

# OFFICIAL RECORD OF PROCEEDINGS

**Thursday, 15 July 1999**

**The Council met at Nine o'clock**

## **MEMBERS PRESENT:**

THE PRESIDENT

THE HONOURABLE MRS RITA FAN, G.B.S., J.P.

THE HONOURABLE KENNETH TING WOO-SHOU, J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, J.P.

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE EDWARD HO SING-TIN, S.B.S., J.P.

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE MICHAEL HO MUN-KA

IR DR THE HONOURABLE RAYMOND HO CHUNG-TAI, J.P.

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE MARTIN LEE CHU-MING, S.C., J.P.

THE HONOURABLE ERIC LI KA-CHEUNG, J.P.

THE HONOURABLE LEE KAI-MING, S.B.S., J.P.

DR THE HONOURABLE DAVID LI KWOK-PO, J.P.

THE HONOURABLE FRED LI WAH-MING, J.P.

DR THE HONOURABLE LUI MING-WAH, J.P.

THE HONOURABLE NG LEUNG-SING

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE MARGARET NG

THE HONOURABLE MRS SELINA CHOW LIANG SHUK-YEE, J.P.

THE HONOURABLE RONALD ARCULLI, J.P.

THE HONOURABLE MA FUNG-KWOK

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE AMBROSE CHEUNG WING-SUM, J.P.

THE HONOURABLE HUI CHEUNG-CHING

THE HONOURABLE CHRISTINE LOH

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE BERNARD CHAN

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN KAM-LAM

DR THE HONOURABLE LEONG CHE-HUNG, J.P.

THE HONOURABLE MRS SOPHIE LEUNG LAU YAU-FUN, J.P.

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE GARY CHENG KAI-NAM, J.P.

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE WONG YUNG-KAN

THE HONOURABLE JASPER TSANG YOK-SING, J.P.

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

THE HONOURABLE LAU WONG-FAT, G.B.S., J.P.

THE HONOURABLE MRS MIRIAM LAU KIN-YEE, J.P.

THE HONOURABLE AMBROSE LAU HON-CHUEN, J.P.

THE HONOURABLE EMILY LAU WAI-HING, J.P.

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

THE HONOURABLE TIMOTHY FOK TSUN-TING, S.B.S., J.P.

THE HONOURABLE LAW CHI-KWONG, J.P.

THE HONOURABLE TAM YIU-CHUNG, G.B.S., J.P.

THE HONOURABLE FUNG CHI-KIN

DR THE HONOURABLE TANG SIU-TONG, J.P.

**MEMBER ABSENT:**

THE HONOURABLE HO SAI-CHU, S.B.S., J.P.

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE ELSIE LEUNG OI-SIE, J.P.  
THE SECRETARY FOR JUSTICE

MR MICHAEL SUEN MING-YEUNG, G.B.S., J.P.  
SECRETARY FOR CONSTITUTIONAL AFFAIRS

**CLERKS IN ATTENDANCE:**

MR RICKY FUNG CHOI-CHEUNG, J.P., SECRETARY GENERAL

MR LAW KAM-SANG, J.P., DEPUTY SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**CHAIRMAN** (in Cantonese): We will now deal with the proposal on no canvassing activities on polling day.

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, since the Rules of Procedure stipulate that any proposed new clause shall be considered after the clauses of a bill have been disposed of, may I seek your consent to move under Rule 91 of the Rules of Procedure that Rule 58(5) of the Rules of Procedure be suspended in order that my proposed new clause 30A may be considered ahead of the remaining clauses of the Bill.

**CHAIRMAN** (in Cantonese): Mr LEE Wing-tat, as only the President may give consent for a motion to be moved, without notice, to suspend the Rules of Procedure, I order that Council do now resume.

Council then resumed.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat, you have my consent.

**MR LEE WING-TAT** (in Cantonese): Madam President, I move that Rule 58(5) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider my proposed new clause 30A ahead of the remaining clauses of the Bill.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Rule 58(5) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider Mr LEE Wing-tat's proposed new clause 30A ahead of the remaining clauses of the Bill.

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

(Members raised their hands)

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

(No hands raised)

**PRESIDENT** (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.

Council went into Committee.

### **Committee Stage**

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

**CLERK** (in Cantonese): New clause 30A      How election is to be conducted.

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, I move that new clause 30A, as set out in the paper circularized to Members, be read the Second time.

Madam Chairman, I will explain my proposal in detail here. The Democratic Party is not the only proposer for the notion of designating a cooling-off period. Indeed this issue was put forward a long time ago by Members from different parties for discussion. In my opinion, the purpose of designating a cooling-off period is to enable the entire election to be conducted in a more orderly and civilized manner, and this in fact will not infringe upon the freedom of expression or prohibit candidates from carrying out election campaigns in a reasonable manner.

To start with, Members should be aware that there is a nomination period before the election. The period for canvassing votes is quite long too. Generally speaking, the nomination period will last two to three weeks. Candidates will be given four to five weeks to publish their platforms and conduct canvassing activities. If a candidate accepts nomination on the first or second day of the nomination period, he will have six to eight weeks to carry out various electioneering activities. Therefore, the designation of one-day cooling-off period, that is, no canvassing activities on polling day, will absolutely not hinder candidates from holding reasonable canvassing activities. Compared to the electioneering activities that last six to eight weeks, I think the one-day cooling-off period is actually negligible.

Second, from the experiences we have gained over past years, canvassing activities conducted on the polling day will, relatively speaking, give rise to most complaints and disputes. I remember on the polling day of a District Board Election, a fighting incident broke out in Mong Kok and it was subsequently dealt with by the police. During the whole election process, most complaints were lodged on polling day. This is because even if the Administration has set up no canvassing zones and prohibited the use of loudspeakers, all candidates and their electioneering teams will more often than not get excited on the polling day. Very often, they will become overly enthusiastic. Under such circumstances, some of their acts will cause extreme nuisance to voters. The greatest criticism has been that voters must go through a long "wooden men's lane". Each member of the electioneering teams will distribute leaflets to voters. Or voters will need to shake hands with a number of candidates or members of their electioneering teams before entering the polling stations. Since the last election, the Administration has expanded the size of the no canvassing zones. But even the Registration and Electoral Office (REO) and the Constitutional Affairs Bureau cannot deny that no canvassing zones, particularly those in housing estates, are linked up with accesses. Places outside the no canvassing zones where canvassing can be lawfully conducted will, more often than not, be turned into "wooden men's lanes" within the boundary of the housing estates. There may even be three or four such passages. No matter from which direction voters enter the polling stations, they must go through one of such passages. But it is lawful for canvassing activities to be conducted in the "narrow passages" because they are outside the boundary of the no canvassing zones. As a result, the public is still subject to

nuisance.

Another category of complaints, ranking second in number, involves the use of loudspeakers in residential blocks by candidates and their electioneering teams as well as door-to-door visits urging residents to vote. In light of the experiences I gained in the past, I dared not go to visit voters again when I stood in the 1998 election because I would be scolded for doing so. Why? This is because there can be six or seven or even nine lists of candidates for a Legislative Council direct election constituency. Many housing estates allow candidates and their electioneering teams to knock on the residents' doors to remind them to vote. In order to raise their chances of success, candidates will start knocking on voters' doors as early as nine in the morning. Some residents will close their doors immediately on hearing the noises generated by canvassing activities. Let us imagine if there are nine candidate lists in a certain constituency, voters in that constituency might then have someone knocking on their doors nine times. As far as I know, some candidates, who were more nervous, could even go to the extreme as to knock on voters' doors three times on polling day and ask them whether they had vote, to ensure that their votes were secured or in order to step up their electioneering activities. Many residents said to me after casting their votes: "Mr LEE, your people are really annoying. How can they knock on our doors so many times within one day?" This is why the first response they will give is they have already cast their votes when someone knocks on their doors. Many people who have had experience of canvassing votes door-to-door in housing estates will know that, when candidates or canvassing teams knock on certain residents' doors, the residents will, in order to avoid trouble, give the consistent answer that they have cast their votes, no matter whether or not they have really done so. As far as I understand it, some candidates even went so far as to shout in the corridors of housing estates through a loudspeaker to urge residents to cast their votes. Consequently, many people were awakened. Members should not assume that no one will be sleeping after eleven o'clock in the morning. Some people who work night shifts will still be sleeping during that period. Babies will also be sleeping too.

It is not rare for such complaints to be lodged during the election period. To ensure election activities to be held in a more orderly manner, I think the proposal is appropriate. Last year, the REO made an attempt to designate an area within the no canvassing zones to allow candidates to canvass for votes



there. Madam Chairman, I can imagine the situation where a small entrance leads to a shabby community hall. Even if we are to designate an area to allow canvassing teams for candidates included in as many as nine or even more than 10 candidate lists to appoint one or two persons to distribute leaflets, that will not help reduce the number of complaints. Why? With so many people gathering in such a small area, it will unavoidably give rise to minor bodily clashes. But these are generally not intentional clashes. In the course of distributing leaflets, a certain team member might have acted in an overly enthusiastic manner and touched the hand of a lady standing beside him. Or he might have stepped into the boundary of his neighbouring canvassing team. All these can give rise to complaints. The Secretary for Constitutional Affairs should be aware that Returning Officers of various polling stations need to handle a lot of trivial disputes on polling day.

I think all these issues have absolutely nothing to do with the fairness of the election. Neither do I believe candidates from different political parties will act improperly or step into the boundary of their neighbours just for the sake of handing out one more leaflet. All these trivial matters need to be dealt with by Returning Officers. Even I, as a candidate, find it extremely troublesome. Some canvassing teams might be too nervous in thinking that they would lose one vote for distributing one less leaflet. Therefore, they would lodge complaints if they failed to distribute a great number of leaflets. They might even lodge a complaint immediately if a canvasser from another team beside him made the slightest mistake. These are really troublesome.

Madam Chairman, according to the experiences accumulated over the past few years and the findings of a number of surveys, more than 90% of voters have already decided to support which candidates before going to the polling stations. Some surveys even indicate that 95% of voters have made similar decisions before going to the polling stations. I am therefore of the view that canvassing activities conducted on polling day will actually have minimal effect. During the debate yesterday on the resumption of the Bill's Second Reading, a few colleagues presented some views and indicated that they would not support my amendment. I therefore want to explain my viewpoints here.

First, some people consider my amendment in violation of human rights and the rights to freedom of expression. I think such a conclusion is somehow exaggerated. I have pointed out earlier on that during the whole election period that lasts about six to eight weeks, canvassing activities will only be prohibited on polling day. Candidates will still be given 56 days to freely publicize their political views and canvass for votes.

Second, some colleagues remarked that the election will be resigned to a subdued atmosphere without canvassing activities. I have to point out here that there are two exemptions in my amendment. Perhaps Mr Gary CHENG did not read the specific contents of my amendment yesterday, thus his misunderstanding for he asked if the Government could engage in canvassing activities. Members should be aware that we support the Government to make every effort, on the polling day or during the election period, in encouraging voters to cast their votes. This explains why my amendment contains two exemptions and the parties being exempted are the mass media and the Government. The mass media such as radio stations and television stations will naturally remind the public to vote on polling day. Therefore, publicity activities conducted by the Government and reports made by the mass media will not be regulated by my amendment. What is more, I support the Government in spending more money and time to publish the polling time on radio and television and encourage voters to cast their votes on that day, as well as sending out more publicity floats to give publicity.

Third, some people worry that this arrangement will cause the polling rate to drop and public interest in participating in the election reduce. To start with, we should not forget that the public will only participate actively if they are provided with a good environment. We have also received a small number of complaints indicating that some people have found it too troublesome. This was particularly so in 1994 for the no canvassing zones set up at that time were very small. Some voters even chose to reverse course before reaching the polling stations. I am not too sure as to the number of such cases but they really did happen. Therefore, the public's active participation shall depend on, during the whole electioneering activity period, that is the six to eight weeks from nomination to polling, whether we can allow candidates sufficient time to get in touch with voters to discuss and encourage them to participate.

Furthermore, according to the experience we gained last year (the experience we gained last year is most valuable because some polling stations in the New Territories were forced to shut down because of flooding caused by heavy rain), those who have the experience of taking part in last year's electioneering activities should understand it very well that the canvassing activities conducted last year actually existed in name only. How could the candidates and their canvassing teams, holding umbrellas in their hands, canvass for votes? The public would only find them very troublesome. The canvassing activities actually did not work at all. We can actually take last year as a certain form of experiment. Even if canvassing activities almost came to a standstill, the turn-out rate still reached over 50%. Therefore, it is really outdated to think that the absence of canvassing activities will lead to a drop in the turn-out rate. To start with, we have already got more than 10 years of direct election experiences: direct elections were conducted for the Legislative Council in 1991 and 1995. The election of this Legislative Council was conducted in 1998. Furthermore, there were elections for the district boards and two Municipal Councils. Voters for geographical direct elections have taken part in more than 10 popular elections. I find it really impossible to accept the saying that the public can be encouraged to vote only by way of canvassing.

I must stress that the Government can certainly carry out publicity on polling day and conduct any forms of publicity activities. My amendment will not prohibit the Government from doing so or lower the public's interest to participate in the election. The Democratic Party conducted a survey last week and the findings show that more than 50% (reaching 57%) of the public support our proposal of not allowing political parties and candidates to carry out canvassing activities on polling day.

Perhaps I can tell Members that in the course of the Bills Committee's deliberations, I did enjoy a short period of comfort because I thought there was no need for me to move my amendment. The Liberal Party, the Democratic Party, Chairman TSANG of the Democratic Alliance for the Betterment of Hong Kong (DAB) and the Frontier have all indicated in a certain meeting that they supported the proposal of prohibiting canvassing activities. However, Mr TSANG indicated that he had to consult his sub-offices, as quoted by the newspapers. Consequently, his sub-offices raised objection and so they objected to my proposal. I hope they can change their minds in future for this is good a development.

Mr CHAN Wing-chan of the Hong Kong Federation of Trade Unions (FTU) remarked that if no canvassing activities were allowed on polling day, members of the FTU would have nothing to do and that was not too good. Actually, people will not find themselves having nothing to do. For instance, they can go fishing, admire pandas in the Ocean Park, or go to restaurants with their children and then go to the hills for a walk. They can actually take part in a lot of meaningful activities. Fellow workers or members of canvassing teams can take part in political activities from the first day of the nomination period to the previous evening of the polling day if they want to do so. The general public will not be prohibited from helping candidates and taking part in political activities. In this respect, I hope friends from the FTU can arrange more meaningful activities for their members. Even if canvassing activities are prohibited on polling day, they will still find something to do. For instance, they can go fishing or trekking in the hills. These activities are good for our bodies and minds.

I hope my explanation has provided Honourable colleagues with more information. Yesterday, Mr Gary CHENG asked me whether it was shown in our survey that the more advanced a region is, the greater possibility of it inhibiting canvassing activities on polling day. Actually, there is no conclusion as such. Some advanced regions such as France, Japan and Canada inhibit canvassing activities on polling day. Our neighbouring community, Taiwan, has also laid down such requirements. I think it is hard to generalize as to whether most advanced countries allow canvassing activities on polling day and whether countries where the situation is more turbulent inhibit such activities. This is because there are different approaches because of many historical reasons and differences in culture and other aspects.

Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clause 30A be read the Second time. Does any Member wish to

Speak?

**MR GARY CHENG** (in Cantonese): Madam Chairman, first of all, I would like to thank the Democratic Party for conducting the surveys. Yesterday, we quoted the findings of the surveys too. I wish to make certain clarifications with respect to what Mr LEE Wing-tat said just now. I have read the findings of the two surveys conducted by the Democratic Party before. According to what Mr LEE Wing-tat said, what I saw in the findings of the first survey should be Canada has not designated a cooling-off period on its polling day. But it has put some boundary restrictions on the polling station by designating a no canvassing zone. I am not sure whether this is consistent with what Mr LEE Wing-tat said just now or with the findings of the past surveys. Can the Democratic Party make clarification in this respect?

Right. No one can indeed make a specific conclusion from the findings of this survey. In other words, there is no absolute conclusion that can prove anything. But with such information, anyone can draw some conclusions, irrespective of whether these conclusions are consistent. Nevertheless, if a certain conclusion is drawn from judgment made according to logical thinking, there will be a definite degree of credibility.

I would like to reiterate that if a certain matter must be dealt with and, failing which, the whole operation will be upset, then we have to consider it seriously. But if we fail to attend to a matter and the whole operation can still function as usual without leading to any serious problems that will disrupt the operation, then I should consider that matter as non-essential. We did agree that we need to examine whether it is essential to designate a no canvassing cooling-off period on polling day. Incidentally, the public, the media and even Members of this Council sometimes adopt an attitude of over-simplifying such discussions. If someone asks me whether I agree to studying new matters that have not appeared in Hong Kong before or implemented before, I will of course give my consent. The media or other friends of mine will then say: "See, he agrees!" We will of course examine the matter. But if, after the examination, we find that it is non-essential, unreasonable or difficult to manage, we will raise our objection. Consequently, we will be taken as "making a volte-face". I think this is inadvisable.

We agree that we should conduct a study on whether it is necessary to designate a no canvassing day. We did consult candidates, our neighbours, friends and the public. The crux of the problem lies in whether there is such an urgency. Just now, Mr LEE Wing-tat remarked that he hoped the election could be conducted in a civilized, orderly and calm manner. Is our election civilized? Is it calm and orderly enough? Just now, Mr LEE Wing-tat pointed out that, relatively speaking, more complaints would arise on polling day. This makes me a bit worried. If our objective is to reduce the number of complaints, we might very possibly cause more complaints as a result of designating a no canvassing day. The scope for complaints will grow so large that there will be complaints from all quarters. In that case, when we hold discussions next time, will we ask for an abolition of the no canvassing day for it has given rise to endless complaints?

In fact, the crux of the problem lies in how we define "canvassing activities". As far as I understand it, some countries have made some provisions in this area. For instance, a candidate can only visit the home of a person whom he does not know on a certain day or once and he cannot display any signs that contain his name or urge other people to take part in elections or vote and so on. But how can we impose restrictions in Hong Kong? What do canvassing activities mean? For instance, a friend of mine (other people will find it hard to define whether he is really my friend) is my supporter. After casting his vote, he knocks on his neighbours' doors. Should such an action be regarded as a canvassing activity? We do not necessarily need to discuss this issue in this way. But if someone lodges a complaint against him, should we then consider how to reduce the number of complaints?

In my opinion, if the system we propose to establish can enable our operation to be conducted smoothly or else we will find it impossible to operate, then we must consider establishing it. But the current situation is we have not encountered any problems with our operation. The example cited by Mr LEE Wing-tat repeatedly earlier is just a fighting incident broke out in the Mong Kok district during a district board election some years ago. It seems that he relied solely on this incident to affirm that our election process is plagued with

numerous problems. I am not sure whether Mr LEE Wing-tat or his colleagues have come into contact with disturbances or numerous activities before. Can they tell us how they felt? If someone says the Legislative Council Election in 1998 was given a cooling-off period, so to speak, because of the heavy rain and there were few canvassing activities, I will say that this is far from the truth. In fact, it is not true that no canvassing activities have been conducted on that day. If we really think our election is not conducted in a civilized and orderly manner, we can consider designating a cooling-off period. And if we find it impossible for the election to operate and there is a need to designate a no canvassing day for the election to be conducted, we will of course reconsider the matter. Otherwise, we will not consider supporting the amendment.

Thank you, Madam Chairman.

**DR YEUNG SUM** (in Cantonese): Madam Chairman, during our discussion, Mr Jasper TSANG, Chairman of the DAB was basically in support of the designation of a no canvassing day. But according to news reports, when the party conducted district consultation, their members of the district level remarked that it seemed they had nothing to do if they did not do anything on the election day. In fact, they were just considering the matter from the angle of canvassing or securing votes. Of course, Mr Gary CHENG stated that they were only studying the issue. Could they not be allowed to study the issue? This is the explanation they offered.

It seemed that the Government was most concerned with the turn-out rate when it carried out its lobbying work. We believe the public has already got used to direct election. Moreover, many opinion polls illustrate clearly that many voters have in fact decided which candidates to support before going to the polling stations to cast their votes. If the voters have the intention to vote, they will automatically cast their votes. If not, even if someone knock on their doors to urge them to cast their votes, they will not necessarily do so. I am of the view that even if there is no canvassing activity, the turn-out rate will not necessarily drop. Just now, Mr Gary CHENG seemed to suggest that consideration should be given only when the election is confronted by a crisis. But we are of the view that we should not wait until there is a crisis. In fact, we have taken part in many elections before. We do understand that such activities as knocking on voters' doors or canvassing will definitely cause nuisance to the voters, particularly in the evenings.

Our canvassing activities can in fact be divided into several stages: the first stage being the so-called "wooden men's lane" stage, that is to say, voters will need to go through crowds of canvassers. This will eventually lead to numerous complaints and, as a result, the police will need to deploy enormous manpower. On learning this, the Government decided to expand the no canvassing zones.

Now we have entered the second stage. As the size of the no canvassing zones has grown increasingly large, we usually need to go upstairs in order to carry out canvassing activities. As a result, the frequency of knocking on voters' doors has risen. Just now, Mr LEE Wing-tat has mentioned the fact that there can be a large number of candidates. As a result, knocking on voters' doors has become an inevitable canvassing activity. Sometimes, voters complained to us that voting had caused them great trouble. In the morning, they would meet certain candidates or their canvassers. In the evening, come yet another group of people. This has indeed caused great nuisance to them. Another point is no matter how large the no canvassing zones are, voters will definitely pass through some places on their way to the polling stations. Usually, these places will be packed with people. In fact, voters have basically a clear inclination of voting. They have got used to this. Should we therefore consider reducing the nuisance caused to them? We should not wait until some fierce fighting incidents break out before considering it. It is good for the public if we can reduce the nuisance.

According to the information supplied to us by the Government, one of the reasons for Japan and France to inhibit canvassing on polling day is that rich political parties can mobilize a large number of canvassers to affect the voting inclination of voters. On the other hand, many opinions suggest that as an upper limit has already been imposed on election expenses in Hong Kong, it will not make much difference as to whether a political party is rich or not. But I think actually there is a difference. This is because political parties which lack funding may not exhaust all election expenses. But for political parties which have ample funding, they can do so. Since the size of constituencies is growing increasingly large, expenses for sponsoring a list of candidates in a "proportional



representation" election, for instance, are already quite substantial. In my opinion, the designation of a cooling-off period will definitely help in terms of reducing nuisance caused to voters and the resultant complaints. I hope Members can think about it carefully.

Thank you, Madam Chairman.

**MR CHAN WING-CHAN** (in Cantonese): Madam Chairman, first of all, let me clarify a point. I want to say that Mr LEE Wing-tat made a false statement when he said that the FTU was described by Mr CHAN Wing-chan like this and that. (*Laughter*) I have a strong feeling that Members from the Democratic Party have got used to frame other people up or put someone's remarks into the mouth of a certain Member. What I mentioned just now is a good example. When Dr YEUNG Sum delivered his speech just now, he mentioned that some district-level members said they would have nothing to do on polling day as a result of the proposal. These two statements carry the same meaning, which is precisely what they attempted to put into the mouth of "Uncle Chan". Mr LEE Wing-tat tried to frame me up in his speech by saying that I was the one who made the remark. I can tell the Democratic Party that the FTU has all along objected to the designation of a cooling-off period on the election day.

Madam Chairman, since the introduction of elections into Hong Kong, we could find the atmosphere excited on polling days. The atmosphere was actually festive too. Near the polling stations, we could find colourful flags waving in the breeze and colourful photographs of candidates as well as numerous publicity boards. Canvassing teams of various sides will gather around to distribute election leaflets to canvass votes for their candidates, displaying an atmosphere that an election day should have. This has been so for many years.

So far, elections for the various tiers of councils have been conducted very smoothly. I did not notice that the public had a strong aspiration to alter the good arrangement we had put in place on the polling or election day.

As regards the amendment proposed by Mr LEE Wing-tat of the Democratic Party, I really do not understand why he has made the proposal of designating a "cooling-off period" on the election day. I do not consider it necessary too. Should Mr LEE Wing-tat's amendment be passed, the "wooden men's lane" as mentioned earlier will appear again. At present, the polling station boundary and no canvassing zone are quite wide, it is therefore not easy

to build up a "wooden men's lane". It is also for this reason that we rarely see it nowadays. Voters might have noticed this when they went to the polling stations to cast their votes. The phenomenon of making door-to-door visits to canvass votes has also become rare. If, according to the amendment, during the cooling-off period on the election day, no person can engage in the following acts: (Mr LEE wing-tat mentioned the relevant election provisions just now) for instance, use a sound amplifying device for canvassing votes (including using a loudspeaker), broadcast audio or video tape to appeal to or induce electors to vote (I do not really understand what it means by "induce", how to "induce" actually), conduct door-to-door canvassing in residential blocks and, as it was said earlier, display a hat, emblem, badge, T-shirt or any clothing or device which demonstrates a link with a political organization (political party). In addition, distribution of election advertisements (that is leaflets) is not allowed. On a vehicle — particularly those who own a car, please pay attention — whether the vehicles are in motion or parked, no portable displays can be exhibited on vehicles. Furthermore ..... but I think I should stop here because it has been clearly specified in the amendment. But I must point out that a person who contravenes subsection (4), that is the abovementioned items, commits an offence and is liable to a fine at level 2.

