Ordinance ( of 1999). All countries.
- 3B. The following 5 Chinese herbal medicines specified in Schedule 2 of the Chinese Medicine Ordinance ( of 1999): All countries.

Flos Campsis (凌霄花)  
Processed Radix Aconiti  
(製川烏)  
Processed Radix Aconiti  
Kusnezoffii (製草烏)  
Radix Clematidis (威靈仙)

ClauseAmendment Proposed

Radix Gentianae (龍膽).

- 3C. Proprietary Chinese medicines as defined in section 2 of the Chinese Medicine Ordinance ( of 1999).". All countries.

**172. Third Schedule amended**

The Third Schedule is amended by adding -

- "1A. Chinese herbal medicines specified in Schedule 1 of the Chinese Medicine Ordinance ( of 1999).
- 1B. 5 Chinese herbal medicines specified in Schedule 2 of the Chinese Medicine Ordinance ( of 1999), namely, Flos Campsis (凌霄花), Processed Radix Aconiti (製川烏), Processed Radix Aconiti Kusnezoffii (製草烏), Radix Clematidis (威靈仙) and Radix Gentianae (龍膽).
- 1C. Proprietary Chinese medicines as defined in section 2 of the Chinese Medicine Ordinance ( of 1999).".

**Pharmacy and Poisons Regulations****173. Registration of pharmaceutical products and substances**

ClauseAmendment Proposed

Regulation 36 of the Pharmacy and Poisons Regulations (Cap. 138 sub. leg.) is amended by adding -

"(2A) In considering an application for registration of a pharmaceutical product which contains as active ingredients any Chinese herbal medicines or proprietary Chinese medicines as defined in section 2 of the Chinese Medicine Ordinance ( of 1999) or other materials of herbal, animal or mineral origin customarily used by the Chinese for medicinal purpose, the Board shall seek advice from the Chinese Medicines Board established under the Chinese Medicine Ordinance ( of 1999).".

- Schedule 2 (a) In "Bombyx Batryticatus", by deleting "Benvaria" and substituting "Beauveria".
- (b) In "Caulis Ampelopsis Brevipedunculae", by deleting "Ampelopsis" and substituting "Ampelopsis".
- (c) In "Caulis Bambusae in Taeniam", by deleting "heenonis" and substituting "henonis".
- (d) In "Caulis Mahoniae", by deleting "bealei" and substituting "healei".
- (e) In "Cera Chinensis", by deleting "Frasxinus chinencis" and substituting "Fraxinus chinensis".
- (f) In "Concha Arcae", by deleting "Lischle" and substituting "Lischke".
- (g) In "Concha Meretricis sue Cyclinae", by deleting "sue" and substituting "seu".
- (h) In "Cornu Cervi Degelatinatum", by deleting "Temminch" and substituting "Temminck".

ClauseAmendment Proposed

- (i) In "Cornu Cervi Pantotrichum", by deleting "Temminch" and substituting "Temminck".
- (j) In "Cortex Fraxini" -
  - (i) by deleting "Frazinus" and substituting "Fraxinus";
  - (ii) by deleting "Rixb." and substituting "Roxb."
- (k) In "Flos Chimonanthi Praecocis", by deleting "praeco" and substituting "praecox".
- (l) In "Folium Ilicis Cornutae", by adding "ex Paxt." after "Lindl."
- (m) In "Fructus Psoraleae", by deleting "Psoralca corylifolin" and substituting "Psoralea corylifolia".
- (n) In "Fructus Schisandrae", by deleting "Barll" and substituting "Baill".
- (o) In "Fructus Tsaoko", by deleting "tsaoko" and substituting "tsao-ko".
- (p) In "Herba Commlinae" -
  - (i) by deleting "Commlinae" and substituting "Commelinae";
  - (ii) by deleting "ommunis" and substituting "communis".
- (q) In "Herba Euphorbiae Humifusae" -

ClauseAmendment Proposed

- (i) by deleting "numifusa" and substituting "humifusa";
- (ii) by adding "L." after "maculata".
- (r) In "Herba Inulae", by deleting "Turez.," and substituting "Turez. or".
- (s) In "Herba Veronicae", by deleting "senus" and substituting "sensu".
- (t) In "Herba Violaе", by deleting "Herb of".
- (u) In "Lasioiphaera seu Calvatia", by deleting "Lasioiphaera" and substituting "Lasiosphaera".
- (v) In "Limonitum", by deleting "余" and substituting "餘".
- (w) In "Medulla Stachyuri", by adding "or Medulla Helwingiae" after "Stachyuri".
- (x) In "Nidus Vespae", by deleting "Saussur" and substituting "Saussure".
- (y) In "Processed Radix Euphorbiae fischerianae, Radix Euphorbiae ebracteolatae, or Radix Stellerae", by deleting "chamaejasone" and substituting "chamaejasme".
- (z) In "Pseudobulbus Cremastrae seu Pleiones", by deleting "Cremastra" and substituting "Cremastra".
- (aa) In "Radix Clematidis", by deleting "Pall.," and substituting "Pall. or".
- (ab) In "Radix Isatidis", by deleting "籃" and substituting "藍".

ClauseAmendment Proposed

- (ac) In "Radix Trichosanthis", by deleting "japonica Regel" and substituting "rosthornii Herms".
- (ad) In "Resina Liquidamberis" -
- (i) by deleting "Liquidamberis" and substituting "Liquidambaris";
  - (ii) by adding "Resin of" before "Liquidambar".
- (ae) In "Rhizoma Cynanchi Stauntonii", by deleting "Hang." and substituting "Hand.".
- (af) In "Rhizoma Dioscoreae Tokoro", by adding "Rhizome of" before "Dioscorea".
- (ag) In "Rhizoma et Radix Baphicacanthis Cusae", by deleting "Cusae" and substituting "Cusiae".
- (ah) In "Semen Lepidii or Semen Desurainiae", by deleting "Desurainiae" and substituting "Descurainiae".
- (ai) In "Semen Sterculiae Lychnophorae", by deleting "Lychnophora" and substituting "lychnophora".
- (aj) In "一枝黃花", by adding "或其任何部分" after "全草".
- (ak) In "水蛭", by deleting "蜚" and substituting "蟻".
- (al) In "肉豆蔻", by adding "肉" before "豆蔻" where it secondly appears.
- (am) In "安息香", by adding "白" before "花樹".

ClauseAmendment Proposed

- (an) In "青礞石", by deleting "炭" and substituting "岩".
- (ao) In "厚樸", by deleting "朴" and substituting "樸".
- (ap) In "豨簽草", by deleting "簽" and substituting "簽".
- (aq) In "餘甘子", by deleting "余" and substituting "餘".
- (ar) In "鵝不食草", by adding "菊科植物" before "鵝不食草" where it secondly appears.

Schedule 3, By deleting paragraph (g) and substituting -  
Part I

"(g) to inquire into the conduct of applicants for registration as Chinese medicine practitioners and to conduct inquiry proceedings in respect of the conduct and discipline of registered Chinese medicine practitioners and where appropriate, to make such orders as provided for under this Ordinance;"

Schedule 5 (a) In column 3, by deleting "any committee under Practitioners Board" wherever it appears and substituting "Examination Committee or Registration Committee".

(b) By adding at the end of column 2 -

"(m) Certificate for manufacturer (section 133)".

(c) By adding at the end of column 3 -

"Chinese Medicines Traders Committee".