I would like to remind Members or prospective candidates as well as their canvassing teams that, should this amendment be passed, they will need to remove the emblems of their political party, if any, such as these "pins", from their suits. Otherwise, they will be deemed to have committed an offence. We should also pay attention to the publicity vans that Members normally use for publicizing elections because all election advertisements will need to be removed. I have also pointed out earlier that even parked vehicles are not allowed to carry publicity products. Perhaps I can give Members some hints and, that is, we can imitate a programme which is being shown on the television at the moment. Like the scene depicting a funeral procession of an emperor of the Qing Dynasty, we can cover an article or other material with a piece of white cloth so as to hide the publicity material affixed onto vehicles. Otherwise, we will be deemed to have committed an offence.

Madam Chairman, I wonder if it is because of the Y2K problem that all Members, like a swarm of bees, chose to talk about the Millennium Bug, saying that they are going to catch the worm. As for this amendment, it seems to me that it is trying to "catch the worm" too. Otherwise, why should we legislate to "tie our own hands and feet"? In future, we might step into a criminal trap by

mistake at any time, thus leading to more disputes. Although Mr LEE Wing-tat said that many complaints were lodged during the election period, I think that this arrangement will definitely lead to more complaints. I can envisage that the polling day will be conducted in deathly quiet in future. The turn-out rate will definitely drop too. I can make that prediction.

As for the amendment which provides for the prohibition of canvassing activities on polling day, I have to raise objection on behalf of the FTU. This is because as far as less well-known or independent candidates are concerned, prohibition of canvassing activities on polling day will make it more difficult for them to get in touch with voters. Moreover, as voters and political parties in Hong Kong are still not mature (perhaps some people do not agree with me), this policy if adopted will easily lead to unfairness.

The Government indicated that it had considered allowing candidates standing in the upcoming Legislative Council Election to place advertisements on the television for publicity purpose. Such a proposal was subsequently criticized by some political parties and members of the community for fearing that the election will turn into a "competition of money and power" or an election of tycoons. The proposal was eventually left unsettled.

I mention this issue not because I think liberalizing TV election advertisements is good. In fact, we must consider the relevant issues seriously. But I think we can look at this from another angle. If restrictions on giving publicity through electronic media are relaxed because of the Legislative Council Election, it will undoubtedly bring challenges to well-known political figures or parties for the election will naturally turn more intense. On the contrary, if less well-known candidates consider electronic media publicity "better" in terms of cost and effectiveness than purely relying on printing publicity leaflets and having them distributed by hired workers, they will naturally choose the former.

By the same token, under the circumstances that electronic advertisements are not yet liberalized as an external information publicity tool for candidates, less well-known candidates will of course have one less option. The amendment, which proposes to inhibit canvassing activities on polling day, is suspectable of stifling such candidates. In my opinion, it is suffice keeping the existing practice of designating no canvassing zones and there is no need to make any amendment. For the time being, there is also no need to further

tighten up restrictions or designating the so-called cooling-off period as proposed by Mr LEE Wing-tat.

At the same time, the polling day is going to take place on Sunday. As far as candidates and canvassers are concerned, direct participation in the electioneering work means very much to them. Designating a cooling-off period on the election day as proposed by the amendment will deprive the general public of their rights and freedom to take part in electioneering work. They should be given such rights. Why should we legislate to deprive them of such rights? Is it going to be fair to them? It is really surprising that some people talk about democracy and freedom all day long but, at the same time, propose enacting legislation to deprive the public of the abovementioned rights and freedom. This is extremely unfair indeed.

With these remarks, Madam Chairman, I oppose Mr LEE Wing-tat's amendment on behalf of the FTU and the DAB.

**MR RONALD ARCULLI:** Madam Chairman, I rise to speak in support of the amendment proposed by the Honourable LEE Wing-tat. The Liberal Party supports it simply because we have long held the view that canvassing on general election day does not really add much to the electoral process. Because basically by that time, voters are tired of the nuisance, the pestering and all the hassle that we have been giving them for a matter of weeks. Apart from anything else, I think that those participating in the election are probably half dead, if not three-quarters dead on that day, and I think a day of rest would not be a bad thing.

But I think one of the reasons why we believe that it will do no harm to the electoral process is that apart from the long period of campaign and canvassing that each of us, whether members of a political group, party or independent candidates, actually spends quite a lot of time thinking of ways on how to circumvent the rules and guidelines. We spend a lot of time during the election period as to how we make accusations and deal with counter-accusations, right or wrong, fair or unfair. And apart from that, the electoral officials actually get caught in the middle, and more often than not, both sides go away quite unhappy with the result, quite unhappy with the decision of the electoral officials who are really basically trying to do their best in a rather emotional atmosphere.

But there are also complaints that people are being hassled at home, on the telephone and through a variety of means. So, I think if there is a way around

guidelines and rules, you can trust that we will find it. So, I have very serious doubts about whether or not the last day really is as the Government says. Apart from it, of course, environmentally, it is also a very unfriendly exercise in that you have no idea how much paper goes out that day, how much paper all of us push out that day. So, I think that is also another reason.

But of course, if we had automatic voter registration, to begin with our voter count would be much higher, and I remember raising that issue as far back as 1990. We are now going into the Millennium. Ten years later, we still have not got anywhere near that. The second thing is of course, and I know my friends in the Democratic Party would not like to hear this, that if we have compulsory voting, compulsory in the sense that if a voter does not attend a polling booth on general election day, he gets a nominal fine of \$10 or \$20, that will also bring out the crowds instead of some of these gimmicks that the Government uses to enhance voter turnout. But that is by the by. I think the adage that is always attributed to Henry FORD is "If it ain't broken, don't fix it". I think the community develops and the community moves on, and I think the Hong Kong community today is ready for a day of rest on general election day.

**MR JASPER TSANG** (in Cantonese): Madam Chairman, I hope this debate will not give the public an impression that this is yet another fight for interests. In other words, for those who think that the designation of a cooling-off period on polling day will be to their disadvantage, they will object to the designation of such a period whatever. But for those who consider permitting canvassing activities on polling day will be to their disadvantage, they will support the designation of a cooling-off period whatever.

Frankly speaking, it is hard to determine what impact the designation of a cooling-off period will have on the results of the election. This is similar to our discussions yesterday about whether the publication of exit poll results will necessarily be advantageous to certain people and detrimental to others? It is indeed difficult to judge in this aspect. Nor are there scientific methods to determine such impact. Actually, many things happen to be like that. For instance, Mr Martin LEE always publicizes for the DAB, saying that we have ample funding. Is it going to help us or not? Even we are unable to get a

definite answer. (*Laughter*) One disadvantage is people may think that as the DAB has so much money, there is no need for them to give us donations. But still it is possible that some people choose to donate to those who are rich, isn't it? Perhaps they make the donation on seeing that other people are making donation too. Therefore, I will not object to Mr Martin LEE's going everywhere to give us publicity though what he says is not the truth.

For these reasons, I think we should not focus our discussion on what candidates will be benefited from door-to-door visits or canvassing activities in the streets on the final day of the election. I believe many Honourable colleagues had this spirit in mind when they discussed this issue earlier on.

In fact, the principal argument held by both Mr LEE Wing-tat and Mr Ronald ARCULLI in explaining why they support the designation of a cooling-off period on polling day is to reduce the nuisance suffered by voters or even the public in general. I want to respond to a few points: First, just as Mr LEE Wing-tat said, canvassing activities were actually not conducted on the polling day only. During the six to eight weeks as mentioned by Mr LEE Wing-tat, candidates were in fact already half dead, as Mr Ronald ARCULLI put it. The public also suffered from a lot of nuisance during that period.

More often than not, I, or my electioneering team, received the highest number of complaints a few days before the polling day. A lady once told me: "Jasper TSANG, there is no need for you to stand downstairs and shouting at the top of your voice through the loud-hailer. My son is now preparing for the A-level examination. Please excuse me." We perfectly understood what she said. On receiving the complaint, we could not but quiet down.

There is also a problem with paper wastage. Just now, Mr Ronald ARCULLI mentioned the issue of environmental protection, saying that campaigning activities will lead to paper wastage. We do understand that candidates will hand out leaflets over several weeks continuously. Frankly speaking, the Democratic Party has been very smart in this area. They can publish leaflets quickly and timely and their leaflets come in all fashions too. And that has made us extremely nervous. Very often, our candidates said to

me with one of the leaflets in his hands: "Jasper, Jasper, here comes another leaflet." This is what I said: "No matter what, let us print another leaflet." But how are we going to do it? We can only copy the leaflet we got. And then we will end up having a new leaflet. (*Laughter*) This is how all of us used our tricks. There were also many other voters who complained to me: "Jasper TSANG, your situation is not good. There were more than 10 leaflets from the Democratic Party in my mailbox each week. But there were only a few from the DAB. How can I vote to support you?" This is what really happened. Therefore, wasting paper, creating nuisance to voters and making door-to-door visits will definitely happen in those few weeks. If we are really to prohibit such activities, why do we not consider imposing a total ban? If we consider our voters mature enough, we can persuade them to vote by adopting a mild method from distance. It is better for us to consider the issue from this angle. Perhaps we can consider setting up no canvassing zones around the Chamber of the Legislative Council when it is holding meetings or designating the dates of meeting as cooling-off periods. That might be useful to us.

I think we should strike a balance when we consider seriously the nuisance suffered by voters. We should aim at reducing wastage, advocating environmental protection and reducing nuisance on the one hand, and consider how to make voters know more about the candidates or organizations standing in the election on the other. I think we should eventually strike a balance in this area.

Just now, Mr LEE Wing-tat, or perhaps Dr YEUNG Sum, mentioned that I did say that I supported the amendment. Right. But it was not in the Bills Committee that I expressed my support for the amendment because I did not join the Bills Committee. I did sign up for membership at the very beginning, but later I decided to quit for I was too busy to attend the meetings. That was why I had not taken part in the Bills Committee's discussions. But when I discussed the issue with Honourable friends from the Democratic Party or friends from other political parties, I did say that the amendment was worth consideration. It is very obvious that the designation of a cooling-off period will have many advantages. For example, it can help reduce nuisance, minimize wastage, enable candidates to get some rest and so on. But when we got down to discussions in the party, we could not help considering another side of the campaign activities, that is, the question of striking a balance, as I said before.

In my own opinion, there are nevertheless some technical problems that warrant our serious consideration. I do not think my friends from the Democratic Party have made serious or comprehensive consideration with respect to the matter.

For instance, what constitute canvassing activities? If Members have made an observation before, they will find that despite the so-called no canvassing zones, voters entering such zones can still see many ridiculous things taking place there. This is because, in the no canvassing zones, such acts as displaying the signs of candidates and political parties are not allowed for the purpose of canvassing votes. Therefore, we can see some people wandering about in the no canvassing zones. Although these people cannot put up publicity signs, they will sometimes put up two fingers or do something similar all of a sudden when they see someone pass by. In fact, a lot of complaints were lodged in this respect. Should such acts be taken as canvassing activities? Are they in violation of the law? I am worried how the authorities concerned can implement the ban if there is a ban on canvassing activities for the whole day (except the exempted parties). For instance, a candidate might ring up voters throughout the election day. This will similarly constitute a nuisance, am I right? Is this behaviour violating the law? Should complaints arising from this be entertained? I want to cite an incident mentioned by Mr Gary CHENG just now — this is what I heard but the person involved is not me. I am not so capable — I heard that some terrific candidates, who have immense support from housewives, would invite a number of people to play mahjong on the polling day. In the course of playing mahjong, the housewives will begin urging others to join them to vote for a certain candidate. Should this be considered as a canvassing activity? As for some people who criticized certain candidates for creating disturbances in corridors by using loud-hailers, they are actually a member of kai-fong. For instance, he might be a chairman of a mutual aid committee. After having his morning tea that day, he will make a door-to-door visit and say, "Mrs CHAN, Mrs LEE, Uncle CHEUNG, please come and vote for Jasper TSANG!" Can he do that? Is he violating the law? Perhaps it is because he feels that the candidate he supports is a man of virtue. So, he tries to urge his neighbours to vote for that candidate too. This person might be a member of my canvassing team and he therefore feels that he is obliged to canvass votes for me. Of course, he might not be a member at all. He might have seen a certain candidate taking part in a debate on the television the day before and gained a good impression of that candidate. Subsequently, he



decided to introduce that candidate to his neighbours and ask them to vote in support of that candidate. Can he do that then?

Just now, Mr LEE Wing-tat pointed out that the designation of a cooling-off period can help prevent candidates or their canvassing teams from having bodily clashes, disputes, lodging complaints involving the designation of boundary and so on in no canvassing zones. But I worry that this might even give rise to more disputes and make the matter even more difficult to be dealt with. Moreover, the relevant restrictions might not be reasonable. In this respect, I have raised my doubt. My friends from the Democratic Party have frequently advocated freedom and human rights. The discussion we conducted yesterday on whether or not there should be an advance polling day also involved civil rights. It has nothing to do with the so-called civil rights if a certain candidate publicizes himself or asks other people to support him. But still, this should be taken as freedom of expressing one's opinion. If we are to enact such legislation, will we need to formulate guidelines to define what "canvassing conduct" means? Moreover, we might need to lay down the so-called three disciplines and seven commandments so that everyone has to walk according to the rules and not to make a wrong step on polling day. If someone was asked whom he has voted for in a restaurant and he replied that he had voted for Mr LEE Wing-tat, would that be considered as canvassing? Do we need to create such an atmosphere in the community on polling day? Is it appropriate to create such an atmosphere?

Most importantly, as mentioned by Mr Gary CHENG earlier, since the introduction of elections, particularly geographical direct elections, in Hong Kong, we have been adhering to the practice of carrying out canvassing activities on polling day. People have accepted these activities too. As for some people who knocked on someone's doors three times or in the middle of the night, I think any experienced candidates and canvassers should know that no one should do such a stupid thing. If a person really knocks on someone's door until the owner of the house opens the door and makes an abusive remark, it is he who gets himself into trouble. I think every candidate and canvasser should know when to advance and retreat and know what they can do. I would rather keep on searching in the course of developing an electoral culture and, through the candidates, canvassing teams and members of the public, nurture the culture slowly. This is also my hope.

The attitude adopted by the Democratic Party in dealing with this matter seems to have deviated from the logical thinking they used to adopt in dealing with other issues. They advocate for the enactment of legislation to prohibit such behaviour. Is it a bit different from the beliefs they have been adhering to? I have a question here. We have, unknowingly, taken part in geographical elections and direct elections for more than a decade. Throughout these 10-odd years, we might have encountered several or even up to 10 unhappy incidents, which might need to be resolved in police stations eventually. But, on the whole, elections in Hong Kong have been conducted in a very civilized manner. We frequently hear our friends from the democratic camp say so all day long. Our voters are very mature. Our entire society is fully equipped for developing democracy. When compared to our neighbouring regions and countries, we are basically far ahead of them. Such being the case, is it necessary for us to impose this additional restriction? It is mainly because of this that we finally decided not to support the amendment.

Thank you, Madam Chairman.

**MISS CHOY SO-YUK** (in Cantonese): Madam Chairman, the Hong Kong Progressive Alliance has all along opposed the proposal to set the election day as the "cooling-off period" and to prohibit all forms of canvassing activities. Actually, we are of the view that the existing no canvassing zone is too large in size, and that there are already too many restrictions on polling day. In this connection, some of the restrictions are indeed baffling. For instance, while candidates are allowed to enter the no canvassing zone, they are not allowed to greet their voters with a smile or to say hello to them. I just wonder if there would be any voters who prefer to enter the no canvassing zone to find candidates greeting them with an angry face, since they might even be stared at in a very unfriendly manner.

We believe there are already too many restrictions on polling day, I just cannot see any reason why there should be additional restrictions. Actually, Madam Chairman, things were not that chaotic on the polling day last year. I have taken part in canvassing for a number of times, but so far I have not encountered any chaotic or out-of-control situations. On the whole, the

atmosphere was actually quite satisfactory, since the electioneering teams of different candidates would often come together to have some friendly chats, to offer each other drinks and so on. The different electioneering teams did not consider themselves mutually antagonistic, nor did they end up quarrelling with each other whenever they came together. I admit that there were times when different parties and factions were finding faults with each other, yet this is also one of the reasons why I object to the provision for a cooling-off period. I will come to that later.

To those candidates who are not so well-known or who are not affiliated to any political parties, the election day is of utmost importance. It is the only day on which all their family members could take part in canvassing support for them. Knowing that they are not as well-known as others, these candidates will make the best use of each and every minute of the polling day.

As I can remember, when I was contesting the 1995 election against the Honourable Martin LEE, I told myself that it would be so nice if I could have an extra month for preparation, and even better if I could make it two months. If those 10-odd hours on the polling day should be taken away from me, I would certainly be very miserable. As regards Mr Martin LEE, he was of course quite carefree, and we rarely saw him campaigning around in the Eastern District. *(Laughter)* Our situations were simply two different stories. I hold that we should adopt an electoral system which is considered fair by all parties concerned, so as to enable candidates who are not so well-known or who are not affiliated to any political parties to have more chances to contact their voters. Although I am affiliated to a political party, I still wish to encourage more people other than the familiar faces we have seen in this Chamber to stand for elections. It would be best for the political development of our society as a whole if there should be more candidates running in the elections.

Madam Chairman, many Honourable Members who spoke in support of the cooling-off period just now have mentioned that we could take a good rest on the polling day if it should be designated as the polling-off period. However, I must remind Members that the electioneering teams just will not rest on that day. They will certainly come out in full strength and patrol around, checking out if their counterparts have "caught worms" (I do not know if it is proper to use this the phrase referred to by the Honourable CHAN Wing-chan just now) or have done anything wrong. Please excuse me if what I just said was improper. I believe that the electioneering teams will be finding fault with each other, blaming and complaining against each other on the polling day. Instead of

conducting such meaningful activities as canvassing or introducing the work of the candidates concerned to voters, the electioneering teams will be moving about in the no canvassing zone and accusing others of violating the no canvassing rules. I have seen too many of such cases. I just cannot imagine how many additional staff the Government needs to deal specifically with the complaints lodged by the various candidates. Just now Mr Jasper TSANG has cited a good many examples, including the situation in which electioneering teams were shouting and yelling on the street. I would most probably lodge a complaint if I should come across such kind of situation. Given that there were electioneering teams shouting on the street, others would just think they might perhaps do so as well. In the end, one team might be shouting out even louder than the other, thereby giving rise to more disputes among the electioneering teams.

Hence, the designation of a cooling-off period really has little significance. If the purpose of providing for a cooling-off period is to enable candidates and their canvassing aides to have an extra day of rest (actually, the entire election period lasts but a limited number of days), it would be more advisable to consider extending the nomination period for one day. That way, candidates could still have the same number of days to conduct canvassing activities, since the canvassing period would not be shortened by one day to give way to the cooling-off period. As regards the electioneering teams, they could still take a good rest on the day immediately following the polling day. For these reasons, I object to the designation of the polling day as the cooling-off period.

**MR FRED LI** (in Cantonese): Madam Chairman, it is indeed gratifying to see no clashes but an atmosphere of calmness in this Chamber during this discussion on the cooling-off period proposal. I particularly appreciate the speech made by Mr Jasper TSANG just now. Indeed, we are here to discuss the issues before us, we should not therefore make this discussion an excuse for attacks on each other.

Just now Mr Gary CHENG inquired Mr LEE Wing-tat of the elections held in Canada and I should like to speak on that as well. Actually, I do have some Canadian electoral experience. I did not stand in any elections, but I have participated as a canvassing aide when I was studying in Canada. Therefore, I can tell Mr Gary CHENG of the provincial government election I participated in, but I have no idea as to how a federal government election is like. On the polling day, canvassing aides were assigned to different polling stations as polling agents. They were each provided with an electoral roll, on which

they would underline the name of the voters who had come to cast their votes, in much the same way as government officials did. The purpose of this was to keep track of the voters who had voted and who had not. From time to time I would go outside to contact the electioneering team to which I belonged, thereby reporting over the phone the situation to the campaign headquarters. As regards the electioneering campaign, we were allowed to make phone calls only. On-street canvassing, door-to-door canvassing, and provision of vehicles to carry voters to the polling stations were strictly forbidden. As such, only the calm ways of canvassing were adopted, and they were the only canvassing activities we conducted throughout the whole campaign. Naturally, the polling day was very calm and peaceful. So, these are the facts I wish to share with Honourable Members.

Just now the Honourable Miss CHOY So-yuk said that she had stood for election and participated in electioneering activities for many times. In this connection, my electoral experience could be dated back to 1982. I started out as a canvassing aide 17 years ago, and eventually run in the elections. I have run in a total of seven direct elections, all of which were geographical elections; besides, I have also participated in the canvassing activities of two geographical elections. Altogether I have taken part in nine elections. Hence, I can tell the Government that I have plenty of experience in participating in elections, and of the things that are going to happen on polling day.

"Uncle Chan" (I am sorry, I should have said the Honourable CHAN Wing-chan) mentioned just now that polling stations were all drowned in flags and banners, as well as the colourful photographs of candidates. Speaking of polling stations, I am sure complaints are bound to arise on every polling day and at every polling station. For example, some would complain about the banners and posters hanging up in the no canvassing zone, while others would complain that the furniture of the so-called canvassing points should not be taken into the no canvassing zone. A great many complaints of this kind will certainly be received. In this connection, I should like to know if the Government has ever checked with the polling stations (which are between several hundred to a thousand in number) after each election to find out the total number of complaints received. I am sure the number added up would be rather impressive. Every time I stood for election, I would pay site visits to a number of polling stations. During each visit, I would hear my electioneering team complaining to me about the electioneering teams of other candidates, and the complaints were more often than not very difficult to deal with. Having regard to the enormity of the disputes involved and the large number of

complaints lodged, I would not attempt to deal with any of them. However extensive the no canvassing zone may be, so long as there is any area where canvassing activities are not banned, there will certainly be trouble. Therefore, we believe it would be better to provide for a cooling-off period. Although our elections have all been conducted in a civilized manner, electioneering teams would still be picking faults with each other in the areas concerned. Certainly, there were a few electioneering teams which provided the public with drinking water, but a far greater number of electioneering teams were engaged in fights and quarrels. Instead of providing others with drinking water, members of these electioneering teams would hurl insults at or even pour water onto others. The relationship between the different electioneering teams was in fact not very harmonious. Perhaps a minority of the electioneering teams might be as nice as has been described by Miss CHOY So-yuk, but the cases I have seen were a different story. Some of the electioneering aides were rather violent, and cases of hitting and bodily clashes were not uncommon. Some members of the public have complained to me, saying that they would lose all their interest in voting if such cases should happen again. Regrettably, such situations could still be seen these days. Nowadays, voters would feel that they are betting on the Mark Six as they proceed to the polling station to cast their votes, since the electioneering teams around would be shouting out at them "No. 2", "No. 3", "No. 4" and so on. This is in fact a great insult to the voters. On hearing those shouting and yelling, voters will just think: Why shouting out the candidate numbers at me, are you thinking that I have not yet made up my mind before I come to the polling station? I am afraid there would be a blot on our electoral culture if similar situations should take place again on polling days in the future.

I should like to raise a few points for discussion with the Government, but Secretary Michael SUEN is not here in the Chamber at the moment. I just hope other government officials would relate the points to him, since I wish to know if he would give me any reply. The Government is opposed to the provision for a cooling-off period, and the only argument it has is that the voter turn-out rate might be affected adversely. In this connection, I should like to ask the Government four questions.

Firstly, given the many elections held over the past years, does the Government know whether voters have actually made up their mind when they go to the polling station to cast their votes on the polling day? The point is that if more voters should have made up their mind before coming to the polling station, both the importance and the usefulness of canvassing activities would be

further diminished. Should that be the case, the designation of a cooling-off period or otherwise would not have any effect on the voter turn-out rate.

Secondly, has the Government ever consulted the public on the cooling-off period proposal? Perhaps the Government might consider the survey we conducted not scientific enough, but has it conducted any survey in this connection? Has it ever tried to look into the matter?

Thirdly, is the Government aware of the enormity of the nuisance the electioneering teams have caused to voters turning out to vote on polling day? Has the Government conducted any research on this?

Fourthly, with regard to the nine geographical elections conducted since 1982, has the Government examined the types and numbers of complaints received at each of the polling stations upon the completion of those elections? The Government should have researched into the issues mentioned before discussing with us whether a cooling-off period should be designated. Without the support of such research efforts, the Government's assertion that the cooling-off period would have an adverse effect on the turn-out rate which would otherwise be boosted is nothing more than a mere assumption. Given its unfounded argument, I do not think the Government could convince Members of the Council in any way. I just hope the Government would provide clear answers to the four questions raised by me just now.

I so submit.

**MR ANDREW WONG** (in Cantonese): As I pointed out yesterday, the former Legislative Council did discuss these issues for many times. I can confirm that the stance of the Liberal Party has all along been in favour of compulsory voting, but that was not the consensus of the then Legislative Council. The consensus reached at that time was to allow advance polling. Yet regrettably, the amendment in respect of advance polling was negated yesterday. Another consensus reached at that time was to ban all canvassing activities on polling day. Advance polling and no canvassing on polling day were the two points agreed to by all parties concerned at that time, and we have been striving for them all along. Although the Government had made some concessions in respect of advance polling, the concessions were withdrawn yesterday. As for no canvassing on polling day, the Government so far has refused to give in. The

Government has put forward a number of reasons, and the most recent one was that to legislate against canvassing on polling day would contravene the provisions of the International Covenant on Civil and Political Rights. In this connection, I believe Mr LEE Wing-tat has made a very true remark regarding the Government. He said that the Government would resort to any excuses in trying to turn down the proposal for no canvassing on polling day. As a matter of fact, there has already been legislation on this area. As Mr Jasper TSANG has asked, why must the Democratic Party seek to legislate for a ban on canvassing activities? Actually, there is already legislation on this. The provisions regarding the "no canvassing zone" could in fact be considered as one way of legislating against certain kinds of activities. This is because the extension of the "no canvassing zone" would mean further restrictions on the freedom of the people concerned. All in all, the different views could be summarized as the following. While some people prefer to canvass on the polling day to boost up the election atmosphere, there should still be certain forms of restriction. On the other hand, there are also some other people who prefer to let the voters cast their votes rationally and calmly on the polling day. If the voters have made up their mind, why should they still be disturbed at the very last minute?

Actually, Members could make their own choices instead of putting up different reasons to back up their objections, including accusing the proposed provisions for being not well-written but prone to give rise to legal disputes, alleging that canvassing activities are hard to define and so on. Since the existing law has provided for the designation of "no canvassing zones", it is naturally questionable as to whether certain activities should be regarded as canvassing activities or not. As such, if Members do consider the voters mature enough, and that there is no need for canvassing on polling day, we should support the proposed arrangement. Actually, the proposed amendment before this Council now does not prohibit any persons from discussing with their friends the candidates they should support, nor does it prohibit any exchange of views. Under the proposed provisions put forward in the amendment, it is perfectly acceptable to say things like: "I have not made up my mind yet, which candidate do you think is better?"

The proposed amendment seeks to prohibit candidates and their canvassing aides from wearing campaign uniforms, using amplification systems, or distributing leaflets on the polling day to recommend a certain political party or a certain candidate to voters. This is because the activities mentioned are



regarded as electioneering activities. I certainly do not wish to read out all the activities listed in the proposed amendment, but then Mr CHAN Wing-chan has already done so practically earlier on. Actually, I did point out to the Bills Committee that while we might be able to overcome certain problems if the proposed amendment should merely set out that canvassing be banned on polling day, a lot of enforcement problems would be created as a result. On the other hand, if the proposed amendment should set out all the activities to be prohibited on polling day, we would be able to achieve the desired effect. For this reason, I am willing to sacrifice all or some of the canvassing activities on the polling day, even though I am not affiliated to any political parties.

Thank you, Madam Chairman.

**DR LEONG CHE-HUNG** (in Cantonese): Madam Chairman, I seldom speak on issues like the one before us now, particularly because I and Honourable colleagues returned by our respective functional constituencies (FCs) must take care to avoid being referred to as a small coterie of windbags. However, I must rise to speak today because of two reasons.

To begin with, Madam Chairman, I should like to make certain clarifications because there was a great deal of misunderstanding yesterday. In this connection, some Honourable Members have suspected me of having some "horse-trading", "vote-trading", or even backroom deals with the Government regarding how I would vote today. In addition, as a FC representative, I should like to express on behalf of my constituents (I do not know if we are just a small coterie or not) our views regarding the proposal on no canvassing on polling day. In my opinion, it would hardly be possible for our FC to comply with the regulations proposed.

First of all, I must make it clear that regardless of how I would vote today, I definitely have none of those so-called "horse-trading" or "vote-trading" — I really do not know how I should name them — with the Government. Nor is there backroom deal of any kind between the Government and me. Perhaps I should provide a few examples. Last Monday morning, Dr YEUNG Sum and I were meeting the media to give them an account of what the House Committee has done over the past years. After that, a reporter asked me of my views on the canvassing day. I replied very clearly then that I had considerable reservations about the issue, since I had yet to think it over very carefully. In addition, I also raised a very simple question then, and that was: Could we ring up electors on polling day? Since I had not heard of the point mentioned by the

Honourable Andrew WONG just now on that day, I told the reporter that I had reservations about the issue. In other words, I have never said I would support or oppose the relevant proposal. All I said was I had reservations about that. So, regardless of how I should vote today, there would not be any backroom deal between the Government and me as suggested in the meaningless speculations made by certain Members.

As regards the provision against canvassing, why would it be a problem and pose compliance difficulty to our so-called small coterie elections? In this connection, I should also like to raise a few points. Firstly, although the proposed provisions have set out very clearly what could be done and what could not, the meaning of "no canvassing" is more often than not very hard to define. As inquired of earlier by Mr Jasper TSANG, chairman of the DAB, would it be acceptable if two friends were having dim sum at a restaurant and one of them should suggest the other to vote for Mr LEE Wing-tat? I can see Mr LEE Wing-tat keep shaking his head, obviously he does not consider the hypothetical situation has anything to do with his proposal. Nevertheless, given that a well experienced Member of this Council who has stood for election for many times has still expressed doubts regarding the proposal, we just cannot deny there is something wrong with it.

Let me take the FC I represent as an example. Obviously, it would be fine if I should give my electors a phone call on polling day; however, how should I react if I happen to have a ward visit appointment on the polling day — I have not had any ward visit appointments for quite some time due to limited business (*laughter*) — and come across several of my electors? Should I keep a poker face or should I smile at them? If I should smile at them, they might say: "Dr LEONG, why are you here, you should be at the polling station?" In that case, should I reply: "Please do not mention the election, because it would make me risk being charged of conducting canvassing activities", or should I say: "Please go and cast your vote"? If I should ask my electors to vote, would I be suspected of engaging in canvassing activities? When I ask other people to go and cast their votes, naturally I would wish they vote for me. But would I be in trouble if a person next to me should ask those people to vote? Certainly, a hospital is quite unlike any residential building where door-to-door canvassing might be conducted, but would it be included in the no canvassing proposal as well? This is by no means a trivial matter.

Moreover, while continuous medical education (CME) classes are always conducted on Sundays, the past polling days have also fallen on Sundays as well. So, even if I and my electioneering teams have kept silent, the conductor of the

CME class concerned might encourage participants to vote after lesson. In this connection, I would be in trouble if anyone should say in response: "Right, let us go and vote for Dr LEONG."

Madam Chairman, it has been my view all along that the proposed amendment could hardly be applied to our FC, and that even if the proposed provisions should be strictly enforced, more often than not one would still fear that something might have gone wrong.

Thank you, Madam Chairman.

**MR ANDREW WONG** (in Cantonese): Madam Chairman, just now Mr CHAN Wing-chan has read out to the full the provisions concerned, I do not wish to repeat them here. No doubt Dr the Honourable LEONG Che-hung must have read the contents of the provisions as well, yet there is still one point to which I wish to draw Members' attention. Suppose someone expressed support for Dr LEONG on a certain occasion, the remarks concerned could still be regarded as part of the election meeting, even if they were made on the polling day. Canvassing or no canvassing on polling day will have nothing to do with remarks like that.

**CHAIRMAN** (in Cantonese): Honourable Members, I understand that if you should wish to speak, you would sometimes raise your hands and sometimes press the "Request-to-Speak" button to so indicate. However, I hope you will indicate your wish to speak by raising your hand and pressing the button as well. Otherwise, I might not call upon you to speak if your names were not shown on the screen.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam Chairman, I agree very much with the questions Mr Fred LI has asked the Government just now, for I have found the questions very meaningful. I just could not understand why the Government is still unwilling to provide for a no canvassing day, and I do wonder if the Government has any grounds or data in support of such an attitude. In this connection, Mr Andrew WONG alluded just now to a new argument advanced by the Government recently in relation to an international covenant. Actually, I do share the views expressed by Mr Andrew WONG in this regard,

but as far as the international covenant is concerned, his views have also contravened certain provisions of the covenant. The question could just be a matter of degree. However, if we should really provide for a no canvassing day, would it follow that we are imposing restrictions on the activities of certain people? I do not think we should look at it from this angle. With respect to the election period itself, actually the legislation providing for the election has already lay down restrictions on the publicity campaign to be carried out within a certain period of time, regardless of whether the canvassing period would be extended or cut short by one day. For this reason, I do not think we should perceive the proposed no canvassing day as the only restriction. On the other hand, if we should legislate against canvassing activities altogether, we would certainly be contravening the provisions concerned. Hence, I do not think the Government has any ground to support this new excuse. If the Government should have more arguments up its sleeves, this Council would be happy to learn about them.

Just now I have listened to the speeches made by a number of Honourable Members, in particular the one delivered by the Honourable Miss CHOY So-yuk. However, I still could not figure out whether she supports or opposes the "no canvassing day" proposal despite having thought about her remarks deep and hard. It really beats me. Actually, both cases seem equally possible to me. In regard to the "no canvassing day" proposal we are discussing, I think the crux of the matter lies in the type of election culture we wish to establish. Do we prefer to have the kind of election culture which would turn the polling day into a carnival, or do we prefer to let our voters elect, in a rational and sensible manner, the right candidates as Members representing them in this Council? I think this is the most important consideration. Since Miss CHOY So-yuk has said that the less well-known candidates can make use of the polling day to introduce their political platforms to voters, I should like to ask Miss CHOY how effective can the publicity campaigns be on polling day? To what extent can voters' understanding of the relevant candidates be enhanced on polling day? I really doubt that very much. If a voter should vote for a certain candidate just because the candidate has spoken to him briefly on the polling day, it would not follow that the voter does know a lot about the candidate. On the contrary, I am afraid the voter has not been serious enough in casting the vote. I really cannot accept this kind of election culture. Even if I should shout out slogans like: "Please vote for me, I am candidate No. 3, LEUNG Yiu-chung", it would not necessarily mean that voters will vote for me. What is the significance of an election if the voters should vote for candidates whom they do not know? Is this the kind of election culture and electors this community wants? I think

these are issues we need to duly consider.

I believe the people of Hong Kong are comparatively more mature now. As raised by Mr Fred LI just now, if the Government should have conducted any survey on the percentage of voters who have already made up their mind on their way to the polling stations to cast their votes, and thus would not be affected by the electioneering teams in respect of their intention to vote or their choice of candidates, and if the Government should have evidence on this, we would certainly be more convinced. Actually, drawing on the experience we have gained in standing for the elections held over the past years, we are well aware of where the problems lie. Many electors have in fact made up their mind before arriving at the polling stations to cast their votes, and such electors account for the great majority. That being the case, why should resources be wasted in conducting canvassing activities on the polling day? On the other hand, past elections have also seen a tendency towards mutual complaining among electioneering teams developing continuously. The cases cited by Mr Fred LI in which the electioneering teams were picking faults and fighting with each other have been on the increase. While the Government claims that past elections were rather peaceful and acceptable, things would turn out very differently or even worsen if there should be any canvassing day. Judging by the last election, I feel that the problems have already deteriorated. Therefore, if we really want to conduct our future elections in a peaceful manner, we should not provide for any canvassing days. Otherwise, we would only make things worse if we keep on with those canvassing activities.

Last but not least, Madam Chairman, this Council was not established yesterday. It has in fact undergone years of development, through which the electors have also matured a lot. As such, I hope that the Government could give full consideration to the issue in the light of the maturity of the electors, instead of sticking to the practices adopted since the early '80s. In addition, I also hope that the Government could investigate into how our community should conduct our elections, as well as into how we should proceed with the development of our councils. Are we seeking to conduct our elections in an irrational and uncivilized manner, or are we trying to nurture an election culture which stresses on the ability of the electors to analyse the political platforms and performances of candidates rationally? In my opinion, it would make sense only if we should strive for the latter of the two causes. We must never fool ourselves into believing that a successful election is one with a high voter turnout rate, which could be boosted by some sort of a heated election

atmosphere. I hope that the Government could give more thoughts to the issues on this front.

Madam Chairman, I so submit.

**MR MARTIN LEE** (in Cantonese): Madam Chairman, I should like the Government to think over several questions very carefully. Firstly, why would voters cast their votes on the polling day? If the turn-out rate should stand high, it would follow that many voters would like to cast their votes. Then, what makes them want to vote? Would it be that they have already made their choices and would therefore want to vote? On the other hand, would it be possible that they have not made up their minds but need to depend on the number of leaflets received to choose the candidates they vote for? I would be very much surprised if the Secretary should believe the latter is the case.

If the electors have decided which candidates to vote for, would they change their mind and stay home to play mahjong instead just because they could not see the publicity banners of the candidates of their choice or just because they could not see any people giving out publicity leaflets? Certainly not! If we should allow so many canvassing aides to gather at the entrance of the polling station, the place would definitely be very "overcrowded". In a typical setting, those wearing red clothes would be standing on one side, those in green on the other, leaving a passageway for people to pass through in the middle like what we would see in a wedding ceremony, only that the atmosphere would not be so cordial. I have seen too many of such situations. I have seen electors heading for the polling station turn around and leave upon noticing the terrible situation there. This was especially so for women carrying babies in their arms, they would immediately leave the scene once they saw the chaotic situation there. When the first direct election was introduced into Hong Kong in 1991, I tried to persuade a member of the pro-democracy camp to stand for the Legislative Council Election, but he told me that he would rather opt for another channel. He then explained to me that he had won in an Urban Council Election before, yet the experience had been very scary because too many people were rushing towards him at the same time. For this reason, he would rather stand for another kind of election. I do not wish to disclose his name here, since I have not sought his consent beforehand. I just wish Honourable Members could understand that those "overcrowded" polling stations would only serve to lower the turn-out rate instead of giving it a boost.

I agree very much with Mr Ronald ARCULLI in that elections have created many problems in terms of environmental protection. In this connection, the electioneering teams all hope that if they should be able to give the voters the publicity leaflets of the candidates they canvass for right before the voters reach the polling station, the voters would then vote for the candidates concerned. As such, a voter might be handed a publicity leaflet of candidate No. 2 first, followed by that of candidates No. 3 and No. 4, but then he might get another one on No. 2 again! Yet, would it follow that the voter would necessarily vote for candidate No. 2? Certainly not! Having been handed a pile of leaflets, the poor voter could only take them along to the polling station, bearing in mind that he should not litter on any account. Nothing could be more ridiculous than this.

Let me give yet another example. Since it is the existing practice of the Government to provide each and every candidate with two rounds of free mail service, the political parties would naturally make the best of this. Supposing the New Territories West constituency has a total of 11 groups of candidates, how many publicity letters would the voters concerned receive if we multiply those 11 lists of candidates with the rounds of mail service provided? Some voters just would not care to read those leaflets. Even if the leaflets were on the candidates of their choice, would they bother to read the information for a second time if they should receive two rounds of such mail? I really doubt that very much.

Madam Chairman, the Democratic Party has really thought about the question of whether there is any need for sending out the publicity letters for a second time, even though candidates are entitled to two rounds of free mail service. I do not think there is such a need, since environmental protection is one very important consideration. Another point of consideration is the nuisance caused to the public. Instead of achieving any useful results, so doing would only serve to cause nuisance to the people. For these reasons, I agree very much with the views expressed by several Members on this front.

This morning I heard Mr Jasper TSANG expressing his views in a RTHK programme. Mr TSANG referred to the so-called *paparazzi* of the

Government and said that since they had made clear their stance, in particular their party had made clear its stance, on the issue, there should be no need for the Government to keep asking them what they should do in this connection. This is indeed a very good point! If the voters should have made up their minds already, would there be any need for us to keep troubling them? Actually, the situations of the two cases are just the same!

As a matter of fact, I wish very much that Dr LEONG Che-hung would lend us his support. It is a pity that he is not here in this Chamber now, I just hope he could still hear my speech when he is outside. Just now Dr LEONG raised quite a number of questions. In fact, I would also like to ask him some questions, since I have found some problems here and there recently. Actually, Dr LEONG really should not worry too much. If the Bill should be passed, I am sure the lawyers of this Council as well as Members from the legal profession will certainly offer him free legal advice. Since the problems concerned are just some legal questions, we really do not need to worry too much.

Finally, about the a phrase Miss CHOY So-yuk has quoted from Mr CHAN Wing-chan, I am afraid she was wrong in quoting the phrase. If Miss CHOY should know that the phrase used by Mr CHAN Wing-chan earlier on is often followed by three more words to form a specific phrase, she would not have quoted it in her speech.

Thank you, Madam Chairman.

**MR AMBROSE CHEUNG** (in Cantonese): Madam Chairman, in regard to the proposal to designate the polling day as a cooling-off period, I should like to discuss it in terms of "confidence". I support the designation of a cooling-off period on the polling day, and I would look at this proposal from the perspective of the Government, candidates and the public.

To begin with, if the Government should object to the provision for a cooling-off period on the polling day, it would be telling us that: (a) The Government has cast a vote of no confidence in the people of Hong Kong; and (b) It has also cast a vote of no confidence in its own work. If the Government should fail to provide the people with proper civic education to enable them to have enough civic awareness, if the Government should try to boost the turn-out



rate by cultivating a heated election atmosphere on the polling day, I would like to ask the Government whether it understands the meaning of election and that of voting as well. To me, the Government is no different from parents who have always discouraged their children from working hard on their studies but would force them to study overnight without sleep on the eve of examinations. As we all understand, we certainly need time to prepare for the election and to conduct canvassing activities, but if we are to win the election, we have to make our best efforts not only on the polling day but throughout the entire period between the general elections. Candidates must demonstrate good performances in order to win the election. The winners could of course prove their worth in this Chamber; but the losers could do so at the district level by keeping up their efforts in the various public services. That is why I say the efforts made on the polling day cannot win any votes for candidates running in the election. I just hope the Government will not cast a vote of no confidence in its own work. If the Government really finds the efforts it has made not effective enough, instead of cultivating a heated election atmosphere to boost the turn-out rate, it should review its work promptly.

Secondly, regarding the candidates, if they should consider the canvassing period of some six to eight weeks not long enough, they would need to work harder. As a matter of fact, since there is normally an interval of three to four years between two general elections, they could make full use of this interval to prepare themselves. As to those candidates who are less well known, if they believe that by doing their best on the polling day they would be able to introduce themselves to more electors and thereby affecting people's voting decisions and, in turn, the voting result to the effect that they would eventually win in the election, I am afraid they have cast a vote of no confidence in themselves in entertaining such thoughts for mental comfort. The work of canvassing votes could by no means be completed in just one day.

Thirdly, as a member of the public, I also hope very much that the Government, the political parties, the candidates and their electioneering teams could cast a vote of confidence in the general public by leaving us alone. Actually, the public know that they should refer to the political platforms and the actual performances of the relevant candidates instead of focusing solely on the atmosphere or on the way some candidates are presenting themselves. Given the long duration of the election period, the public should have enough time to analyse the various candidates and to gain a better understanding of the

candidates through publicity campaigns and other activities. What I do not want to see on the polling day is that a certain member of the public might be waken up at 9.30 am by the door bell or a morning call from a candidate he does not support, to be followed by a "second morning call" at around 10 am. He then go downstairs with his family, only to find a third electioneering team, or even several electioneering teams, canvassing votes there. Not knowing what to do with the leaflets, he hurries to the Mass Transit Railway (MTR) station to dump them into the dustbins there. But another electioneering team is there waiting to give him yet another leaflet. As he leaves the MTR station, he might come across some candidates running in geographical constituencies other than his own, but the candidates just hand out the leaflets to him without asking him whereabouts is he living. As he reaches the restaurant at 12 o'clock noon, he finds seven groups of people taking turns to shake hands with him, yet not bothering to find out whether he is living in that district or not. The same situation just keeps recurring, regardless of whether he is hanging round the streets or doing some shopping. When evening comes, he heads for home, only to find history repeating itself ..... but of course, things happening at the polling stations could be even worse. When he is home, the telephone will keep on ringing, while batches of candidates will be knocking his door one after another from 8 pm to around 10.30pm. Unless the person concerned is totally unable to make his own judgment, otherwise, how would his choice of candidates be affected by the canvassing activities on the polling day?

Madam Chairman, the experience I have described is not only the experience of a member of the public. This is the experience I have gained in participating in some small scale direct elections and in running in the direct elections of both the district board and the Urban Council. Besides, I have also taken part in the canvassing activities of some functional constituencies, as well as other elections of even smaller scales. All in all, the crux of the matter is really a matter of confidence. As such, I believe it should be advisable for the Government to give the public a vote of confidence by leaving us alone on the polling day. Certain Honourable Members have suggested that many problems would arise if we should provide for a cooling-off period. In this connection, I should like to remind Members that those are not new problems, but problems which has existed all along. They could not be triggered off merely by the provision for a cooling-off period. Lastly, if the Government should focus its attention solely on the turn-out rate rather than the civic awareness of the public,

I would recommend it looking into the real meanings behind the turn-out rate of more than 50% recorded on 24 May 1998. Actually, that was an embodiment of the "protest vote" cast by the electors. The electors were using their ballot papers to tell the Government how they think about its performance. There is nothing wrong of the Government to try to boost the turn-out rate, but at least it should analyse the meaning behind the turn-out rate. If the Government attaches great importance to both the civic education for and the civic awareness of the public, it should not allow candidates to struggle against each other in such a terrible manner on the polling day. On the contrary, it should provide for a proper channel whereby policies could be discussed, consulted on, monitored, as well as formulated for enforcement. In concluding my speech, I should like to point out that the imminent dissolution of the two Municipal Councils by the Government will in effect deprive the public of a comprehensive and proper institution for training political talents. Thank you, Madam Chairman.

**MR NG LEUNG-SING** (in Cantonese): Madam Chairman, as Members of this Council, we should all the more keep our cool as we discuss this cooling-off period proposal. Having listened to some of the issues concerned, I should like to raise a few points for Honourable colleagues' contemplation even though I very seldom take part in detailed discussions on this front. On the influence of the provision for a cooling-off period, it would of course be best to us as voters if the candidates and their electioneering teams should consider canvassing on the polling day will not achieve any significant effect or influence. If the people of Hong Kong would not be subject to any nuisance on the polling day but were allowed the chance to think carefully, they would naturally be very happy. For, in other words, they could pick their candidates on their own and be free of the risk of running into any vigorous canvassing activities. If those Members who have said in this Chamber that canvassing on polling day would not achieve any effect, then the relevant political parties or candidates might as well consider giving up those vigorous canvassing activities on polling day. I think this is an interesting point worth giving thoughts to.

Speaking of whether canvassing activities will pose any nuisance on the polling day but not so on any other days, the door-to-door canvassing campaign which will last for weeks was also mentioned by some Members just now. No matter where we live, we would surely have witnessed such activities taking place. But does it follow that no nuisances will be caused if all canvassing activities are banned on the last day? Or perhaps, quite the contrary, more serious nuisance would be posed for the rest of the election period due to the extra canvassing efforts made to make up for the opportunity lost if canvassing should be banned on the last day. This is indeed an issue that warrants our consideration. As to those candidates who believe they have caused nuisance to their electors, they should really exercise self-discipline or they would certainly be losing a lot of support because of that. Actually, I have already referred to this point in speaking on the Second Reading of the Bill yesterday.

With regard to the question of whether the cooling-off period could help to reduce mutual complaints, it has already been pointed out by some Members that although we could always refer to the written rules and regulations, not every one of us could play the role of a judge. Just now a Member suggested seeking advice from experts, by that did he mean every candidate should consult some experts before taking any actions or making any decisions? Supposing a candidate should wish to do something on the polling day which he has never thought of or sought advice on before, would there be any experts standing by so that he could ask for advice at any time? Or would there be any hotline numbers at which he could find out whether a certain kind of activities could be

conducted on the polling day or not? Even so, I am afraid the number of complaints just would not decrease but keep on rising. At least when a cooling-off period should be introduced for the first time, we would hardly know how to determine the activities that could be conducted. And we would need to accumulate plenty of experience before we could figure out how we should conduct ourselves in the second or the third cooling-off period.

On the other hand, is canvassing a right? Should canvassing activities be free of any restrictions? Let us say canvassing is a right not to be taken away, and that all candidates are entitled to canvass, then why should we canvass at all? As we proceed to the polling stations to cast our votes, we could always see some candidates being very tense about their canvassing activities. If canvassing is not a kind of right and there is no need for canvassing activities, then the proposal for a cooling-off period which we are now discussing would not be depriving candidates of any of their rights. I think we should give careful thoughts to this point as well. Speaking of electoral activities, why is that the Government could play a part but not so for the public? As mentioned by Mr LEE Wing-tat just now, there are things which the Government could do but the public could never. Actually, many political parties have questioned why there should be activities which the Government is allowed to do but not the public. For instance, during the proposed cooling-off period, while the Government can undertake a great deal of activities, the public are not allowed to carry out any of the activities concerned. But then the Government has suggested the public to go hiking, fishing, or visiting the giant pandas. Actually, the polling day is a very important day, since the public will be electing several scores of representatives to this Council to serve the community for four years after the election. As such, how could the people go hiking, fishing, or visiting the giant pandas on that day instead? Why should the public not be allowed to help promote the election, thereby electing their representatives to the Council? Just now a Member has referred to a fighting incident taking place on the last polling day, and Mr LEE Wing-tat has also mentioned the incident in his speech. Nevertheless, if this fighting incident could be cited as one of the reasons why a cooling-off period should be provided for, I am afraid the geographical elections would be abolished if there should be any fighting incidents costing the loss of human lives taking place on the next polling day. Or at least the election concerned must be abolished. If the incident mentioned just now could be one strong reason for the provision of a cooling-off period, I am afraid the election would be affected in the end.

On the other hand, Members have all mentioned that our electors could all keep their cool these days (and I do share their view). Compared to our neighbours, the people of Hong Kong are in fact very cool-minded. In this connection, voters have generally demonstrated their self-discipline and kept their cool throughout the election period. That being the case, would it not be an irony if a cooling-off period should be designated to enable the cool-minded electors to keep their cool?

Just now Mr Ambrose CHEUNG made the point that confidence is of utmost importance. I should like to discuss with Mr CHEUNG about this. I hold that it would be fine for confident political parties to observe the cooling-off period provision. However, if any political parties could demonstrate good self-discipline in the absence of any cooling-off period and help promote the electoral activities among the public, then the confidence of such political parties should even be much greater. On the other hand, I believe the Government is confident that elections could still be conducted in an orderly manner in the absence of a cooling-off period. The Government has demonstrated its ability in past elections, why should we not encourage the Government to keep up with its effort? Over the past decade or so, the public have all along kept their cool in the various elections held. As such, to those members of the public who have always kept their cool, the proposal for a cooling-off period is indeed very unacceptable.

Thank you, Madam Chairman.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam Chairman, the issue of confidence raised by Mr Ambrose CHEUNG just now has served to remind me of a question I had forgotten to ask the Secretary earlier on. I should like to ask the Secretary whether the Government has investigated into the respective reasons why electors would or would not turn out to vote as well as the reasons why some members of the public are unwilling to register as electors. I wish to know if the Government has any records on this.

I think this is a very important issue. In fact, I have asked many people of their rationale for not wishing to register as electors or not turning out to vote. The reply they gave me was: "Not that I do not like the candidate concerned, but the question remains that there is not much he could do even if I voted for him and he got elected. What could he do for the community?" I think this is the most important point.

On the other hand, we should never believe that the atmosphere would have any effect on the turn-out rate. Quite the contrary, it would most probably be the effect of the votes cast that could have any effect on the turn-out rate. As pointed out by Mr Ambrose CHEUNG just now, if the existing representative government should remain advisory in nature and not be vested with any real power, the turn-out rate would not be boosted regardless of whether the Government should be conducting the elections like a carnival or not. This is because the people would question why they should turn out to vote. Just take a look at this Council, the public have elected their representatives, but what difference could that make? How do they find the performance of the Members concerned? To make things worse, this term of the Council has adopted a queer arrangement whereby we have to separate into two different groups in casting our votes in a division. To the electors, the operation of the Council as a whole is nothing but a mess, since those in the majority have to abide by the minority views. Given that the activities involved are so meaningless, why should the electors be interested in turning out to vote?

The problem is particularly serious among the district boards. Among the six functions of the district boards, four are limited to the level of "providing advice". But the public just could not understand why there should be any need for the advices provided by district board members. This may perhaps be attributable to the fact that the public could always air their views at the phone-in radio programmes in a manner more effective than district board members providing advice on their respective district boards. As such, if we are to boost the turn-out rate, we should not waste our efforts on gimmicks. What we should do is to live up to our role as an advisory body and discharge our duties properly. This should be a more meaningful alternative for us. In addition to the advisory role we have all along been playing, we should be vested with some policy-making powers, so that we would not be treated as lame ducks. Moreover, there should be no distinction between direct elections and functional constituency elections, so that Members of this Council must all be returned by fully open elections. That way, I am sure the turn-out rate would certainly be

boosted. Should there be any doubts, we may just as well give it a try. I therefore should like to ask the Secretary if he would mind giving it a try. In the future when all 60 seats of the Council are returned by direct elections, maybe we should try abandoning the arrangement under which Members would be separated into two groups in divisions, and then see if the turn-out rate would be boosted. If the District Councils should be vested with policy-making powers at district level in addition to their role as advisory bodies, maybe the electors would respond very differently.

All in all, I think this is simply a matter of interaction between the electors and the candidates. In this connection, the electors would get involved if the election of the candidates concerned could affect their ways of living or parts of their lives. Otherwise, if turning out to vote should make no difference, why would people bother to vote?

Just now Mr Ambrose CHEUNG has also referred to the reasons why a high turn-out rate was recorded for the last Legislative Council Election. As a matter of fact, while the high turn-out rate could be attributed to a good many factors, I do agree very much with Mr CHEUNG in that good atmosphere should not be counted as one. Indeed, since it rained so heavily on that day, the election atmosphere could by no means be good. Because of the rain, I was unable to work on the day. Yet the rain did not deter electors from using their ballot paper to cast a protest vote against the Government. So, we can see from this that the activities on the polling day would not have any effect on the turn-out rate. Even if there should be any, the effect would by no means be of any significance. If Members should wish to boost the turn-out rate, they must not waste any time or efforts on this front. On the contrary, it should be more meaningful for us to investigate into how the representative system as a whole could be improved, thereby contributing towards the establishment of a genuinely democratic political structure. If we should keep the existing token democratic voting method, the turn-out rate would never be boosted. For this reason, I wish the Government could take this point into further consideration. Madam Chairman, I so submit.

**MR JASPER TSANG** (in Cantonese): Madam Chairman, Mr LEUNG Yiu-chung just now put forward to the Government some suggestions for boosting the turn-out rate. In fact, basing on what Mr Ambrose CHEUNG has said and subject to the agreement of Mr LEUNG Yiu-chung, it is in fact very easy for the



government officials to boost the turn-out rate — they could simply go home and sleep to achieve the purpose. According to Mr Ambrose CHEUNG, a high turn-out rate symbolizes the people's dissatisfaction with the Government. As such, the poorer the performance of the Government, the higher will be the turn-out rate. If our objective is to boost the turn-out rate, there is indeed no need for any complicated measures, not to say the need for having all 60 seats of the Council returned by direct elections.

Just now Mr Fred LI said he was glad to see this Council discussing the issue in a rational manner. In particular, he pointed out that I had not tried to attack any Honourable Members. And that is why I am feeling a little uneasy now because the comments I am going to make might offend some Honourable colleagues. Having listened to the speeches made by Members, I found that some of them were not being honest with themselves. What they have said simply does not tally with what they have done. These Members claimed that no one would care about the publicity efforts made on the polling day, or even those made during the election period which lasts for six to eight weeks. They have also said that it was the actual performance of the candidates concerned that counted. However, as we enter their constituencies, we could see plenty of their publicity boards flooding every street and lane. Given that the candidates concerned have been serving the constituency for such a long time, the residents there should know them very well. Besides, their ward offices have also been set up for quite some time, so the residents should know their numbers as well. If they have been serving the people there all along, there should not be any need for publicity. Yet they are giving out many publicity materials and covering the streets with their publicity boards. If these Members should really consider those things useless, why did they not give up on such publicity for the sake of environmental protection?

Speaking of the polling day, if those Members really consider the canvassing activities conducted on the polling day not of any effect to the electors who are mature enough to make up their mind before turning out to vote, if they should really believe that canvassing on polling day is a waste of efforts, then why must their respective political parties arrange to have their party stars visiting the polling stations, contradictory to the belief they have claimed? For those Members supporting the cooling-off period proposal, I suggest they keep their cool even if the proposal should be negated. Since they believe that once the electors concerned have decided to vote for the Democratic Party, they would not change their mind despite the efforts made by the Democratic

Alliance for the Betterment of Hong Kong (DAB) or the Federation of Trade Unions (FTU). The canvassing activities conducted by other parties would only serve to create some negative effects. When further bothered by the canvassing aides, the electors might even reply that he only votes for the Democratic Party and not any other candidates. Should that be the case, those Members could just go home and sleep, or urge their electioneering teams to go home. Unless the Members concerned should consider the canvassing activities posing a threat to them, there would be no need to legislate against the activities. On the contrary, the Members concerned should adhere to their stance and tell the electors that the political party to which they are affiliated would not be conducting any canvassing activities to avoid causing nuisances to the public. That way, they may also appeal to electors to vote for them but not to vote for those who canvass on the polling day. If the electors are mature enough, the candidates could really do so, could they not? Since the laws do not provide against candidates cooling off themselves, why should we not allow the electors, the candidates and their electioneering teams to make their own choice?

Just now Mr LEUNG Yiu-chung has mentioned many times that the electors are very mature now. Was he implying that the candidates, the political parties, as well as the electioneering teams are not mature enough? As implied in Mr LEUNG's speech, only he could see the facts pointed out by him just now, others were unable to see how foolish they were in wasting so much resources and manpower in conducting the canvassing activities. I have read the letter issued by the Democratic Party lobbying for support for the party's amendments. According to the letter, with the provision for a cooling-off period, we could also save on our resources and devote our efforts to other more effective publicity work. If the cooling-off period should be that effective, the Democratic Party might as well set an example by not giving out any leaflets on the polling day to help keep the streets clean. As regards that six to eight weeks of the election period, the Democratic Party could also take the lead in catering for the environmental protection needs when conducting canvassing activities, as well as in putting into operation a cooling-off period. The Democratic Party should perhaps give it a try, so that when the DAB and the FTU see that the Democratic Party has won a full victory because of the cooling-off period, they would certainly follow suit in the future. Then, even if my DAB friends sought assistance from me, I would say no to them on the ground that Mr Martin LEE has not sought for help. If the Democratic Party could set a good example, we could certainly feel the effects. However, some

Members are really not being honest with themselves. I just feel that when they fail to convince others that the public does not like those canvassing activities, they would just revert and pick up their canvassing work again.

As we all know, if the electors should have set their mind on the Democratic Party, even if we make every effort on the last day trying to convince them to vote for the DAB, they just would not change their mind. But does it follow that door-to-door canvassing should be considered useless? Supposing some electors have decided to vote for Mr LAU Chin-shek but have yet to turn out to vote because of the mahjong game they are engaging in until around 10.30 pm. I think door-to-door canvassing should have some effect in cases like this. But why would I not do so after dinner when that crucial moment approaches? This is because I would then remind the supporters of Mr LAU Chin-shek that they should go and cast their votes. That way, I would be doing more harm than good to my chance of winning. To call a spade a spade, such kind of canvassing activities do have their effect. If there should be any Member who believe that canvassing on polling day will have absolutely no effect on the turn-out rate, they are but fooling themselves and other people as well. If they should believe in what they have said, they should prove belief with actions and refrain from canvass regardless. That way, they should be able to convince others.

Earlier when Dr LEONG Che-hung was out of this Chamber, Mr Martin LEE said that he should have no worry because somehow there would be people advising Members on what they should and should not do. Yet I still think there are some grey areas. In regard to the proposed provision against door-to-door canvassing put forward by the Democratic Party, women playing mahjong games with their neighbours would not be allowed to urge their friends to vote then. Although it is a very common practice among local residents, they could never do so again. On the other hand, since wearing clothing or badges which makes direct reference to a candidate or local political organization or depicts a candidate would be an offence, what happen if we hang round the streets on polling day wearing clothes with a large white pigeon in the front? So, we can see now disputes are bound to arise. As mentioned by some Members, those are not new problems but existing ones. With more restriction on canvassing, there will certainly be more disputes. Where there are rules, there will be rule breakers. Given the rules and regulations, those people who want to conduct lobbying and canvassing activities will consider how to circumvent the rules and regulations. If it is stipulated that no flags

should be hoisted, they will certainly do so maybe a foot away from the designated spots.

If the polling day should be designated as the cooling-off period, people who believe in the effect of canvassing would still find ways to achieve their purpose without breaking the rules. But then there will certainly be complaints and certainly be of a greater number than before. In my opinion, perhaps a canvassing zone could solve the problem. As a response to the issue of confidence raised by Mr LEUNG Yiu-chung, I think we should cast a vote of confidence in the public, in the candidates and in their electioneering teams by allowing them to decide for themselves.

Thank you, Madam Chairman.

**MR ANDREW WONG** (in Cantonese): Madam Chairman, I really admire Mr Jasper TSANG for his oratorical skills, for he could twist and turn one single point into another story. When I indicated my wish to speak with a show of hand, I had intended to respond briefly to the questions raised by Mr NG Leung-sing, but now I wish to speak on some other things instead.

The first question raised by Mr NG Leung-sing was that if the canvassing activities on polling day should not have any effect on the election result, why would candidates not exercise their self-discipline and give up canvassing on that day. My initial response to this question is that Mr NG most probably has never run for any direct elections or participated in any other elections on his own account. The crux of the problem lies in that if other candidates are conducting canvassing activities while you are not, the public would suspect you of being not sincere enough or wishing to give up. However, through the lips of Mr Jasper TSANG, the situation has developed into this: Maybe the Democratic Party should take the lead in announcing its "no canvassing on polling day" decision, so that the DAB can allege that the Democratic Party is running short of manpower resources and public backing. As we could all understand, this is a tactic commonly used by candidates. As such, if there should be no canvassing on polling day, the arrangement should apply on all parties concerned. This has nothing to do with self-discipline. Certainly, I could exercise self-discipline and give up canvassing on the polling day; but if I should do so, I would worry that other people might allege that Andrew WONG

is losing his backing, or that Mr WONG's political life is declared dead. Naturally I would not allow this to happen, or I will be digging my own grave. As such, even if I have not conducted any canvassing activities, I would pretend as if I had; or if I should have very limited manpower support, I would rather put in greater efforts to canvass support. For this reason, I believe there would certainly be some nuisance, only that the nuisance posed on the polling day — such as an alley of canvassing aides covering the streets — would be quite different from those on other days.

Now I should like to recap Members briefly on some historical facts. Why were Members so concerned about the extension of the no canvassing zone in the past? According to Mr LEE Wing-tat, there was reportedly one case of bodily clashes in the past. Actually, there were more than one case of bodily clashes, but perhaps Mr LEE could only recall one. I started standing for election in 1991, and since then my electioneering team has got involved in some four to five such cases already. My canvassing aides are peace-loving persons who hate to involve in any disputes. The most extreme things they would do is chanting slogans; they would avoid having any bodily clashes with other people. Nevertheless, accidental bodily clashes would, more often than not, hardly be avoidable. In this connection, however, with the extension of the no canvassing zone in the 1998 election, there have been visibly less chances for bodily clashes to take place. As such, there should also be fewer nuisance.

Nevertheless, would the number of complaints drop? I think Mr NG Leung-sing really does not understand the difference between the complaints on the polling day and those on other days. The complaints received on the other days would include those lodged against the posters of a certain candidate occupying the spaces assigned for others, against the false declaration someone has allegedly made, or against the posters put up in the no-posting areas. However, the complaints received on the polling day are another story, and most of them would be lodged against trespasses. In the early morning of the polling day, the canvassing aides would bring along some chairs and small tables to the polling stations to occupy the spaces outside the stations. In so doing, they might have trespassed the boundary or accidentally entered the no canvassing zone. As they have unknowingly breached some of the rules, there would naturally be complaints against them.

I hold that we should avoid making assertions in the light of our own preference. We should not speak against any restrictions on canvassing or against the provision for a cooling-off period simply because we love the heated atmosphere. On the other hand, we should neither support the no canvassing proposal simply because we do not have enough money and the proposal would be of advantage to those candidates with limited financial resources. As a matter of fact, to those candidates who have a tight budget, standing for election could render them even more miserable. Since they need to have enough canvassing aides to meet their minimum campaign needs, and to buy lunches and dinners for them, the expenses on take-away food could amount to an enormous sum. Besides, the bottled water must also be paid for as well. For this reason, we could say that the canvassing activities conducted on the polling day will only serve to waste both manpower and financial resources without attaining any significant effect.

I have not lobbied any of my Honourable colleagues during the breakfast group meetings, but I should like to urge Members to lend the proposal their support, since the Members of the former Legislative Council have already reached a consensus in this connection. In fact, there was yet another consensus reached and the Government has agreed to implement a proposal made in that regard; but regrettably, the proposal was eventually withdrawn. I hope that the Government will change its mind so that we can implement the consensus. It is only in this way that the election would become more cultural in nature, rather than being reduced into a carnival like activity. A carnival like election could never return any effective councils.

Thank you, Madam Chairman.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam Chairman, earlier Mr Jasper TSANG suggested government officials should stay home sleeping instead of discharging their duties so as to help boost the turn-out rate of electors. What a good idea of his! Actually, many governments around the world are putting the idea into practice. The more corrupt a government is, the greater is the people's incentive to revolt against it. In the end, the disgruntled people would just want to take the place of the government officials. This is indeed a very good idea. The Secretary should try it out himself. It would be best if

the people of Hong Kong could become their own masters expeditiously.

Mr TSANG has challenged the pro-democracy camp to take the lead by keeping our cool. Madam Chairman, if you permit, I wish to disclose that I will be running in the District Council Election to be held later this year. I hereby announce that if the proposed amendment in question should be negated, I would take the lead on the day which would otherwise be designated as the cooling-off period. In other words, I will not canvass for support in my constituency on the polling day. I prefer to have a cooling-off period. I prefer to let my electors cast their votes calmly, rather than crying out: "Please vote for me, I am candidate number three, LEUNG Yiu-chung" like I mentioned earlier on. So, this is what I would do if the "cooling-off period" proposal should be negated. And, if I have taken that first step, I hope to invite Mr TSANG to join me. I wonder if he would join me in taking the second step.

Thank you, Madam Chairman.

**MR JASPER TSANG** (in Cantonese): Madam Chairman, I just want to tell the Honourable Member that I am not used to following in others' footsteps.

**DR RAYMOND HO** (in Cantonese): Madam Chairman, the issue we discuss this morning is very important. But only a few Members returned by functional constituencies (FC) have spoken, I feel obliged to rise to speak. I understand that some Honourable Members are critical of us Members elected through FCs, but that is not important because the Basic Law has provided for the seats returned by FCs in this Council.

The Legislative Council Election first started in 1985 with Members elected by FCs. As regards Members returned by geographical elections, the direct election conducted for them did not exist until 1991. Owing to the brief history of geographical elections, the public are not very familiar with the arrangement. However, the voting systems have been changed for many times over such a short period. Sometimes voters have to vote with an "V", other times with an "X". All in all, the voting system has kept changing to the discomfort of the public, but not the indifferent response of the people. So, if we say that the people of Hong Kong are familiar with the election culture and understand the candidates very well, we are just trying to fool ourselves as well

as other people.

Last year, a member of the public called on a phone-in radio programme and revealed to the programme host that he had chosen the candidate by throwing dices. When the host asked another women how she had made her decision, she said that she was taken to the polling station by a friend, and when she heard other people say No. 3, she just voted for it, without finding out even the name of that candidate. On the other hand, she also remarked that the result would be the same regardless who won the election, since no one could do anything constructive. Given that our electors should remain at such a low standard, and that the voting method just keeps on changing, our democratic development would not be optimistic. In regard to the 57% support for the cooling-off period proposal, I do wonder if the percentage is really that large, and whether the interviewees have really indicated their response clearly. Was that really the majority view? Was the sampling drawn comprehensive enough? I really do not know. All I know is that the proposal is not clear enough, and that it is therefore very hard to speak good or to speak ill of it. In my opinion, if there should be any unclear parts, we had better not introduce changes for the sake of change. This is especially so for the FCs. Let me take the Engineering Functional Constituency as an example, with an electorate of 5 000 to 6 000 people, the turn-out rate would certainly be high if the election atmosphere should be good. I have no doubts about this. Although more than 50% of the electors turned out to vote last year, the turn-out rate might drop to a dozen percentage points should the polling day fall on a weekday and be designated as a cooling-off period. By then, the Government, in particular, the Secretary for Constitutional Affairs would have to pick rack their brains to see if an exciting period should be introduced to boost the turn-out rate for the next election.

On the other hand, I believe the public would be confused to the effect that they would not know when they should turn out to vote. Electors would more often than not have other activities on Sundays such as swimming, going to the movie and so on. As such, they might forget to turn out to vote. As a matter of fact, I consider there are too many restrictions on the voting already. I represent the engineering sector, and about one half of my constituents are civil servants working for a dozen of government departments. Once I had lodged my application for running in the election, I was issued with new rules and regulations regarding the FC Election every week. In this connection, I was not allowed to visit government departments to canvass support, all I could do was to meet my constituents outside the building or in the lobby. This was not the proper way to contact one's electors, not to say canvass their support. Are



these good rules? I hope the Government would conduct a review in this regard. In fact, different FCs will have different needs, and some rules might be fine for a certain FC but too stringent for others. As regards the restrictions on canvassing, I think the existing no canvassing zone is already large enough, and that the result achieved is rather satisfactory. However, if there should be any cooling-off period, the importance of the Legislative Council Election in the eyes of the public might be undermined. I just hope this decision would not affect our democratic development in the future. If there were problems with past elections that have impacted gravely on public order, or that the parties concerned were not behaving in a civilized way, then I would believe we should consider introducing changes. On the polling day last year, I visited many polling stations and at the Taikoo Shing polling station I met a delegation from the United Nations. On knowing that I was a candidate in the election, a member of the delegation told me that the atmosphere and order of the election was highly commendable. I was very glad to hear that. If we proceed along steadily, the democratic development will certainly pick up speed and advance towards success. For this reason, I do not support the cooling-off period proposal. Thank you, Madam Chairman.

**MR AMBROSE CHEUNG** (in Cantonese): Madam Chairman, I should like to speak on the turn-out rate. The superficial meaning and the actual meaning of the turn-out rate could be contradictory to each other. I hope that in seeking a high turn-out rate, the Government would also make an effort to investigate into the meaning behind the percentage points, as well as the voting preference of the people of Hong Kong. Some research and investigation efforts made over the past 10 years have indicated that the public turned out to vote mainly for two reasons. Just now Mr LEUNG Yiu-chung has also referred to that.

Firstly, could the representative system affect the Government in terms of its administration? This is a very important issue. Secondly, how have the people found the services and performances of the political parties and that of the candidates concerned? Actually, these factors have always been there, only that the Government tends to draw comparisons with reference to the turn-out rate. If we should compare an effective representative council with an effective government, I believe it is most important for the Government to aim at setting up an effective representative council that could contribute to its effective administration. In which case the turn-out rate really has little importance, since both the government and the representative council should be giving their best performances. As such, the turn-out rate would be of a neutral importance.

As for the second situation, this is the one the Government is now going after, that is, an ineffective representative council being paired up with an effective government. In the face of an ineffective representative council, if the administration of the government should be effective, the government should have sufficient self-confidence. Given that the government could perform well, the turn-out rate would stand at a normal level instead of being pushed up quickly.

How about the third situation? This is the worst scenario, since an ineffective government is paired up with an ineffective representative council. In that case, members of the public would be the victims. It would not make any difference even if the canvassing period should be extended by one day or by 10 days. If the Government should seek to boost the turn-out rate on that cooling-off or non-cooling-off period, it would only put the public in a dilemma. In the face of an ineffective representative council and an ineffective government, there is nothing the public could do.

What is the last possible case? Well, in the fourth situation, an effective representative council will be paired up with an ineffective government. Under such circumstances, the turn-out rate would certainly be high, and this is the situation the Government fears most. Indeed, the work done by the Government and the policies it have formulated are all aimed at preventing such a situation from arising.

But what is our present situation? What we have now are an ineffective government and an ineffective representative council. Under the circumstances, I think the Government had better master the significance of the turn-out rate before going after a high turn-out rate. It is only after the Government has understood the significance that it could formulate more rational policies and discharge its responsibilities in a more natural manner.

On the other hand, I should like to respond to the comments made by Mr Jasper TSANG. Actually, if government officials should really do nothing but sleeping, the administration would of course be ineffective and in which case the turn-out rate would certainly soar. Indeed, it is in this way that the number of "protest votes" could be pushed up. However, I do not think this is the Government's goal.

Mr TSANG has asked individual Members whether they could exercise self-discipline and refrain from canvassing on the polling day, and whether they would give up the rights provided for them under the relevant regulations and turn the polling day into a cooling-off period on their own account. Madam Chairman, the rules of the game should be fair. Nobody could rule out the possibility that some electors have yet to make up their mind or will change their mind on the polling day. If any candidate should claim that given a level playing field, he would not worry about his electors changing their voting decisions even if he should see his competitor talking to the electors on the polling day trying to canvass their support, the candidate would just be fooling himself and others. The worry is in fact natural, only that the degree might vary according to different candidates. So long as the competition is going on, no candidate would give up his rights however slim his chance of winning is. Moreover, sincerity is an important factor in the eyes of electors. If certain candidates should conduct canvassing activities while some others refrain from doing so, the electors might consider the latter candidates not sincere enough if they could not understand the rationale for refraining from canvassing. As such, if relevant provisions have been set out clearly, individual political parties and organizations would not need to take the lead in exercising self-discipline. I therefore hold that fair rules should be formulated compliance by all.

**MR GARY CHENG** (in Cantonese): Madam Chairman, actually I did not wish to speak again originally. But I feel I have a need to clarify our stance, as it seems to me that some Honourable colleagues could not quite get the message of Mr Jasper TSANG. I must make it clear that Mr Jasper TSANG and Honourable Members from our party did not rise to give advice on how to jump the gun or exploit some loopholes in the law. Nor did we try to give advice on the circumventing tactics to be adopted. The rationale for our remarks and our major premise is that in drawing up the rules of the game, we should not bother

about the views of the electors or that of the candidates regarding the effectiveness or otherwise of the relevant regulations.

Let me give an example. Supposing a certain Member always gives repetitious speeches even though Members of the Council will each have either up to seven minutes or up to 15 minutes for their speeches, and that other Members could hardly get his messages however he repeats himself. Still, there is no ground for us to legislate to restrict his right to speak simply because he cannot make any proper speeches or others could not understand his speeches. Each of the speeches he made does carry weight, since others will judge him by, *inter alia*, his speeches. For this reason, there is no need for us to legislate to restrict his right to speak.

By the same token, it does not matter whether candidates would consider the arrangement to be an advantage to them or to other people, for our major consideration is whether there is any need for designating the polling day as a cooling-off period. If we believe the arrangement is fair, we should abide by it. As regards the question of whether candidates should or should not canvass on the polling day, or whether they would turn the arrangement to their advantage, they are not issues to be discussed in this Chamber. On the contrary, the electors should be allowed to decide for themselves, and upon the response of their electors the candidates would decide whether or not to conduct canvassing activities on the polling day.

Hence, I should like to make it clear that our major premise is not to bother too much about the usefulness or otherwise of the arrangement. Rather than formulating rules to regulate polling or electioneering activities, we should allow the candidates and the electors to decide for themselves.

Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Are there any other Members who wish to speak? If not for the time being, I will .....

**MR JAMES TIEN** (in Cantonese): For the time being?

**CHAIRMAN** (in Cantonese): Yes, it is. After the Secretary for Constitutional Affairs has spoken, other Members may wish to speak again. Secretary for Constitutional Affairs, do you wish to speak?

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, Mr LEE Wing-tat's amendment seeks to forbid canvassing activities on the polling day, which the Government objects. I will explain to Members the consequences of passing the amendment. I urge Members to vote it down.

First of all, let me explain the Government's view on canvassing activities on polling day. We are of the opinion that such activities on the polling day will heat up the atmosphere of the day and heighten people's desire to vote. According to our experience, canvassing activities have positive effect on encouraging people to go to the polling stations and vote. We believe that Members will all be happy to see more people participate in the election of the Legislative Council. Most importantly, we consider that an all-out canvassing activity is a positive political activity and through such an activity people can gain a better understanding of the meaning of the election and have more interest in voting. It will also enhance people's knowledge about the election and encourage their participation. All this will help the further development of democracy in Hong Kong.

I would also like to point out that the arguments of Mr LEE about designating a cooling-off period are not valid. First, Mr LEE claimed that canvassing activities on polling day would have no significant effect on the voters. However, from the enthusiasm shown by the candidates in canvassing votes on polling days in the past, we do not consider that this assumption can stand. In fact, according to the analysis on past turn-outs on the polling day, it can be very clearly seen that the several hours after 7.30 pm in the evening is usually the climax of the whole polling day. Several Members have talked about this just now and made an analysis of this situation. We believe that it is a result of the canvassing efforts of the candidates and their electioneering team. We therefore do not see any reason to forbid canvassing activities on polling day.

Mr LEE also argued that designating a cooling-off period could reduce the chaos and the nuisance caused to the public on the polling day. Again, we consider this argument invalid, since the Electoral Affairs Commission (EAC) has formulated laws and detailed guidelines on canvassing activities, and also designated areas where canvassing and loitering is forbidden on the polling day to ensure that voters will not be disturbed. We think that these arrangements have run well in past elections and the first Legislative Council Election in 1998. Hence, we think that there is adequate regulation on canvassing activities on polling day and do not see the need for a prohibition of such activities. Many Members have also talked about their experience just now that they had seen some chaos on the polling day. But their examples were incidents that happened long ago, during the 1991 and 1994 elections. Actually, as I have said earlier, the EAC has issued very clear guidelines and made sufficient arrangements in this regard, and the chaos has greatly reduced.

I also disagree to the claim of Mr LEE that the designation of a cooling-off period can avoid wastage of resources. It must be noted that the situation of individual candidates varies, so the most efficient arrangement is to allow each candidate to allocate his resources according to his own practical needs, using the way or time that he considers most suitable for canvassing of votes, and it is also the best way to avoid wastage of resources. To prohibit canvassing activities on polling day by law is to deprive them of their right and freedom to canvass on polling day. It may even more likely lead to a wastage of resources.

Moreover, there are also many ambiguities and a few loopholes in Mr LEE's amendment. The amendment if passed will give rise to various technical problems in the implementation and enforcement. For example, the amendment only forbids candidates to canvass in residential buildings, but canvassing in non-residential buildings such as restaurants, shopping centres or other public places is not prohibited. If Mr Ambrose CHEUNG goes to a Chinese restaurant for tea, he would still see many canvassing activities there because the scope of prohibition is very vague. At the same time, the amendment has not given a definition to the term "canvassing", which may give rise to grey areas. Some people may make use of these grey areas to conduct counter propaganda such as to dissuade voters from supporting certain candidates or candidates of certain political parties. Of course, all these questions are hypothetical. But as pointed out by a Member, if we have set down such a rule, there are bound to be some people who would use the grey

areas to engage in activities they consider as "marginal" but not illegal. Therefore, without a definition for the "canvassing", whether certain activities are acceptable or complaints about them can be substantiated is highly suspectable. We can foresee that the disputes arising from this circumstance will not be reduced.

The amendment has not included canvassing on the telephone in the scope of prohibition either. Therefore, candidates may canvass over the phone on polling day, which will cause the same degree of nuisance. Moreover, the amendment specifically stipulates that the persons affected do not include non-candidates, public officers who act as agents of the candidates, or journalists. In other words, these persons can not only urge ordinary voters to vote but also conduct canvassing activities for individual candidates. We think that before formulating such provisions, Members should think very carefully whether the grey areas will be open to abuse. If complaints arise because candidates use those persons to canvass for them or use these loopholes and ambiguities, the progress of the election will be affected. Owing to the above reasons, we think that Mr LEE's arguments for the designation of a cooling-off period are invalid. On the other hand, once this amendment is passed, technical problems in implementation and enforcement will arise. In fact, some Members have also talked about the practice in foreign countries. Looking at countries that have a long history of democratic elections such as the United States, Canada, the United Kingdom, Australia, Belgium, and the Netherlands, we can find no such arrangements. The experience of these countries proves that our present practice of allowing candidates to freely choose, according to their own practical situation, under what circumstances, when and how to arrange for their canvassing activities in accordance with the regulations and guidelines issued by the EAC is the fairest and most appropriate arrangement.

Lastly, I would like to respond to Members' questions in relation to whether we have conducted surveys and whether we have tried to find out people's reasons for going to vote. Actually every time after an election, we did conduct a survey by commissioning an independent survey company to provide us with the data in this respect, and we also made public the findings afterwards.

We also conducted a similar survey after the 1998 election and the result was also publicized. Here I would like to respond to Members' questions on basis of the findings of the survey. Some have asked why people went to the

poll. According to the survey findings, 68% of the interviewees said that they wanted to fulfil their obligation as a good citizen and they had such a concept; 25% said that they wanted to support the candidates of their favour; 14% said that they did so in the hope of choosing someone who could represent their interests in the Council, that they could perform such a function. In addition, we also asked a special question in the survey, that is, whether anyone went to vote out of their dissatisfaction with the Government's performance. It was discovered that 2% of the interviewees felt this way. These are the findings of the 1998 election which have been made public.

In the last survey, we also asked people their reason for not voting. 33% said that they had no time, 20% related it to the bad weather and the rest said they were not interested. These are the findings of our last survey and I have specially brought this up for Members' information.

Finally, I call on Members to carefully consider my points and hope that they will vote down this amendment.

**CHAIRMAN** (in Cantonese): Mr LEE Wing-tat, do you wish to reply?

**MR LEE WING-TAT** (in Cantonese): I am grateful to Honourable Members for speaking in the debate. Many of their points were indeed very good. However, since Mr Andrew WONG, Mr Ambrose CHEUNG and Mr LEUNG Yiu-chung have said what I intended to say, I will not respond to the points here.

I should like to speak on two points. Firstly, on the assertion made by Secretary Michael SUEN that many people turn out to vote because of the canvassing activities of political parties. This is indeed not scientific, because the Government has only released its research result but not that of other candidates and academics. The findings of the latter indicate that very few people would go to vote because of the door-to-door canvassing activities. Then, what were the most common reasons for people turning out to vote? We all know that most people turned out to vote because of their civic responsibilities. As regards the second most common reason, it has already been mentioned by the Secretary, that is, to give support to the candidates or political parties they consider appropriate. There were also some other reasons why people went to vote as well, only that a very limited percentage of the



electors decided to or not to turn out to vote because of the canvassing activities conducted by political parties. As such, the survey conducted by the Government has in effect nullified the claim made by the Secretary. But why does the Secretary still believe in the effectiveness of the canvassing activities?

The second part is on the reason why my proposed amendment does not provide against canvassing by means of phone calls. We did discuss this point but concluded enforcement would be difficult. Therefore we gave up on the idea of writing into the law provisions that are difficult to enforce. Just now the Secretary asked if members of the public would be disturbed by canvassing phone calls. I believe the chances are rather slim. Indeed, if electors should receive any canvassing phone calls after casting their votes, they can simply reply that they have cast their votes already.

Moreover, I hope Members can notice from the proposed amendments that I have not included any definition of "canvassing". This is because "canvassing" is hard to define. Mr Ronald ARCULLI and Mr Andrew WONG had raised and discussed the issue with me. After the discussion, I revised the first version of my amendments. In this connection, my original proposed amendments had only provided against canvassing activities, but having considered the question of what should be regarded as canvassing activities, I decided to set out specifically the various activities concerned. There are a total of seven items under subclauses a, b, c, d, e, f and g. Regrettably, despite the specific descriptions set out therein, Mr Jasper TSANG, Mr Gary CHENG and Secretary Michael SUEN still consider my amendments ambiguous, and that there are plenty of grey areas the enforcement of which would pose difficulties. I have also heard some Honourable Members criticizing my amendments for being not well or even badly written. As to the questions regarding whether the situation in restaurants, on the streets and in hospital wards should be covered by my amendments, the answer is of course in the negative. Yet that is not the most important point.

If the Secretary, his colleagues, Mr Jasper TSANG and Mr Gary CHENG should have read my amendments carefully, they would know that I did not invent those seven guiding points. They are in fact listed in the EAC guideline the drafting of which has seen participation by the Secretary. I have in fact copied the guidelines made by Justice WOO. If they should have read them carefully enough, the three gentlemen should be aware that there was nothing

new in my amendments, since I was a copycat in that regard. However, Hong Kong is a free community, the Secretary is entitled to criticize the guidelines of Justice WOO for being ambiguous, full of grey areas, hard to enforce and not well written.

I fully respect the comments made by the Secretary with regard to the guidelines issued by Justice WOO, I do not doubt the right of the Secretary in this connection. However, I can recall that the guidelines were not prepared by Justice WOO alone, since he had consulted the Home Affairs Bureau and the Constitutional Affairs Bureau, and I believe the Secretary must have made some input there. But then again, one could change his ideas from time to time. The only thing I cannot understand is that I have copied the guidelines word by word but the Secretary still considers my amendments ambiguous and difficult to enforce. I cannot but admire his wisdom. In particular when he said that there were a few minor loopholes. Fortunately those were minor loopholes, or Justice WOO would lose face if the Secretary has considered those loopholes as major shortcomings.

Thank you, Madam Chairman.

**MR FRED LI** (in Cantonese): Madam Chairman, I rarely speak more than once on the same issue. But then just now Secretary Michael SUEN tried to respond to the four questions I had raised earlier on by referring to an issue which I had made no mention of.

I have asked the Secretary in very clear terms:

Firstly, whether he knows if electors have their mind set on a certain candidate when they go to the polling station to cast their votes. This is a very important question because if electors should have already decided to vote for which candidates before they reach their respective polling stations, the designation of a cooling-off period or otherwise would not have any effect on the voting result at all.

Secondly, whether the public has been consulted on the cooling-off period proposal — yet there was no response from the Secretary in this regard.

Thirdly, whether he has prepared any statistics on the number of complaints received at the polling stations after each of the many elections conducted over the past, and which types of complaints were particularly greater

in number than others. The Secretary did not respond to this question either.

Fourthly, whether he has any statistics for the cases in which members of the public were disturbed by canvassing aides; still no response from the Secretary.

I wonder if the Secretary would have any chance to respond to these four questions of mine.

**MR ANDREW WONG** (in Cantonese): Madam Chairman, I just wish to say a few words.

According to Mr Jasper TSANG and Secretary Michael SUEN, there are certain "ambiguities" in the proposed amendment. I also think that there are certain ambiguities in the wording of the proposed amendment. Indeed, even if the wording of the proposed amendment was copied direct from the paper prepared by Justice WOO, there would still be some ambiguities. Nevertheless, I believe all the Government needs to do is to expeditiously submit to this Council another amendment bill to rectify the relevant ambiguities after it has learned of Members' intention in this respect. Hence, it should be fairly easy to implement the arrangements for a cooling-off period.

Thank you, Madam Chairman.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Mr LI said that he seldom spoke for a second time but I clearly remember that during the debate on the District Councils Bill, he similarly asked me several questions. The first time that he asked me, I did not respond; the second time, I did not respond either; and then the third time that he asked again, I said that since he was so persistent on asking me those questions, I would give him a brief answer.

However, I have repeatedly said in this Council that if Members wish to raise questions with us, we are more than willing to answer them on appropriate occasions. If Members consider it necessary, they can put a question to the Government at the question time on Wednesdays as one of the 20 questions. I did not answer Mr LI's questions just now because I figured that even if I answered those questions, it would not be of much help to the consideration on this issue. Had I any information useful to this discussion, I would have responded long ago.

Thank you, Madam Chairman.

**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.

(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 check their votes.

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

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Mr Michael HO, Miss Margaret NG, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr CHEUNG Man-kwong, Mr Ambrose CHEUNG, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr Howard YOUNG, Mrs Miriam LAU, and Mr LAW Chi-kwong voted for the motion.

Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Dr LUI Ming-wah, Mr HUI

Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Wing-chan, Dr LEONG Che-hung, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr Timothy FOK, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the motion.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss Christine LOH, Mr LEUNG Yiu-chung, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Miss Emily LAU, Mr Andrew CHENG and Mr SZETO Wah voted for the motion.

Miss CHAN Yuen-han, Mr Gary CHENG, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr David CHU, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok, Mr CHAN Kam-lam, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Miss CHOY So-yuk voted against the motion.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 29 were present, 14 were in favour of the motion and 15 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 29 were present, 15 were in favour of the motion and 13 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

**CHAIRMAN** (in Cantonese): Mr LEE Wing-tat, as the Second Reading of new clause 30A has been negatived, you may not move your further amendments to clauses 2 and 47, as they are inconsistent with the decision already taken by the Committee.

**CLERK** (in Cantonese): Clause 47 as amended.

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

**CHAIRMAN** (in Cantonese): Is everything clear? Let me briefly explain the amended clause 47. When the Government proposed to delete the provisions on advance polling yesterday, one of the amendments was made to clause 47. As Mr LEE Wing-tat proposes a further amendment to clause 47 today for the purpose of prohibiting canvassing activities on polling day, whether clause 47 that was amended yesterday is to be amended further today depends on whether Mr LEE Wing-tat's motion can be passed. Now that Mr LEE's motion is negated, the amended clause 47 remains the same as the version decided yesterday, where the part on advance polling has been deleted. Does everyone understand?

We shall now vote on the amended clause 47. 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.

**CHAIRMAN** (in Cantonese): Here, I would like to speak a few words to Members. Today, we have spent over two and a half hours on discussing one question alone. There are altogether 12 controversial questions like this one in this Bill. If we continue at this pace, the discussion on this Bill alone may have

to carry on till tomorrow. In other words, this meeting may not be finished until Monday. Before this meeting, Members of various political parties and groups requested to have all matters on the Agenda finished within three days. Now that I have reported the situation to Members, as regards what to do, it is up to you to decide and choose.

The Committee will now deal with the proposal relating to "the single-seat-single-vote system for the geographical constituencies".

**CLERK** (in Cantonese): Clauses 10, 11, 22, 26 and 32.

**DR YEUNG SUM** (in Cantonese): Madam Chairman, just now the amendment moved by Mr LEE Wing-tat was negatived by a margin of one vote. Nevertheless, I should like to thank Honourable Members for participating in the discussion and the voting. I hope to bring the issue back to this Chamber for discussion if we could be elected as Members again.

Madam Chairman, with regard to my amendment, I just wish to say a few words to appeal to Members to keep the debate going. My main purpose is to replace the system of "multi-seat, single-vote" with the "single-seat, single-vote" system. In this connection, I should like to point out that according to an opinion poll conducted by us recently, some 61% of the interviewees were in support of the "single-seat, single-vote" system. In other words, they are primarily in favour of voting for individual candidates rather than voting for a list of candidates. The "proportional representation" voting system is rather common among those councils in the West the members of which are elected by universal suffrage. The major purpose of adopting the "proportional representation" voting system is to enable the minorities and some local community groups to participate in politics, as well as to have their views represented in the popularly elected councils, thereby making the composition of the councils more pluralistic. Given the two-party system in force in those countries, the adoption of the "proportional representation" voting system will serve to enable the voices of the minorities, including that of the different races, organizations and sectors, to be heard in the councils. That way, the councils concerned could still maintain a pluralistic composition under the two-party system. For this reason, the "proportional representation" voting system is commonly adopted among Western countries.

Actually, the Democratic Party would most likely support the "proportional representation" voting system if all Members of the Legislative Council were elected by universal suffrage. That having been said, we must raise strong objection to the Government adopting this voting system for the Legislative Council Election at the present stage. We raise our objection mainly on the ground that the interests of certain community groups and sectors are already well represented, or perhaps too well represented, in this Council through those Members returned by the Election Committee and those returned by the FCs. That being the case, why should we adopt the "proportional representation" voting system for the 20 directly-elected seats, which will be increased to 24 shortly, to enable certain voices or forces that are unable to win public support to become part of this Council? Such a voting arrangement will in fact serve to please the Government, since it is most happy to see a divided Legislative Council. Bearing in mind that the strength gathered up by a divided Legislative Council will by no means be great, the Government would not be subject to the checks and balance from any powerful representatives of public opinion; as such, it could effect administration more easily.

For these reasons, I hope very much that the candidates who are supported by the most people of Hong Kong could be returned as Members through the "single-seat, single-vote" system to enhance the representativeness of the directly-elected seats of the Council, thereby contributing to the checks and balance role of the Council. Given that the number of directly-elected seats is so limited, if the "proportional representation" voting system were to be adopted to cause the directly-elected seats to become pluralistic in nature, the checks and balance role of the Council would naturally be further undermined. In my opinion, the ideal arrangement would be for all the Members of the Council to be returned through direct elections, and then the "proportional representation" could be adopted for the direct elections. But at the present stage where Members of the Council are returned through various channels, to turn the directly-elected seats more pluralistic will in effect further undermine the role of the Council to check the Government on behalf of the public. So these are my views, and I hope Members will take them into further consideration.

As indicated in our opinion survey, some 61% of the people of Hong Kong support the "single-seat, single-vote" system. I think this is mainly attributable to the fact that members of the public prefer to vote for the candidates they like rather than voting for a list of candidates, for in the latter case they just could hardly know which candidates would be returned as



Members eventually. Hence, it should come as no surprise that the survey we conducted shortly after the implementation of the "proportional representation voting system" in the last election have recorded a 61% rate of support for the "single-seat, single-vote" system. I hope Honourable Members will give further consideration to my proposed amendments and lend them their support.

Thank you, Madam Chairman.

*Proposed amendments*

**Clause 2 (see Annex III)**

**Clause 10 (see Annex III)**

**Clause 11 (see Annex III)**

**Clause 22 (see Annex III)**

**Clause 26 (see Annex III)**

**Clause 30 (see Annex III)**

**Clause 32 (see Annex III)**

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

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

**MR GARY CHENG** (in Cantonese): Mr Deputy, we have in fact debated for quite sometime in the past the systems of "proportional representation", "single-seat, single-vote", and that of "multi-seat, single-vote" and "double-seat, double-vote".

Here, I must stress again that as I have referred to in speaking on the Seconding Reading of the Bill, after taking into consideration the different modes of "one-person, one-vote" voting methods for direct elections, and having regard to the long-term research conducted so far, we have come to the view that the "proportional representation" system should be most suitable for Hong Kong under the existing realistic circumstances.

Hence, I hope that Honourable Members supporting the proposal and Members from the Democratic Party would not assert that we are supporting the Government, or that the existing system is advantageous to us. In as early as the '80s when the DAB was yet to be formed, we already started investigating into the different voting methods and have since been holding fast to our view.

We believe that the "proportional representation" system is the most commonly adopted "one-person, one-vote" direct election method. Its merit lies in that the voter preference could be most effectively represented. As mentioned by Dr YEUNG Sum, many countries and areas have adopted the system to ensure that the minority views can be reflected. Dr YEUNG also pointed out that they do not support "proportional representation" not because of the system itself but because of the fact that the interests of the minority are already represented by some other sectors.

I have stood for elections and taken part in canvassing for many times. In 1995, my contestant in Island South District was Dr YEUNG. At that time, I won more than 48% of the votes, a minority certainly. That was why I could not help but wonder how the preference of that 48% of the public be reflected in the then Legislative Council under the "single-seat, single-vote" system adopted for the 1995 election. If they should be considered as the minority, and if the interests of the minority could be reflected in other functional constituencies, would it follow that in order to have my opinions reflected in the Council, after losing the "single-seat, single-vote" election (despite the over 48% backing from electors), I should stand for functional constituency elections instead? But would those over 48% electors agree with what I said just now? We just could not pretend that those electors do not exist. I do admit that they are in the minority as suggested by other people, but still they are of a considerable number. Why should they not insist in having their representatives in the Council? Fortunately, we had put forward and supported the "proportional

representation" system long before we stood for any elections, not after winning or losing any of them. As a matter of fact, we had expressed our support in an academic seminar held a long time ago.

Before the first election of the Council, there were views that "proportional representation" was too complicated a system. At that time, many were saying that the voting system was hard to understand. Now, after the last election of this Council (in the previous debate, some Members mentioned that the high turn-out rate could be attributed to a number of reasons, but then I might not be able to prove that "proportional representation" should be considered as one) and irrespective of the reasons, the voting system did not deter electors from turning out to vote. Since the turn-out rate was a historical high, we could at least say that the system had not caused any confusion serious enough to deter electors from turning out to vote.

Dr YEUNG just now said that the public would have no idea who won the election due to the "list system". But I believe electors should all know who have won the four seats of the Hong Kong Island constituency. They should be informed of the result on 24 May, 25 May, and on 26 May. Even if there were people who were unaware of the results until they were published, those people should become more alerted when the 2000 election is held, since they have undergone a somewhat educational process. As such, it is not a sound argument to say that the public would feel cheated or confused by the list system.

The third point I wish to make is that three different methods have been adopted for the 1991, 1995 and 1998 elections respectively, why should there be changes again? What good would there be? Whether it is "single-seat, single-vote" or "multi-seat, single-vote", the constituencies will have to be drawn again. In fact, the existing method has not been found ineffective or causing confusions. On the contrary, the turn-out rate was the highest so far. The 20 directly elected Members were all returned this way, why must there be changes now?

In view of the three reasons mentioned and the research we have conducted, as well as the practical situation in Hong Kong, we oppose the amendments.

Thank you, Mr Deputy.

**MR ANDREW WONG** (in Cantonese): Mr Deputy, I can confirm that Mr Gary CHENG and his friends affiliated to the DAB have since many years ago been of the view that the "proportional representation" system should be a better choice. As to the question of whether the system should be implemented with a "list", I believe they might have come to the present view after much consideration.

As I said yesterday, I do not wish to get involved in the disputes over the "single-seat, single-vote" system and the "proportional representation" system. However, I can actually inform Honourable Members that academically speaking, the "proportional representation" system could be implemented in a variety of ways. To begin with, it could be implemented as a "single transferable vote system". Since the brand or coat-tail effect of political parties would not be involved, even though some candidates might be affiliated to their respective political parties and run in the election as a party member, electors would still regard them as individual candidates like the rest of the candidates in making their voting decisions. To those candidates who are not affiliated to any political parties, this is perhaps a fairer system. However, I do not wish to start any debate on this point.

I can support the "list system" or the "proportional representation system". What merit does the "proportional representation" system have? Its merit lies in that different views could all be represented in the Council in proportion to the support they receive. So this is the good point. But the other side of the coin is that the views of the Council would be rather divided. Hence, it follows that the merit of the "single-seat, single-vote" system is that it could enable the Council to have a comparatively more concerted view. In this connection, if the voices concerned in the Council could no longer represent the public opinion, or if the public opinion should have changed, electors would choose another candidate to take his place in the next election. Therefore, different systems do have their own respective merits, and I do not wish to debate that either. However, I should like to point out one thing and that is, the DAB is giving me an impression that they could not hold fast to their belief throughout. If they were really that in favour of the "proportional representation" system, they should suggest the Government adopting the "proportional representation"

system for the District Council elections and putting the system into full operation. Actually, my speech yesterday was very simple, for I held that the voting system for all elections should be standardized. We should never adopt inconsistent stances in this respect. If one should suggest adopting one system for one type of election and another for another type of election, naturally people would suspect him of speaking well of the "single-seat, single-vote" system when the said system is of advantage to certain people, and speaking well of the "proportional representation" system instead if otherwise. What is more, suspicions of this kind cannot be dispelled easily. Hence, I hope that both the Government and the DAB could undertake to amend the relevant law on the District Councils to provide for the implementation of the "proportional representation system" before the next general election of the District Councils if it should be too hasty and impracticable to amend the voting system for the forthcoming District Council Election. In that case, I would vote against the amendments proposed by Dr YEUNG Sum. But if they could not make such a promise, I am afraid I must adhere to my stance throughout and let the electors know that the "single-seat, single-vote" system does work well for district elections. As a matter of fact, even though a candidate would lose an election if he should have the backing of only 48% of the electorate, it is possible for him to win with 52% of the votes in the next general election if the one who beat him should have cheated the electors or lost favour with the electors. Therefore, a candidate who once has the backing of 52% of the electorate might end up winning only 48%, or even as less as 30% or 20% of the votes in the subsequent general election. This is an issue which I hope Honourable Members can address squarely.

Over the past years, the "block vote" system has been adopted for the Urban Council Elections. In this connection, if there should be six vacant seats available for election, voters would need to cast six votes; four seats, four votes. As such, the "block vote" system and the "single-seat, single-vote" system are just the same in effect. Actually, "single-seat, single-vote" is the simplest mode of "block vote" system capable of reflecting most accurately the voter preference. Later on, the District Boards were established and the voting method adopted initially for the elections was "double-seat, double-vote". But mind you, "double-seat, double-vote" is also one mode of the "block vote" system. However, in view of the fact that the constituencies could not be demarcated too small in size, the "single-seat, single-vote" system was adopted instead later. Since the two Municipal Councils have been using the "single-seat, single-vote" system since the very beginning, "single-seat, single-vote" is

indeed the most popular voting system in force in Hong Kong with the exception of the Legislative Council Elections. For this reason, I think we should continue with the system.

I am most happy to support the stance of the Government and vote against the amendments proposed by Dr YEUNG Sum, for if I should support his amendments and thereby facilitating their passage, I would not be able to move my amendments later on. As such, I very much hope that the Government could give us its promise and enable me to raise my amendments at a later stage. Thank you, Mr Deputy.

**MISS CHOY SO-YUK** (in Cantonese): Mr Deputy, my stance on this so far is very clear, since I have all along been opposed to the "single-seat, single-vote" system. I should like to expound a bit on my views. As I can remember, last time when we were comparing the merits of the various systems, many Honourable Members referred to a certain voting system as being time-tested. But their arguments were actually rather far-fetched. As a matter of fact, a total of three large-scale elections have been held in the history of Hong Kong, for which three different systems were adopted. In this connection, the first one was the "double-seat, double-vote" system, the second one was the "single-seat, single-vote" system, and the third one was the "proportional representation" system. All the three elections were conducted successfully without any major problems. As such, we could consider all of the three systems as being time-tested. By the same token, if any of them should be found not effective, then the three of them should be found not effective as well. However, we must not say that a certain system is definitely more effective than the others.

Having said that, I must say that I am strongly opposed to the "single-seat, single-vote" system on basis of a very clear idea, that is, the "single-seat, single-vote" system is actually unable to cater for the different voices. Any candidate who should be short of but one vote would not be returned as a Member of the Council even if he or she has won 49.99% of the votes. Here is a very clear example. I can remember that Dr TANG Siu-tong lost the 1995 election by a margin of 50 odd-votes. He would have won the election if other voting systems were adopted, but because the "single-seat, single-vote" system was adopted at that time, he lost the election. Certainly, that I oppose the "single-seat, single-vote" system has nothing to do with the fact that Dr TANG Siu-tong is affiliated to the Hong Kong Progressive Alliance (HKPA). It is

such an unfair system that a candidate would lose the election just because he or she should be short of but one single vote. As a matter of fact, the minority views must be catered for as well.

I believe Honourable colleagues affiliated to the Democratic Party love to talk about human rights and equality. Actually, human rights and equality are, more often than not, related to the voices in the minority since the majority voices could always be heard very easily. Under these circumstances, if we are determined to safeguard the fairness of elections, the voting system we adopt must be able to cater for the different voices of the community. The last thing we want is the situation in which only one single voice could be heard from our community. Hence, for the balanced development of the community as a whole, and for the equal opportunity of the various sectors to express their views, I am strongly opposed to the "single-seat, single-vote" system.

Mr Deputy, I also hope that the Government can also consider other systems such as the "double-seat, single-vote" system. I am not singling out this system for the Government's consideration, for what I wish to say is that there are indeed a good many voting systems available. However, in view of the fact that the "single-seat, single-vote" system is definitely the most ineffective one of all in enabling the different views to be expressed in a well-balanced manner, I cannot but raise my objection to it. I so submit.

**MR ALBERT HO** (in Cantonese): Mr Deputy, as I said during the resumption of the Second Reading debate of the Bill, we do not necessarily object to the concept of "proportional representation". However, in view of the existing circumstances, the present constitutional structure as a whole, and the composition of the Hong Kong Legislative Council, if one should say that the "multi-seat, single-vote" system is the only suitable method applicable to the limited directly-elected seats of the Council, we cannot but raise our objection. We hold that the entire arrangement is aimed at enforcing a protective measure to safeguard those so-called representatives of the minority views. As a matter of fact, about two thirds of the Members of this Council are elected by electorates of very limited sizes. In this connection, the Honourable Miss Emily LAU cited yesterday quite a number of figures to explain that certain Honourable Members were indeed elected by very small coteries of electors. Can anyone say that those in the minority do not enjoy sufficient representation? As far as this Council is concerned, their views have already been very

exceedingly represented, if not represented in an exaggerated manner. As a result, this Council has only 20 or one third of its seats available for election by the public. In that case, why should we not enable the public to freely choose, by means of election, the Members to represent their majority views?

I could understand the feeling of Mr Gary CHENG, since he lost the last election by a few votes only. Indeed, given his efforts, it should be very reasonable for him to be returned as a Member. But the problem was that there were very limited seats. If only this Council could have more seats, it should not be very difficult for Mr Gary CHENG to win a seat with his good efforts and calibre. Did Miss CHAN Yuen-han not win in that election through her own efforts? However, since the greatest problem was that there were too few directly-elected seats, so that some candidates of considerable calibre and popular support were unable to win any seats. Yet they should not blame others except the system. Nevertheless, instead of reforming the system and striving for more directly-elected seats, they are trying to force a protective measure on the election conducted for those limited directly-elected seats to safeguard the views of the so-called minority. We could never accept such an arrangement.

The Honourable Miss CHOY So-yuk was right in saying just now that the many systems we have implemented were all very effective. In this connection, the District Board Elections have been using the "single-seat, single-vote" system since 1982. Then, in 1991, the then Government was of the view that the "double-seat, double-vote" system should be more suitable for the first direct election of the former Legislative Council because the constituencies could be expanded. Having practised the system, the Government then found that the outcome was not so satisfactory. As a result, the "single-seat, single-vote" system was restored for the 1995 election. But the result was still unsatisfactory in the eyes of the Government, since its wish to safeguard those so-called minority views was not fulfilled. The "proportional representation" system was adopted for the subsequent election. This time, Mr Gary CHENG won. And that is why he holds that the system is very good and questions the need for any changes. Actually, Mr Deputy, the question of why changes be introduced should not be raised today. It should have been raised in 1997 when the legislation on the first Legislative Council Election was being formulated. Instead of raising the question, the relevant Members were making every effort to change the arrangements to produce the result we have today. Considering that such an outcome is acceptable to them, they do not wish to have any changes.



This is the answer to their question.

For this reason, even though the limited directly-elected seats could not achieve much in this Council, the public could at least be given a chance to have the majority views of the community as a whole to be fully represented. In any competitions or elections, there will always be losers and winners. And at the decisive moment when the winner is to be determined, the scores of the contestants are more often than not very close to each other. In a football match, for example, if the game should end in a draw, the two competing teams would need to resort to using penal kicks to decide who should be the winner of the game. Sometimes, one team would beat the other by just one goal. The losing team would perhaps feel very unfair, but competition is just like that. We could only strive to enable participants to have the best opportunity and the most chances to join in the competition. What we should never do is to restrict others' chances to compete and to introduce some protectionistic arrangements into the games.

For these reasons, I believe that the "proportional representation" system is not suitable for the directly-elected seats of the Council under the existing circumstances. In addition, I hope that Mr Andrew WONG will not feel that he needs not support the proposal to adopt the "single-seat, single-vote" system for this Council just because he supports adopting the "proportional representation" system for the District Council Elections. In my opinion, it is very important to differentiate the major issues from the trivial matters. And it is the major issues we should consider in evaluating the suitability of the relevant systems and deliberating on our voting decisions. Thank you, Mr Deputy.

**MR CHAN KAM-LAM** (in Cantonese): Mr Deputy, having listened to the moving speech made by Mr Albert HO, I have somehow gained a better understanding of democracy.

In a democratic council, it is all the more necessary for us to be accommodating, and Members of the Council will all the more need to reflect the different views of the community. According to Mr Albert HO, protectionism is actually a manifestation of totalitarianism. He believes that so long as a candidate is defeated by a margin of one vote, that candidate should not be returned to the Council regardless of how much support he or she has won from voters. Is this indeed true democracy? The Democratic Party loves to

talk about democracy and asks for the full representation of public opinion in the Council, but could democracy be embodied in some 50-odd percent of votes? In my opinion, so long as the representatives concerned are chosen by the public through elections, they should be returned as Members of this Council regardless of the number of votes they have won, for they are the real representatives of public opinion. The greatest merit of the "proportional representation" system lies in that it allows a divergence of voices with different percentage of support to be represented in this Council in proportion to the number of votes won, thereby enabling the representatives to reflect the views of their voters in this Council and monitor the Council as well as the Government on their behalf. This is true democracy.

We have gained plenty of experience from the elections held over the past years. It is true that the Democratic Party has won more votes than the DAB, but because of the unfair voting systems, the number of seats we won were more often than not far less than the Democratic Party's in proportion. Mr Albert HO has attributed this to the limited number of seats available. However, I would say the problem lies in the fairness or otherwise of the voting system, rather than the adequacy of seats available. In our deliberations over a democratic election, the question as to whether the relevant voting system is democratic is also very important.

I am very grateful to Mr Albert HO for the recognition he has given to the work of Mr Gary CHENG at district level, and for referring to the election of Mr Gary CHENG to this Council as beyond question and well deserved. Yet it was exactly because of the voting system which was so unfair to him and to the electors that Mr CHENG lost the previous election despite the large number of votes cast in support of him.

For candidates like Mr Gary CHENG who has been serving the community at the district level for a long time, the hope of winning the election depends largely on a more democratic voting system. So, we can see from this that the "proportional representation" system is indeed an effective method. Looking around the democratic countries all over the world, we can in fact see a good many voting systems; yet of all these voting systems, "proportional

representation" is one of the most commonly adopted methods. We agree that the "proportional representation" voting system does involve plenty of variables, all of which are subject to trial and adoption when we practise the system. However, since the system has been practised for only once, we still need to put it into further practice before we could collect sufficient evidence to prove the merits and demerits of the system. For this reason, I do not think there is an urgency to introduce changes at this stage.

Moreover, even if we are to introduce changes, we should not take any retrogressive actions. As we have criticized it for many times in the past, the "single-seat, single-vote" system is full of problems. Actually, just now I have also referred to the system as being unfair, since candidates could win the seats even if they have but one vote more than their opponents. Although the electoral system of "one person, one vote" is itself a democratic practice, the entire democratic election would still be completely negated if an undemocratic voting system should be adopted. Therefore, I hope that Members affiliated to the Democratic Party could consider a voting system from a genuinely democratic point of view if they wish to appeal to other Members for support.

Thank you, Mr Deputy.

**MR MARTIN LEE** (in Cantonese): Mr Deputy, in the first draft of the Basic Law, and that is the draft for solicitation of opinions, there was no "proportional representation". I am not saying that there was no such view in Hong Kong at the time but there was no mention of this system when the Basic Law Drafting Committee (BLDC) released the first draft of the Basic Law. At that time, the BLDC generally took the view that Functional Constituencies (FCs) or the industrial and commercial sector would be more conservative and their views were by and large acceptable to the Government. But for those returned by the elections of geographical constituencies, the BLDC was worried that they might not be obedient. For this reason, the BLDC was thinking that the ratio between the two groups should be 30:30 in due course but in order to prevent things from

running out of control at the outset, 30 seats were allocated to FCs right from the start and only 20 seats were to be returned by direct elections. As for the remaining 10 seats, the BLDC had considered making them appointed seats but finally came up with the Election Committee. Of course, it was not easy to control the Election Committee under the proposal of Governor PATTEN, so in the eyes of the Central Government, as Members will understand, that was not a right thing to do.

I would like to point out that in the course of drafting the Basic Law, the BLDC hoped that the ratio between the two groups should be 30:30 in due course. However, in order to prevent the situation from running wild at the beginning, only 20 seats were to be returned by direct elections. That said, the BLDC had no intention to further tamper with these 20 seats. In other words, they were not worried about the 20 direct-elected seats for they perceived that the pro-Communists would at least win several of the 20 direct-elected seats and likewise, the democrats would also take up a few of the 30 seats returned by FCs. In that case, while the former win a few seats here and the latter win several there, the ratio between the two will broadly be 40:20. Quite coincidentally, this happens to be the composition that exists now. With the existing composition, the democratic camp usually manages to obtain 20 votes while the others obtain 40 votes so the calculation they made at the time was very accurate.

I would also like to point out that the BLDC originally planned to adopt the "single-seat, single-vote" system for the direct elections. No one would have thought that so many complications would crop up. Why was there the "double-seat, double-vote" system? In 1991, the democratic camp, including the Honourable SZETO Wah and I, agreed on "single-seat, single-vote". I remember that the appointed Members at that time, including Mr Allen LEE and Mrs Selina CHOW, called for the "four-seat, four-vote" system, not "four-seat, one-vote". The Government nevertheless took the middle-of-the-road approach and proposed the "double-seat, double-vote" system, which was indeed baffling. The reason was that failing a consensus the Government took the middle-of-the-road approach. Subsequently, the "double-seat, double-vote" system was adopted in the 1991 election. At first, we did not know how to play this game but heaven knows why I suddenly became so smart one day as to think of the analogy of two live fish. I eventually won in the election but Mr

Gary CHENG lost and he was very upset. The analogy I used at that time was to refute the idea of "striking a balance". The DAB urged voters to strike a balance in casting their votes by choosing one candidate from the democratic camp and one from the DAB. My view was that this was not a cogent argument. If you go to the market to buy fish, will you buy one dead fish and one live fish so as to strike a balance? Strangely enough, the result was that both candidates from the democratic camp won under the "double-seat, double-vote" system. This is the case in many other constituencies where both of the candidates from the democratic camp won.

After we had won in the election, our rivals hurled criticisms at us, contending that some of us had only "ridden on others' coat-tails". Then, it was brought up for discussion again in this Chamber. They said that the system was unfair because someone secured a seat in the Legislative Council only by riding on the coat-tails of someone else. We agreed that a review be conducted and pointed out that we had all along been implementing the "single-seat, single-vote" system in the past. They were also of the view that no one would be able to ride on others' coat-tails under the "single-seat, single-vote" system so it was agreed that the "single-seat, single-vote" should be adopted. Pursuant to this decision, legislative amendments were introduced in 1994 to provide for the adoption of the "single-seat, single-vote" system in the 1995 election. Again, we won under that system and the pro-Communists lost. I can recall that among the "four leading protagonists" in the DAB at that time, the three male stars were defeated and the female star won, showing that the DAB can also win under the "single-seat, single-vote" system, only with some difficulties. The reason is simple. If many of the voters support you, you win and if few do, you lose. To the DAB, "proportional representation" is advantageous to them because they think they can obtain 20% to 30% of votes in every major constituency which means that they will at least have one seat in each constituency. But under the "single-seat, single-vote" system, if they manage to obtain only 20% or 30% or even 40% of votes, they may still lose. For these reasons, they came up with "proportional representation".

As Mr Albert HO pointed out earlier on, "proportional representation" is in itself not undemocratic and it is actually adopted in many democratic countries. We oppose it because there are only 20 direct-elected seats now.

While the number will be increased to 24 at a later stage, the number of these seats is still so small that the Administration should not juggle with them any more. Mr Andrew WONG is right in saying that if "proportional representation" is so desirable, why is it not adopted for the election of the other six seats? It is entirely logical to adopt it across the board, so why is it not adopted for others? The reason is simple because the DAB was defeated badly under the "double-seat, double-vote" system and they were also defeated badly under "single-seat, single-vote". However, with the adoption of "proportional representation", they will win a seat in every major constituency rather easily so they go for this system. Mr Gary CHENG asked why we, having tried out three models, still have to make changes. As a matter of fact, we are only suggesting a reversion to the second model. The first one, namely, the "double-seat, double-vote" system is in my view illogical. The "single-seat, single-vote" system is logical and is adopted in many regions and countries. Besides, it will also benefit voters. To wit, in constituencies of a smaller size, voters tend to have a far closer relationship with Members because voters can turn to the Member representing them over all issues. But in a large constituency, such as the Hong Kong Island constituency where there are four seats, a voter sometimes may not be able to reach the Member with whom he wants to meet. Which of the Members is actually representing the voter? While all the four Members are the voter's representatives, what if none of them is interested in the issue raised by the voter? Under the "single-seat, single-vote" system, the elected candidate is the person representing the voter in the Legislative Council and that particular Legislative Council Member simply cannot shirk his duties. Under the "single-seat, single-vote" system, the elected Members are certainly more representative of their constituents.

From the division record for the last vote, I find that several Members of the democratic camp will win in the election no matter what voting system is adopted. Be it "double-seat, double-vote", "single-seat, single-vote" or "proportional representation", they will still win. As I said just now, those who have supporters will win under whichever system, except the Election Committee system under which they will only be totally defeated. It is also very difficult for them to succeed in FCs. Therefore, we should not consider this issue from the interest of the party to which we belong because no matter how you tamper with these 24 seats in a bid to impose constraints on the democratic camp, it will simply not work. Although some political parties with less public support may be able to secure a number of seats as a result, the democratic camp which is widely supported by the people will not be defeated completely.

I hope Members will take into account the composition of the 60 seats in considering this issue. If all 60 seats are returned by direct elections, will there still be problems any more? In that case, I think "proportional representation" may even be better. For instance, the green parties in overseas countries will be allocated 10% of the seats if they manage to obtain 10% of votes and they will not be allocated no seat at all. We certainly do not consider this undemocratic. But at present, when the majority of the existing 60 seats are not returned by direct elections, we think it is unfair on the whole. Last year's election is a case in point. Last year, the democrats secured only one third of the seats in this Chamber despite winning two thirds of the votes cast in Hong Kong, hence this precisely explains why we consider it unfair. How can it be considered fair if we won two thirds of the votes but got only one third of the seats? If all the seats were returned by direct election, any party which obtained two thirds of the votes will be entitled to two thirds of the seats and by the same token, any party which got one third of the votes will be allocated one third of the seats. This is fair by any standard. Miss CHOY So-yuk cited an example that a candidate had been defeated by a narrow margin. In fact, this is going to happen under all voting systems. Under the existing "proportional representation", Mr Allen LEE was also defeated by a narrow margin and we can do nothing about it. Surely there are losers and winners irrespective of the voting system adopted. Cases of candidates being defeated by a narrow margin are simply unavoidable.

Therefore, Mr Deputy, we are just proposing a reversion to the original system. Results of our survey show that our proposal is supported by a majority of the public, so it fully conforms to the wish of the people. I would like to ask government officials why they attached great importance to public opinion on the question of "seeking an interpretation of the Basic Law" but seem to have forgotten or be oblivious to public opinion on this very issue? I think it is very dangerous for the Government to use public opinion in one case and ignore it in another. Therefore, when the Government cited public opinion to support its stance, I snickered, knowing that the Government will eventually find out what the *bona fide* public opinion is. I hope government officials will go back to tell the Chief Executive, "Sir, since you have respected public opinion so much on that issue and hence making the people of Hong Kong so delighted, what do you say if you also respect the wish of the people this time by allowing all 60 seats in the Legislative Council as well as the next Chief Executive to be returned by direct elections?" I believe the Chief Executive will only dismiss this sort of public opinion, and say "No way! No way!" in Putonghua.

**MISS CHOY SO-YUK** (in Cantonese): Mr Deputy, having heard the comments made by Mr Albert HO and Mr Martin LEE, I should like to talk about my views.

Mr Albert HO considered the Government being too protective of the minority views. I should like to ask him what is wrong with protecting the minority views? As a matter of fact, we all know that we should observe the principle of the "majority rule" under most circumstances. However, does it follow that the minority views should be strangled altogether during the development of society as a whole? We are not discussing the principle of the "majority rules", we are discussing now the question of whether the minority views should be strangled altogether.

According to Mr Martin LEE, if the "single-seat, single-vote" system should be adopted, voters would be able to elect as Members the candidates who truly represent them. He cited the Hong Kong Island constituency with four seats as an example and said that if the "single-seat, single-vote" system were not adopted, voters might have to turn to the other Members if they could not reach the Member of their choice. In that case, I should like to ask the Honourable colleague if the "single-seat, single-vote" system were adopted, who else could voters turn to if they should fail to find the Member representing them? Under the present system, however, voters could have a choice of four Members. If they were unable to contact the first one, they may turn to the second one; and likewise to the third or the fourth one. But if the "single-seat, single-vote" system were adopted, where should voters from the Hong Kong Island East constituency go to reach Mr LEE?

Mr LEE also pointed out that while the pro-democracy camp had won two thirds of the votes last year, they were allocated only one third of the seats. I agree with him that this is absolutely unfair. However, I should like to ask Mr LEE, compared to the 1995 election in which the pro-democracy camp have won some 51% to 60% of the votes but were allocated 100% of the seats concerned, which voting system is more unfair? Naturally, it should be the one which enabled them to win 100% of the seats with only 51% of the votes. Furthermore, since Mr LEE has asserted that the pro-democracy camp would



triumph in all direct elections but lose in both the FCs and the Election Committee, I do wonder if that is the reason why they have strongly objected to the FCs and the Election Committee all along.

In addition, just now Mr LEE has also said that it would perhaps be better to adopt the "proportional representation" voting system if all the 60 seats of the Council should be returned by direct elections. I cannot help but ask what kind of logic it is. Why would "proportional representation" be considered not good for 30 seats and even worse for 20 seats? Indeed, if the "proportional representation" voting system should merit an adoption, it would work well for 60 seats, 30 seats and 10 seats alike.

Mr Deputy, I so submit.

**MR ALBERT HO** (in Cantonese): Mr Deputy, the crux of the matter we are now debating should in fact lie in the representativeness of this Council. Should this Council be representing in a balanced manner both the public opinion and the public interest of our community as whole? If it should, then the public opinion could be represented in the Council by means of the ballot papers. In this connection, there are only two methods whereby the representatives of public opinion could be elected directly; one of which is the "proportional representating" voting system, while the other is the "one-person, one-vote" system. Any methods other than these two will only serve to distort the representativeness of the public opinion of the community as a whole. As a matter of fact, we can all see that two thirds of the seats in this Council are distorted. For this reason, I have questioned earlier what else could this Council represent under the circumstances. Given that only one third of the seats are open to public participation in a fair manner, the question of how public opinion can be represented in this Council through this one third of the seats should be our greatest concern.

As we have made it clear before, we do not hold that the concept of "proportional representation" is by all means undemocratic, nor that "one-person, one-vote" should be more democratic a system. No, things just may not necessarily be so. However, in view of the existing circumstances that two thirds of the Members of the Council are elected by electorates so limited in size, should it not be all the more important for the remaining one third of the

Members to be elected by the electors through the "one-person, one-vote" system to represent the mainstream views of the community? I think this should be the focus of this debate.

As such, the most serious problem with the speeches made by Miss CHOY So-yuk and Mr CHAN Kam-lam should be that they have kept referring to the "one-person, one-vote" system as unfair on the ground that winning a few votes more would in effect mean winning the whole election. Actually, they have completely missed a very basic concept by focusing their attention on the question of whether or not the relevant system is sufficiently democratic. In fact, what we are considering is the result of the election; in particular, whether the result will be most acceptable to all and capable of remedying certain major imperfections. Actually, the study of the electoral consequences of a certain voting system is a discipline of science that can open up a Pandora's box of studies. I could perhaps recommend a list of books to Miss CHOY So-yuk and Mr CHAN Kam-lam for some basic reading and fundamental knowledge about this subject.

There are certainly losers and winners in elections. No doubts about it. However, I should point out that the most important problem confronting us now is not this Council's failure to protect those in the minority, but rather the excessive protection for the minority. How would Miss CHOY So-yuk be sitting in this Chamber if this Council should have failed to protect the minority? The problem is that it is the minority that rules this Council. As we could see in the division just now, the motion was negated even though there were 29 votes in favour of it and 28 against it. Is this not an example of the majority submitting to the minority? Speaking of the divisions we have had in this Council, many a time it was the votes cast by directly-elected Members that have been negated. Certainly, the current voting system is "one person, one vote", but the problem remains that given the limited number of directly-elected seats in this Council, should we now make an effort to enable the electors to have their majority views reflected in this Council? I think this is the most important point in regard to this issue.

I should like to stress again that if all the Members of the Council should be returned through elections, and if the Government should abandon such arrangements as functional constituency elections and other coterie elections, the pro-democracy camp would not necessarily raise objection to the "proportional

representation" system. What is more, we might even lend our support to "proportional representation" and agree to the formation of a coalition government. If the Government is really to strive for balanced representation, the seats of the Executive Council should be allocated proportionally as well. But would that be feasible? Does the Government dare to put forward such a proposal? Certainly not! Why not? This is because the Government believes that everything must be well protected and has thus put everything outside the scope of direct election under protection. As regards things related to direct elections which should all be open to fair competition, since there are still a lot of things which the Government considers it cannot afford to lose, it is all the more eager to introduce protective measures in this respect. I think this is exactly where the crux of the problem lies.

Mr Deputy, I do not wish to repeat the points I have made before. Nevertheless, I should like to stress once again that given the existing elected representation system of this Council which is so very limited, the adoption of the "proportional representation" voting system is absolutely unfair to the community as a whole.

**MISS EMILY LAU** (in Cantonese): Mr Deputy, I rise to speak in support of the amendments proposed by Dr YEUNG Sum.

Speaking of this so-called "proportional representation" voting system, the Government does not dare to call it by this name any more but renames it as the "list system" instead. This is attributable to the fact that while the "proportional representation" voting system operates properly in other countries, it is distorted in practice here in Hong Kong. Certainly, Mr Deputy, the Frontier has benefited from this system, for we have won 100% of the seats we stood for last year. Nevertheless, we still support the amendments proposed by the Democratic Party. I understand very well that from the Democratic Party's point of view, they were the victims. As I said before, the voting system has in fact been changed for many times already; indeed, I have also been urging you, Mr Deputy, to stand in the "one-person, one-vote" direct elections promptly, so

that you do not have to bother about the heavy pressure put on you all along. But why has the voting system been changed for so many times? Most probably those in power were changing the voting system to prevent candidates out of favour with them from winning the elections, only that the candidates concerned have managed to get elected each time. As such, a variety of voting systems have been adopted for the elections held so far, including the "double-seat, double-vote" system, the "single-seat, single-vote" system and so on. As you could perhaps remember, Mr Deputy, the voting system adopted at the very beginning was not the so-called "proportional representation" system but the "multi-seat, single-vote" system; and it was adopted to prevent the pro-democracy camp from winning the election, or to enable certain candidates to be returned as Members by riding on the coat-tails of others. Later on, however, there was concern that it might be a shame to adopt this "multi-seat, single-vote" voting system which was also adopted in Taiwan. (Actually, whenever I met with someone from Taiwan, I would always persuade them to abandon this awkward voting method in view of the electoral system of "one person, one vote" already in place there.) Coming back to Hong Kong, the Government was of the view that since the voting system would be adopted regardless, it had better give the system a better name to avoid being criticized too much by the international community which had been keeping an eye on our elections. As a result, the system was renamed as the "list system".

In my opinion, Mr Deputy, the entire system has been distorted to the effect that the pro-democracy camp (in particular the Democratic Party, the largest political party in this Council) would be treated most unfairly. Any persons who have the calibre could come out and stand for direct elections, and they would be returned as Members of this Council if they should win. But what is the point of distorting the rules of the game to enable certain candidates to get elected as Members of this Council by riding on the coat-tails of others? Considering that some people not supported by the public have been returned as Members, I could understand the indignation of the Democratic Party and that of the public, too. Speaking of the public, Mr Deputy, although you were not returned by direct elections, you should still have plenty of chances to come into contact with the public. Many members of the public would tell you that they actually do not favour the so-called "list system" because the lists of names would serve to confuse them. In this connection, some political parties are indeed good at trickery. They would split up the list and put on the relevant electioneering material an enlarged picture of the candidates who are comparatively more popular in their respective constituencies, with a view to

misleading electors into thinking that they are voting for that particular candidate, when in reality the person concerned is only the fourth or even the fifth candidate on the list. I am sure voters would not have voted for that list if the pictures of the five candidates should be of the same size. So, this is how the entire voting system has been abused by political parties which passed off the sham as the genuine. I know Secretary Michael SUEN will once again say that this is not the question time, but he should respond to our questions. Actually, he is also aware that many members of the public do not favour the "list system".

At the present stage, the people of Hong Kong will only vote for the candidates they prefer. In this connection, if a certain person stands for election and the voters like him, they will vote for him. But if voters should be required to vote for a list of candidates, they would find it very difficult to make up their mind, since there might be candidates whom they do not like on the lists. Considering the imperfections of the system itself, and the fact that the pro-democracy camp is being unfairly treated in particular, the Frontier will support the amendments proposed by the Democratic Party.

I do not know when we will succeed in having all 60 seats of the Council returned by direct elections. I am afraid one of these days is none of these days. I admit that I am rather pessimistic about this, and I believe that day would not come before the end of my life. Nevertheless, I will keep on making my best effort to strive for the cause until all of the 60 seats are returned by direct elections. Perhaps by then this Council would have more than 60 seats, since some people hold that the Legislative Council should have more than 60 seats if all of the Members should be returned by direct elections. If the *bonda fide* "proportional representation" voting system should be adopted then, I would give my support. By then, as mentioned by some Honourable Members just now, those winning 10% of the votes would have a 10% share of the seats; and those with 20% of the votes, 20% of the seats. Earlier on, Miss CHOY So-yuk commented that the "single-seat, single-vote" system was unfair to the minority. In this connection, I agree fully with Mr Albert HO in that there is indeed nothing unfair with the voting system. Otherwise, Miss CHOY would not have been returned as a Member of the Council. Given that the 10 Members concerned were elected by the 800 voters of the Election Committee, could any of them claim that they were being unfairly treated? Yesterday, I read out the Functional Constituencies (FCs) established by the Government and agreed to by

the Provisional Legislative Council. In regard to these FCs, some may have a total of 100 odd or 200 odd electors, while others may have as few as several dozens. Yet a Member will be returned respectively for each of these FCs. If those Members who have been so fairly treated in the coterie elections should rise in this Chamber to complain about being treated unfairly, then we Members of the pro-democracy camp would all the more feel that we have been very unfairly treated. We have won more than 60% of the votes, but how many seats do we have in this Council? Let us substantiate our arguments with facts for fairness sake. I am not a member of the Democratic Party, but sometimes I just feel that the Administration is deliberately targeting at them, with a view to preventing candidates with popular support from winning enough seats in this Council, thereby hindering the full representation of public opinion. What a shameful system it is! Thank you, Mr Deputy.

**MR MARTIN LEE** (in Cantonese): Mr Deputy, Miss CHOY So-yuk has been defeated by me in an election. But she was defeated for only once, because she has never stood in any direct elections since then. Miss CHOY was returned to this Council by other means, as she was supported by a minority of the voters of her constituency. However, does it follow that we should safeguard her interests and ensure that she could be returned as a Member of the Council just because a small number of the voters are willing to support her? Should that be the case, how about those candidates who have won support from the majority of the voters? Should we give up our seats to such candidates? Is this what democracy is all about? These arguments really beat me.

What is the original purpose of the "proportional representation" system? As I said before, certain organizations like the Green Power could secure support from only a minority, perhaps around 10%, of the voters across the nation. Hence, it would be impossible for these organizations to win any seats in the councils concerned if the "one-person, one-vote" system or the "single-seat, single-vote" system should be adopted. Having considered this situation as not being very satisfactory, some countries have adopted the "proportional representation" system instead. If the "proportional representation" system should run well, parties winning 10% of the votes would be allocated 10% of the

seats. Nothing could be fairer than that.

But what is the case in this Council of ours? Are there any supporters for the pro-communism camp? Yes, there are, but the number would be very small, certainly. That is why they could get only some 20%, 30% or 40% of the votes in the various elections, but never a majority of the votes. However, if you look around, how many pro-communism Members you can see in this Chamber? The existing problem is not that the minority of our community is not being represented in this Council, but that those who are supported by only a small number of the people of Hong Kong have been returned as Members of this Council. What is most unfair is that these Members have dominated this Council. Just now Miss CHOY asked why it would be better if we should wait until the 60 seats of this Council were returned by direct elections to adopt the "proportional representation" system. The answer is very simple: Miss CHOY was wrong in choosing to use the word "better". I will replace the word with "fair", for this is what a genuinely fair election should be. Besides, Miss CHOY has also referred to us as having a sweeping victory in the 1995 election. I am afraid she was wrong. Because of the political reform package introduced by Chris PATTEN, the pro-democracy camp including the Association for Democracy and People's Livelihood won only 31 seats in the 1995 election, even though we had won more than 60% of the votes. As such, the number of seats we won then was rather small in comparison. But since the PATTEN package was far less unreasonable than the existing arrangement, the election result was not as unreasonable as the existing one.

Last but not least, Mr Deputy, I hope that Secretary Michael SUEN would not repeat any more what he has said this morning, which was: "This is not the question time". No ministers of any democratic countries would say something like that in their councils. What is meant by "This is not the question time"? Regardless of whether he is putting forward a proposal or raising objection against a proposal, the Secretary will still be speaking on behalf of the Government. Why can he not answer the questions raised by the opposition party? If he could not answer the questions, he is not qualified for the post he holds. Therefore, I hope that he will never say such things again. Indeed, only a council elected by way of a totally undemocratic electoral system would tolerate such kind of reply.

**MISS CHOY SO-YUK** (in Cantonese): Mr Deputy, having heard the

Honourable Miss Emily LAU's remarks about the Election Committee again, I cannot help rising to make a response.

I made it clear yesterday that Members returned by the Election Committee actually represented more than 30 different sectors, and that we would all consult our respective sectors on the subject matters to be discussed in this Council. Some have dismissed Members returned by the Election Committee as belonging to a small circle and lacking in representativeness. In this connection, I admit that 800 is not a large number, but I must stress that the 800 voters are all elected by the tens of thousands of electors of their respective sectors. I must say it again here that the comment that Members returned by the Election Committee are not representative is an insult to the 800 voters. As a matter of fact, the 800 voters have all along fulfilled their responsibilities as representatives of their respective sectors. They have made use of their own channels to reflect to Members their views on practically all the government proposals and policies relating to their respective sectors. Some have even lobbied Members to support them. As such, I should like to point out that the size of the electorate does not necessarily affect the representativeness or fairness of the election concerned.

In addition, just now Mr Martin LEE and Miss Emily LAU have also queried why candidates with only 10% of the votes could be returned as Members of the Council. I wish to point out that the essence of the proportional representation voting system is that if you win 10% of the votes, you will have 10% of the seats and nothing more. If you win 90% of the votes, then you can have 90% of the seats. I should like to ask Honourable Members what better voting methods other than the proportional representation voting system could enable the relevant seats of this Council to be allocated in accordance with the number of votes won? If Members should come up with a method whereby the seats concerned could be allocated in proportion to the percentages of votes won by candidates, I would be the first one to lend it my support.

Mr Deputy, I so submit.

THE CHAIRMAN resumed the Chair.

**MISS CYD HO** (in Cantonese): Madam Chairman, many people consider me a



beneficiary of the "proportional representation system". Actually, the Frontier has not gained any advantages. This is because I believe Miss Emily LAU and Mr LEE Cheuk-yan will win under whatever electoral systems. Miss Emily LAU has stood in three elections using three different voting systems. Still she managed to win in all those elections. The fact that I can sit in this Council is, for the Government, a surprise. It has been out of its expectation. But adding me to this Council can still be considered worthwhile compared to the fact that there will be a few less Members from the Democratic Party. I guess they will continue with this electoral method.

Madam Chairman, Hong Kong's electoral system is in fact like a concavo-convex mirror. A person who stands before the mirror will get mad because his appearance will look completely distorted. Yet those standing beside the mirror will laugh heartily on looking at his image in the mirror because he looks so ugly. We have three electoral systems. The Election Committee adopts a "block vote" system, the FCs adopt a "single-seat, single-vote" system, while the direct elections adopt a "proportional representation" system. This Council has only got 60 seats but there are three different electoral systems. Is it because there is a need to tailor-make different voting methods in light of the electorate base and candidates?

We have clearly pointed out earlier that we will support the "proportional representation" system if the whole Council is fully directly elected, with all seats returned by direct elections. This is because in so doing, we can safeguard the voices of the minority. But the biggest problem we are facing at the moment is such a dubious "proportional representation system" is utterly unfair. How can the Administration come up with the proportion of having only three seats in one constituency? Kowloon East and Kowloon West have each got three seats only.

Madam Chairman, I would like to quote the voting results of the previous election to illustrate the unfairness with the existing "proportional representation system". In New Territories East, Mr Andrew CHENG from the Democratic Party secured 84 800-odd votes while Mr Andrew WONG secured 44 300-odd votes. The difference between the number of votes in respect of the two candidates was two times. But finally, both of them got one seat. Was it fair? As for the Frontier, we got 101 811 votes. After the counting of votes, we were surprisingly given two seats. But we managed to beat Mr Allen LEE by having 1 700 more votes only for Mr LEE had got 33 858 votes. In other words, if we had 1 700 less votes, we could only get one seat with the 100 000

votes secured by us. But for Mr Allen LEE, he would be able to secure a seat by gaining 34 000 or so votes only. The "proportional representation system" we have at the moment is such a "fair" system!

But in New Territories West, it was an entirely different story. The voting rate for the Democratic Party was approximately 39%. It was extremely fair that it was given two seats. But as there were 11 lists of candidates, candidates at the back took away the votes one by one. If it happened in future that only six seats were left, the question of whether those candidates who finally secured a seat could get back their deposits would be in doubt. If we are to continue with this system, will a ridiculous situation arise in future that makes it necessary for the Government to forfeit a certain Member's deposit even though he is given a seat in this Council?

I have conducted another survey. Assuming all the 60 seats should be returned by direct elections, I have roughly formulated a proposal for the Government: 12 seats for Hong Kong Island, 10 seats each for Kowloon East and Kowloon West, 14 seats each for New Territories East and New Territories West. According to last year's voting rate, the Democratic Party will have 28 seats (it should continue to work hard before it can become the ruling party), and the Frontier will have six seats. We can then join hands to form a coalition government. In addition, the DAB will have 15 seats. This should be considered fair for its voting rate last year was about one fifth, or even one fourth.

However, the fact that there are three different electoral systems will, in some areas, give prominence to a certain voting method while belittling other areas. Piecing them together, this Council will fail to represent public opinion fairly because of such an "excellent" design.

Madam Chairman, it is not important whether one can become a Legislative Council Member. Likewise, it is not important for me whether I am a Legislative Council Member. I have only taken office for one year. I was previously not a Member. It does not matter even if I cannot sit in this Council in the coming Session. But the most important point is that public opinion should be represented fairly in this Council.

Thank you, Madam Chairman.

**MR GARY CHENG** (in Cantonese): Madam Chairman, in his speech earlier Mr Martin LEE talked about pro-communism. I think this has nothing to do with our debate on voting systems today. I do not wish to start an argument here. If we are to talk about pro-communism, shall we also talk about pro-Americanism? I will therefore stick to the original principle and discuss the issue of voting systems.

Miss Cyd HO has talked about the number of votes which she thinks is doubtful. I think every vote counting method is bound to have such problems. Apart from increasing the number of seats, we can also enlarge the size of the constituencies in order to solve the problem raised by Miss HO. However, I do not wish to talk about the demarcation of constituencies in the 1998 elections here. We can put it very simply that we need to weigh against the so-called depletion of vote values in the various voting systems and how to minimize the distortion of such values.

I must admit that even if the "proportional representation system" is adopted, there will still be a certain degree of distortion. It is only relatively smaller. To put it simply, if the "double-seat, single-vote" system is practised, there will be a distortion of vote values, that is, those who get a small number of votes will get a large number of seats. For the "single-seat, single-vote" system, like I said, there arises a situation where those who get a lot of votes will not be able to get any seat. We think that the "proportional representation system" is relatively better. For those who get more votes will get more seats and those who get less votes will get less seats. Should they get only a very small number of the votes, then they may not get any seat at all. Should they get a lot of votes, then they may get all the seats.

As Miss Cyd HO has just said, the DAB took part in the elections in all the districts of Hong Kong during the 1998 elections. We ran for the direct elections for the 20 seats in the Legislative Council. This makes good reference. We got a quarter of the votes and coincidentally, in the contest for the 20 seats, we had a quarter of the seats as well. So I would think that what

we should discuss is the issue of voting systems *per se*.

Thank you, Madam Chairman.

**MR JAMES TO** (in Cantonese): Madam Chairman, I do not wish to repeat the comments already made. Actually, I seldom discuss these political matters related to elections. As I said yesterday, this all boils down to a question of power and control. Why? The present electoral system will be reviewed in 2007. But it is something which we cannot decide on our own. I think the Legislative Council and the SAR Government are all unable to decide this themselves. So, to a certain extent, the idea of "Hong Kong people ruling Hong Kong" is not really realized. If the Central Government in Beijing should really let the Hong Kong people decide for themselves, it would do so only when they are dead sure of the outcome. Let us take a look at Taiwan. The President of Taiwan is elected by a "one-person, one-vote" system of over 20 million of its citizens. They chose LEE Teng-hui and look at the mess they are in. The question is: Can someone who loves his country be elected in a direct election? Mr DENG Xiaoping has raised this question a long time ago. If we in Hong Kong have direct elections for our Chief Executive, and Mr TUNG Chee-hwa can be elected, and people like Mr Martin LEE or Mr LAU Chin-shek are not elected, then things will be all right. Then the Central Government will not object to it. But if we have direct elections for the Chief Executive, the people may elect Mr TUNG Chee-hwa this time, but not the next, for public opinion is unpredictable.

Now that the sovereignty and territory of Hong Kong are returned to China, but the hearts of the people have not seen a similar change. The Chinese Communist Party knows this very well. If there are direct elections for the head of state in China, I can assert that none other than Mr LI Peng will be elected. Only when this result is secured will direct elections be permitted in China. But Mr ZHU Rongji would not be elected, because it will mess things up. Given the present state of affairs, one would have to pick Mr JIANG Zemin. So it can be seen that in terms of power control, direct elections will not work.

I have no idea what my Honourable friends in the DAB would say to this,

nor do I have any idea as to what Miss CHOY So-yuk or other Honourable colleagues of mine would think, but I do feel that should any party with sufficient breadth of mind secure a mandate from the people to rule, then it should gladly take up the responsibility to rule. I may have a lot of differences with Mr LAU Kong-wah on many issues, but this is an exception. Our opinions are very similar. At least Mr LAU would tell his party colleagues that they should think in this direction. I do not know what my friends from the DAB would think. If there are direct elections for the 60 seats in this Council, personally I would think that Mr IP Kwok-him would be elected; but the chances of Mr CHAN Kam-lam are quite marginal. I think many of the Honourable Members of the Liberal Party would be elected as well, provided they are willing to come out and stand for the elections. But they will have no alternatives for all the seats will be returned through direct elections. As to which party would rule together with which party, that is not my concern, for a ruling party or a coalition of parties rules on a popular mandate. A majority party should be allowed to rule. That will put into practice the belief that the people are the masters of their own house, and that the people of Hong Kong are really ruling Hong Kong. It does not matter if the Liberal Party and the HKPA will form a coalition to rule, though chances for this are quite slim. Chances of a coalition formed by the Liberal Party and the DAB would be greater. But that is not important either. All that matters is that a coalition government will rule, and if it rules well, then it will be allowed to stay in power. It is doubtful, however, that the Democratic Party will be able to get 60% of the votes in full direct elections. In the second direct elections, voters may not be happy with the government formed by the Liberal Party and the DAB, then they may turn to support the Democratic Party and the Frontier. So, I think political parties must have the breadth of mind and that they are really committed to ruling the territory.

Miss Christine LOH seems to be the first one among the leaders of the parties to say that she wants to rule the territory. She publishes a shadow policy address each year. However, I can only say with respect that hers is an average production which lacks in comprehensive thinking. Nonetheless, it is important for us to think along this line. I also hope that the Government will not harbour any thoughts that things will be all fine if they can withstand it. Things will not be necessarily so. The Central Government may have the back-up of the People's Liberation Army, the sovereignty and the power to veto

any attempt to amend the Basic Law, but can these resist the thoughts and cries of the people forever? These are the issues which I have pondered and I just want to share these with Members.

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, the amendment proposed by Dr YEUNG Sum aims at changing the existing "proportional representation" to the "single-seat, single-vote" system in the geographical constituencies, which is steadfastly objected by the Government.

When we proposed that the system of "proportional representation" be adopted for the first Legislative Council Election in 1997, we pointed out that in comparison to the "single-seat, single-vote" system which operates under the principle of "the winner takes it all", the "proportional representation" system, which distributes the seats according to the proportion of votes won, was better able in reflecting the will of voters. In fact, the "proportional representation" system has been widely accepted as a fair election system and adopted by many countries. I believe all Members can agree to that.

The Legislative Council Election in May 1998 was a very successful one with a record high turn-out rate. We really do not see the need to change this "proportional representation" system which is operating well. Besides, the Basic Law has already provided that the number of seats in the geographical constituencies will gradually increase, from 20 to 24 in 2000 and from 24 to 30 in 2004, and the ultimate goal is to have all 60 seats returned by direct elections. If the "single-seat, single-vote" system is adopted, there are bound to be substantial changes to the boundary demarcation of the geographical constituencies constantly, re-demarcating every time after an election. This will create tremendous confusion for the voters and Members. But the present "proportional representation" system does not suffer from such setbacks.

I have heard the speeches of Members very clearly. They are actually supportive of the "proportional representation" system but they feel that the

present operation is subject to certain restrictions which is unfair to some political parties. I have heard this point very clearly. But we have to consider the present situation of Hong Kong. We always talk about the need to give the people of Hong Kong the chance to participate in the political process and see the turn-out rate increase in every election. What is the purpose for that? It is to have more people participate in this process, to let them understand the meaning of elections to them. This is a process that they can participate in.

What we should do now is to strive for the early implementation of full direct elections. Miss Emily LAU said just now that she was afraid this wish would not come true in her life. I feel that we need not be so pessimistic. It all depends on our effort and we should do our best to strive for our goal. I have repeatedly said that there is a mechanism for this by the year 2007. Of course, we cannot assume beforehand how it will turn out but since there is the mechanism, we must make good use of it and take our destiny into our own hands.

By the same token, I feel that if the electoral system can follow this direction, keeping the "proportional representation" system all the way through, by the time when all the seats are returned by direct elections, this method can still be used and there is no need for any change. Given these, I think that it is appropriate and fair to adopt the "proportional representation" system in the geographical constituencies. I ask Members to vote against these amendments.

**CHAIRMAN** (in Cantonese): Dr YEUNG Sum, do you wish to reply?

**DR YEUNG SUM** (in Cantonese): Madam Chairman, I wish to thank all Members who have spoken on the amendment. I understand that all of us are very tired because we have been having meetings for three days. That is why even though there are not many Members in the Chamber, I would not claim a division. And since all of us have our own stands on the issue, I would think that chances are very slim for Members to change their stands even if they can all come together and hear what I have to say. Therefore, I would let Members go their own ways.

Having said that, Madam Chairman, I must express my strong dissatisfaction with the reply which Mr SUEN, the Secretary for Constitutional

Affairs, has just given. It seems that he is trying to convince Honourable Members that everything is going smoothly and we all just need to continue to work hard on that. He even said that we had to be masters of our own destiny. If the Secretary really believes in that, then the Executive Council, the Chief Executive and the Government should propose an amendment to the Basic Law to provide for the elections of the Members of the Legislative Council and the Chief Executive be conducted by the "one-person, one-vote" method as soon as possible. If he really believes that we can be the masters of our own destiny, then he should not be doing anything to slow down the pace of democracy and hinder the progress towards the fulfilment of our destiny.

Madam Chairman, about the "proportional representation" system which is currently in use, many of its supporters have talked about its advantages. We are proposing this debate because the "proportional representation" system does have its limitations when it is used in the present Council and it should not be adopted. This Council is already very fragmented in composition. There are the Election Committee, functional groups and also representatives from all sorts of sectors and groups. On top of these, there are demands for a diversified electoral system in direct elections. This is really not a proper thing. If in future all the seats in the Legislative Council are returned by direct elections, then the Democratic Party will accept the adoption of the "proportional representation" system in order that there will be a channel for the expression of different opinions in the Council. As a matter of fact, Honourable Members from the democratic camp who have spoken earlier did say that they would accept this in principle. But given this fragmented system comprising of an Election Committee and functional groups, there exist interests of many different sectors. If we are to make the direct elections more diversified, there is a risk that public opinions in the Council will fail to be focused and hence not be able to exert a checks and balance effect on the Government. The 20 seats in the Council returned by direct elections are small in number, and even if there are 24 such seats, the number is still small. If we are to make direct elections more diversified, it is impossible to make the expression of public opinion in this Council focused enough to exert a checks and balance effect on the Government.

Those Honourable Members who support the "proportional representation" system talked mostly about the advantages of such a system. I have been very careful in speaking, questioning only whether this model of election should still be used under the present system. The view of the



Democratic Party is that it should not be used. Instead, the "single-seat, single-vote" system should be used.

Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendments moved by Dr YEUNG Sum 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)

Dr YEUNG Sum rose to claim a division.

**CHAIRMAN** (in Cantonese): Dr YEUNG Sum has claimed a division. The division bell will ring for one minute.

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

Functional Constituencies:

Mr Michael HO, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr Ambrose CHEUNG, Dr LEONG Che-hung, Mr SIN Chung-kai and Mr LAW Chi-kwong voted for the motion.

Mr Kenneth TING, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Mr LEE

Kai-ming, Dr LUI Ming-wah, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr HUI Cheung-ching, Mr CHAN Kowk-keung, Mr CHAN Wing-chan, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the motion.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Miss Emily LAU, Mr Andrew CHENG and Mr SZETO Wah voted for the motion.

Miss CHAN Yuen-han, Mr Gary CHENG, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr David CHU, Mr NG Leung-sing, Mr CHAN Kam-lam, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Miss CHOY So-yuk voted against the motion.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 26 were present, seven were in favour of the motion and 19 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 25 were present, 13 were in favour of the motion and 11 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negated.

**CHAIRMAN** (in Cantonese): As the amendments moved by Dr YEUNG Sum have been negated, Dr YEUNG Sum may not move his new clauses 24A and 40A, as they are inconsistent with the decision already taken by the Committee.

I now put the question to you and that is: That clauses 10, 11, 26 and 32 stand part of the Bill. These clauses are the original provisions before Dr YEUNG Sum moved his amendments. 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.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, I move that clause 22 be amended, as set out in the paper circularized to Members.

*Proposed amendment*

**Clause 22 (see Annex III)**

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment 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.

(No hands raised)

**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 2 and 22 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.

(No hands raised)

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

**CHAIRMAN** (in Cantonese): This Committee will now deals with the parts of the Bill relating to "validly nominated candidates, and requiring the Returning Officer of a functional constituency 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".

**CLERK** (in Cantonese): Clause 20.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, I move the amendment to clause 20, heading before clause 30, and further amendments to clause 25, as set out in the paper circularized to

Members.

*Proposed amendments*

**Clause 20 (see Annex III)**

**Clause 25 (see Annex III)**

**Heading before clause 30 (see Annex III)**

**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.

(No hands raised)

**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 20 and 25 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.

(No hands raised)

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, I move that section 46A(4) proposed under clause 30 be further amended, as set out in the paper circularized to Members. This is a technical amendment

*Proposed amendment*

**Clause 30 (see Annex III)**

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment 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.

(No hands raised)

**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 proposal relating to "changing the election method of the Election Committee".

**CLERK** (in Cantonese): Clause 35.

**MR ANDREW WONG** (in Cantonese): Madam Chairman, since the Rules of Procedure stipulate that any proposed new clause shall be considered after the clauses of a bill have been disposed of, may I seek your consent to move under Rule 91 of the Rules of Procedure that Rule 58(5) of the Rules of Procedure be suspended in order that my proposed new clause 22A may be considered ahead of the remaining clauses of the Bill.

**CHAIRMAN** (in Cantonese): Mr Andrew WONG, as only the President may give consent for a motion to be moved, without notice, to suspend the Rules of Procedure, I order that the Council do now resume.

Council then resumed.

**PRESIDENT**(in Cantonese): Mr Andrew WONG, you have my consent.

**MR ANDREW WONG** (in Cantonese): Madam President, I move that Rule 58(5) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider my proposed new clause 22A ahead of the remaining clauses of the Bill.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Rule 58(5) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider Mr Andrew WONG's proposed new clause 22A ahead of the remaining clauses of the Bill.

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

(Members raised their hands)

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

(No hands raised)

**PRESIDENT** (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.

Council went into Committee.

### **Committee Stage**

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

**CHAIRMAN** (in Cantonese): New clause 22A Section added.

**MR ANDREW WONG** (in Cantonese): Madam Chairman, I move that new clause 22A, as set out in the paper circularized to Members, be read the Second time.

Before I proposed this new clause, the Committee was dealing with a motion proposed to incorporate clause 35 into the Bill. The object of this amendment is to delete clause 35 in its entirety, whereas clause 35 seeks to amend section 52 of the existing Ordinance. I am proposing a new election system to the Election Committee by introducing a new clause 52, therefore the original clause 35 has to be deleted and substituted by a new provision. But before the new "proportional representation list system" is to be implemented, there has to be a list nomination. Therefore, an item on the nomination of lists for the Election Committee must be added to the Legislative Council Ordinance to provide for the details.

Madam Chairman, just now in the debate on the "single-seat, single-vote"



system, I heard many arguments made, such as on the need to obtain the support of 10% of the members of the Election Committee before votes can be won. I think Miss CHOY So-yuk has made an interesting point just now because it is closely related to the amendment we are proposing. If we are to adopt the "block vote" system, and if someone gets support from 10% of the members of the Election Committee which is composed of 800 people, but if there are 401 people, that is to say, over 51% of the members, who do not give support to the candidate, then he will not be elected. I also wish to congratulate Miss CHOY So-yuk for being able to win in the election last time which adopted the "block vote" system. Had the election used the "proportional representation list system", and if Miss CHOY's name ranked first in another list, she would be elected if only she had a 10% support in the Election Committee.

I made a similar proposal when the Provisional Legislative Council was making the Legislative Council Ordinance to regulate the elections of the first Legislative Council. At that time, I did not get Members' support. My idea was if we could increase the number of seats in one constituency to 10, then it might give better play to the effect of "proportional representation list system". For if there were a greater number of seats, people with strong support would enjoy a greater possibility of being elected. Generally speaking, if there were three seats in a constituency, then that candidate would not be elected. Therefore, I think it is still acceptable when the number of seats is reduced to six. In the allocation of seats in the constituencies, last time we had four seats for Hong Kong Island, five for New Territories East and New Territories West, and three for Kowloon East and Kowloon West. As a matter of fact, it is difficult for constituencies with three seats to give play to the effect of "proportional representation". Although six seats are not quite enough, I think it is still acceptable, for we managed to achieve that effect when we used to have three, four or five seats in the past. When we have increased the total number of seats this time to 24, the number of seats in some of the constituencies will be increased to six. For the sake of consistency, it would be most desirable if we use the "single-seat, single-vote" system in all of the constituencies. If not, we can adopt the method used in the District Board Elections to have all the people of Hong Kong elect the members, without demarcating the constituencies, and then allocate the seats to the successful candidates. Then some of the small parties can be represented, no matter if they are green parties or some religious parties.

For the sake of consistency, I think I should also mention the labour sector.

This sector has three seats. We should use the "proportional representation list system" in its elections. However, I found out in the last election that if we should divide up a constituency with only three seats, that would not be too meaningful. Therefore, although we want to strive for consistency, under such circumstances, I am not prepared to move any amendment for the labour sector elections which uses the "block vote system".

I would like to urge Members to support my amendment to change the electoral system used by the Election Committee to that of a "proportional representation list system" because of the inner strengths, merits and attractions of the "proportional representation" system, that is to say, if you are convinced of these qualities.

Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clause 22A be read the Second time. Does any Member wish to speak?

**MR MARTIN LEE** (in Cantonese): Madam Chairman, I think we should give Mr Andrew WONG some moral support. I do not want to see no one rises to speak. What Mr WONG has proposed is in fact a very logical suggestion, but unfortunately, those political parties which support the "proportional representation" system will certainly not support his proposal of direct elections for the 24 seats. The reason is simple: the rules of the game are not as logical as the proposal made by Mr Andrew WONG. The parties will not support him also because their own interests are at stake.

The Democratic Party does not support this proposal because of another reason. We think that this arrangement does not strike us as holding an election at all. It is in fact another form of appointment system. This method is proposed because the Sino-British Joint Declaration stipulates that no Members of the Council can be appointed. It is because of this reason that the Democratic Party does not support Mr WONG's proposal.

In terms of logic, I think the HKPA and the DAB should give it their support. As for the Liberal Party, I think if there are only six seats, then it would be very difficult for Mr HO Sai-chu to win in the elections. But if Mr

Andrew WONG's proposal is adopted, then Mr HO may stand some chances.

**MR NG LEUNG-SING** (in Cantonese): The Basic Law has set out three different election methods. We will base our discussions on the amendments to our law in a reasonable and rational manner.

As to the question of which election method should be used as specified in the Basic Law, the amendment proposed by Mr WONG was seriously discussed in the Provisional Legislative Council in 1997. At that time, the Provisional Legislative Council passed the amendment proposed by Mrs Elsie TU and adopted the "block vote" system. In the last Legislative Council Election held in 1998, the operation and turn-out rate were both satisfactory and so were the results. Under the "block vote" system, voters must vote according to the specified number of candidates. This greatly helps increase the base number of votes and hence also raises the representativeness of those elected. One of the valuable experiences we got is that the results of the elections indicate that the situation of the so-called monopoly by political groups can be avoided.

The objective of using "proportional representation" in geographical constituencies is to get as much support from the voters as possible and to enhance the representativeness of those elected. The results of the Election Committee election of Members for the first Legislative Council also show that the arrangements made under the "block vote" system can achieve similar results. In these circumstances, plus the "single-vote" system which is presently used in the functional constituencies, we think that it would not be necessary to require all kinds of elections to adopt a similar system. Furthermore, there is no reason to believe that the adoption of different election methods in the elections in geographical constituencies and in the Election Committee will bring about an unacceptable negative impact.

Some people are of the view that a compulsory "block vote" system arrangement will limit the choices available to voters. As for the voters of the Election Committee, they come from four different groups and their numbers run to the thousands. According to figures at that time, the eligible electorate numbered at more than 140 000. They are charged with the duty of choosing Legislative Council Members from the Election Committee. Since the 800 members of the Election Committee had cast their votes, and more than 90% of them had cast all the 10 votes that they were entitled to, therefore they can be

expected to discharge their duty of casting six votes in the coming elections. I can therefore see no need to make any special changes.

Madam Chairman, I oppose this amendment.

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, the amendment of Mr Andrew WONG seeks to change the election method of the Election Committee from the "block vote" system to the "list voting system", which is strongly objected by the Government.

In 1997 when we scrutinized the Legislative Council Ordinance, Mr WONG put forward this proposal. The Provisional Legislative Council subsequently negated it and passed that the "block vote" system be adopted for the Election Committee election. In the 1998 Legislative Council Election, the arrangement went smoothly. We do not see the need to change this arrangement, in particular, under the Basic Law, the Election Committee election will only be employed again in the second Legislative Council Election and will be abolished afterwards.

We consider that this is not the right time to alter this arrangement, which is proven to operate well. According to our experience, most of the candidates entered the election in the capacity as independent candidates; hence it is also highly doubtful whether it is appropriate to introduce the "list voting system".

I call on Members to vote against this amendment.

**CHAIRMAN** (in Cantonese): Mr Andrew WONG, please speak to reply.

**MR ANDREW WONG** (in Cantonese): Madam Chairman, I wish to thank Mr Martin LEE and Mr NG Leung-sing for their speeches, for otherwise I would really feel that the debate is too silent. I think we ought to recall the history of the Election Committee. Before 1997, we adopted the "single transferable vote" system which required voters to make 10 choices. Then in the days of the Provisional Legislative Council, the Government moved a motion to change the voting system into "block vote" system to elect the first Legislative Council after the reunification. There was no compulsory element in it. In the past, Legislative Council Elections adopted a compulsory "proportional representation" system and the "single transferable vote" system. I lost in the elections last time, but the Government thinks that it is right. Now we can see that there are already some changes. The election method has been operating satisfactorily and people who got elected are sitting now in this Chamber. There is no doubt that this system works well. An election with 800 people participating is quite simple, but the question is whether the system itself can give full play to the essence of the "proportional representation" system. For we cannot have parts of the elections using the "proportional representation" system while other parts of the election not using it.

Of course, if we think that the "proportional representation" system is good and the "list system" is cannot be used in the Election Committee because the election held in the Committee is simple, then why can we not use the old "single transferable vote" system? If this is used, even though there are 800 people with different inclinations, their inclinations can still be seen. I only say that the present state of affairs is not logical, this is a mild way of expressing my dissatisfaction with it and I have not yet come to the stage of hurling invectives against it. I cannot help but doubt if there is really an electoral system which is really tailor-made for individual needs. I may as well turn to support the "list system", but Madam Chairman, that system will only benefit the political parties. It is clearly not to the advantage of independent candidates. Nonetheless, I am prepared to support it for the sake of the logicity and fairness of the entire system. Therefore, I urge Honourable Members, especially those from the Democratic Party, to discard their putting-on-a-show kind of stand. The Democratic Party is not in favour of the Election Committee, and so they are giving up this chance of improving the electoral system; this is to me quite a senseless thing to do.

I am aware that this is the last time that elections using this system will be held, for there will be no Election Committee next time around. So despite the fact that I know this amendment will not be passed, I would still introduce it in order that our system can be made logical.

Thank you, Madam Chairman.

**MR MARTIN LEE** (in Cantonese): Madam Chairman, Secretary Michael SUEN's argument sounds very odd to me. He said that the existing electoral system has operated smoothly. That I can agree. As Mr Andrew WONG has said, if 10 people are elected and all of them are sitting here, then it can be said of course that the system operates smoothly. If 10 of them are elected in this way and all of them die, that of course is not a good thing. We cannot say that there is no need for improvement. The Secretary also said that most of the candidates were running in their independent capacities. From what I see in the list, this is not the case. Six of the candidates belonged to political parties. During the election, the major parties acted in unison and divided the seats up like cutting up slices of a cake. Does Mr SUEN fail to see even that when it is so obvious? I am totally surprised by the remarks made by him.

Mr Andrew WONG would like to have the support of the Democrats. To be frank, this is not an election at all. There is nothing we can do about it. Some people think that if some amendments are made, then of the six people who get elected into the Legislative Council, one of them will certainly be someone from other than their own camp. But that is impossible.

**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.

(Members raised their hands)

**CHAIRMAN** (in Cantonese): I think the question is not agreed by a majority of 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 negatived.

**CHAIRMAN** (in Cantonese): Mr Andrew WONG, as the Second Reading of new clause 22A has been negatived, you may not move further amendments to clauses 30 and 35, as they are inconsistent with the decision already taken by the Committee.

**CLERK** (in Cantonese): Clause 30 as amended.

**CHAIRMAN** (in Cantonese): As clause 30 has been amended earlier, the question now is that the amended clause 30 stand part of the Bill. 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.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clause 35 stand part of the Bill. 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.

**CHAIRMAN** (in Cantonese): We will now deal with the proposal of drawing lots to designate 12 FCs which allows persons holding foreign passports to be nominated as candidates.

**CLERK** (in Cantonese): Clause 21.

**DR LEONG CHE-HUNG** (in Cantonese): Madam Chairman, I move that clause 21 be amended, as set out in the paper circularized to Members.

Madam Chairman, from the outset I oppose the idea of having people holding foreign nationality, being of non-Chinese nationality or with a right of abode in a foreign country, to take part in an assembly formed under the Basic Law in accordance with the Constitution of the People's Republic China. This is a very unusual arrangement and is rarely found in other countries. I cannot find a single assembly in the world which allows people of other nationalities to take part in its operation. It is unfortunate that the Basic Law stipulates that 12 seats or 20% of the seats in the Legislative Council can be held by people holding foreign passports or right of abode in a foreign country. Then what can we do? We can of course try to amend the Basic Law, and we support this idea. But to date we have not found any mechanism to amend the Basic Law. As the Basic Law cannot be amended, and as it clearly stipulates that 20% of the seats in the Legislative Council can be held by people holding foreign passports or right of abode in a foreign country, I think if we are to include 12 of such colleagues, then we must have a more open, just and fair way of electing them.

The Government is of the view that these people should be allocated to the functional constituencies (FCs) where it will be easier to take the idea forward. The question remains, however, that as the Government has said, 12 FCs have to be singled out, and that these constituencies should have more people who are



not Chinese nationals or people holding foreign passports. When the Government is asked to provide the exact figures and if it will make changes as time goes by or if changes will be made every year, then no answer can be given. The Government also said that no exact figures could be given. Under such circumstances, how are we to strive for an open, just and fair system? To be frank, I cannot think of any. I think a relatively open, just and fair system would be for the Chief Executive to draw lots to designate these 12 FCs. The Government has advanced many arguments against this proposal. One of them is that if an incumbent Member from a FC have the right of abode in a foreign country or if he is not a Chinese national, what should we do if the FC of this Member is not selected when lots are drawn? I do not think this would present any problem, for the relevant Member can simply renounce his right of abode in a foreign country at any time. If he really wants to serve Hong Kong and China, then why should he not be unable to renounce his right of abode in a foreign country or his foreign nationality?

The Government said that it would be difficult to draw lots. That I can agree. If the labour sector is selected, since it has three seats originally, then would this make it possible for 14 seats to be held by people holding foreign right of abode? Questions like these are technical in nature and I am sure they can be overcome. Of course, some people may think that drawing lots may sound somewhat gimmicky. It may indeed be so, but in the absence of a better option, this may still merit our consideration. The merit of drawing lots is that everyone will have to resign themselves to fate. Moreover, there are also people who say that since drawing lots sounds so gimmicky, is that what is called the "Mickey Mouse's method"? What does it matter if this is really the "Mickey Mouse's method"? Now that we are working hard to get the right to build a Disneyland theme park in Hong Kong, may be the "Mickey Mouse's method" would bring us luck. Who knows?

Madam Chairman, as a matter of fact, I raised this amendment during the days of the Provisional Legislative Council. At that time, my amendment was negated. The reason may be that at that time there were no democrats in the Council. Now that we do have some democrats here, and they are always striving for an open, just and fair system. I wish that we can devise a more open and democratic arrangement.

Thank you, Madam Chairman.

*Proposed amendment***Clause 21 (see Annex III)**

**MR MARTIN LEE** (in Cantonese): Madam Chairman, please allow me to talk about the history of this issue. When the Basic Law was being drafted, there was a member of the BLDC, Ms LIU Yiu-chu, who raised many times the point that Members of the Legislative Council of the Special Administrative Region should not possess the right of abode in a foreign country or have a foreign nationality. However, her point was rejected by Mr LU Ping every time when it was raised. Mr LU thought that the point need not be discussed. Then after the 4 June incident in 1989, the point was again brought up and it was accepted. But at that time, the BLDC thought that it would not be a good thing if Members of the Legislative Council were barred from holding the right of abode in a foreign country or have a foreign nationality. This led to the requirement that not more than 20% of the Members may have the right of abode in a foreign country or have a foreign nationality. Some people may ask how we can make things fair. As a matter of fact, there are not many people who hold the right of abode in a foreign country. So I doubt if there is any need to specify any requirement on that beforehand. On the contrary, it would be unfair if the Government is to designate the 12 FCs. But would it be better if lots are drawn? Actually, drawing lots is a matter of sheer luck and it is not a fair approach. Since people resign themselves to luck when lots are drawn, so it would not help things. Therefore, the Democratic Party will not support this amendment.

We can, however, make a requirement according to percentages. For example, if six out of the 30 FCs may have candidates holding foreign passports, then if after the elections are held, it would be fine if these six people got elected. But if there are eight people, then two people will have to volunteer to give up the seats. If no one wishes to give up their seats voluntarily, then lots can be drawn. We therefore think that there is no need to draw lots for the FCs, for this is not a very proper thing to do. Nonetheless, I would like to point out that the issue is in fact related to the 4 June incident. Had there been no 4 June

incident, this problem would not have existed. In other words, it will not matter what passports the Members hold. When I read the second draft of the Basic Law again, I found out that there was no Article 67 at that time. Therefore, I believe that it came into being as a result of the 4 June incident.

**MR LEE CHEUK-YAN** (in Cantonese): Members may be aware that the Frontier is not going to vote on this issue. However, I would like to talk about my own stand on it. Dr LEONG Che-hung said that he hoped that by setting up a system of drawing lots, it would be fairer. I would like to look at the matter from another perspective and I urge the Secretary to do the same, for this is quite a sensitive political issue.

A fact which cannot be changed is that there are 12 seats which are open to candidates who have a right of abode in a foreign country. We are well aware of which 12 FCs are involved. But I do not know if the Chief Executive or our Government has ever thought that they would be touching on some politically improper matters. Politics is a dreadful thing. It can allow foreign influence to slip quietly into the Legislative Council of Hong Kong. *(Laughter)* I am serious about this. The situation is very simple. As foreign influences know which of the 12 seats are open to candidates holding a foreign right of abode, then they can send people to stand for the elections of these 12 seats. If the proposal made by Dr LEONG Che-hung is passed, then their plans will be sabotaged. For if the method of drawing lots is adopted, it will be impossible to know in advance which 12 FCs will be selected. Hence it will be impossible to arrange people to run for the elections, unless it can be arranged to have candidates to run for elections in all of the 30 FCs. This will ensure that their candidates will be selected in the drawing of lots no matter how it is to be drawn. If this really happens, then we will have to see what the Hong Kong Federation of Trade Unions can do to resist the infiltration of foreign influences. At that time, foreign influences will be trying to slip into the labour sector. I hope the sector will be able to resist such attempts of infiltration. This can be averted if the drawing lots arrangement is used.

Just now we have a discussion on the subject of "pro-communism" and "pro-Americanism". But the issue we have now is no such issue of being "pro-communist" or being "pro-United States". It is about a naked reality of foreigners which is so obvious to everyone. For these foreigners, they have to be loyal to the country to which they belong. Anyone who becomes the citizen

of a country must swear allegiance to that country. On this issue of the infiltration of foreign influences, the crux of the question does not lie in which country should a person be loyal to as shown in the stand which he holds, it lies in which country he must be loyal in the first place. It will not be a rightful thing if he does not show his loyalty. Therefore, the Government should reconsider this very important point. Dr LEONG Che-hung was posing the question from a perspective of fairness. Although we are not casting our votes on this issue, I want to look at the question from another perspective so that we can consider whether to support Dr LEONG Che-hung's amendment from that new perspective, and that is, the important question of preventing the infiltration of foreign influences.

Thank you, Madam Chairman.

**MISS EMILY LAU** (in Cantonese): Madam Chairman, I am opposed to this stipulation in the Basic Law. The reason is that at the time when this stipulation was laid down, people who wished to stand for the elections had to renounce their foreign nationality. I was one of these people. At that time, many people said that one of the reasons for prescribing this requirement was to prevent some people from standing in the elections. Dr HUANG Chen-ya of the Democratic Party was one of these people. He was unwilling to renounce his Australian nationality. Our laws provide that only permanent residents of the territory can stand in elections. That of course is acceptable. If all those who stand in elections must not hold any foreign nationality, that again is acceptable too. But if the candidates for these 12 seats may possess foreign nationality, and if it is stipulated that these 12 people will receive the blessing of the Chief Executive upon approval from Beijing, then that cannot be said to be fair at all. It is more so unfair when these 12 people are all allocated to the FCs, that is, coterie within coterie. To me that is outright unfair.

I will not support the amendment moved by Dr LEONG Che-hung and that is for sure. The Frontier will not support any proposals related to the FCs. Madam Chairman, there is one thing which I think has really gone too far. That is: the Government knew very well at that time that some people were keen on standing for elections did have foreign nationality and so it allocated the 12 seats to those FCs which permitted holders to have foreign nationality. This compelled all those who wished to stand for direct elections to renounce their foreign nationalities in order to make themselves eligible for the elections. But

on the other hand, those who stood for elections in the FCs might do so and felt perfectly justified when they kept their foreign nationalities. As Mr LEE Cheuk-yan has said, even citizens of foreign countries may stand for elections. This only makes one doubt the rules behind the arrangement, the fairness of it and whether it is an honourable thing at all. Like I said before, the use of such means by the Government to tamper with the electoral system and to impose restrictions on the nationality of the candidates strikes me as nothing but blatant attempts to thwart the political aspirations of the democrats. It is an outright disgrace and shame!

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, the amendment of Dr LEONG aims at drawing lots to determine which FCs can become the 12 designated FCs. The Government objects to this amendment. Actually, from the Legislative Council Election in May 1998, we can see that a total of 25 candidates ran in the election through the 12 FCs. Out of these 25 candidates, 16 were non-Chinese nationals or had the right of abode in a foreign country. This is a rather high proportion, reflecting that designating those 12 FCs was a correct approach. So we feel that the present allocation method is more reasonable than drawing lots.

Dr LEONG Che-hung has also mentioned earlier that his proposed method of drawing lots would give rise to various problems; for example, a person who has drawn lots will not have the chance to participate in the second lot drawing, which is one of the problems. He has also said that if it so happens that the labour sector is chosen and is designated as one of the 12 FCs, since the labour sector has three seats, there may be 14 seats filled by non-Chinese nationals or persons with the right of abode in a foreign country. That is obviously a breach of the Basic Law. Dr LEONG has said just now that it is only a technicality that can be resolved. But I have no idea whatsoever how this can be resolved.

Two other Members have also touched on problems not directly related to this issue, such as foreign influence. But if there is really some foreign power who wishes to infiltrate into the Legislative Council, I believe they would target

at a Chinese national instead of their fellow compatriots because that would unlikely arouse any suspicion. Concerning the issue of "being blessed by the Central Authorities" as suggested by Miss Emily LAU, I should regard that as a misconception. Everyone knows that the returning of the 12 seats are explicitly regulated by the present Legislative Council Ordinance. The designation of the 12 seats has been provided by means of local legislation and by the Provisional Legislative Council through legislation. Now Dr LEONG also wishes to amend our current law by means of local legislation. Given the above reasons, I call on Members to vote against the amendment.

**CHAIRMAN** (in Cantonese): Dr LEONG Che-hung, please reply.

**DR LEONG CHE-HUNG** (in Cantonese): First of all, I would like to thank the many Honourable Members who have spoken just now. For if not, as Mr Andrew WONG has said, this would have been a very quiet debate.

I wish to respond to a few points which have been raised. On the issue raised by Mr LEE Cheuk-yan, I must admit that I have not thought so thoroughly on the issue as Mr LEE has done, but my concern is quite similar to his. I can see no reason why an assembly formed under the Constitution of the People's Republic of China should allow participation by foreign citizens or non-Chinese nationals. I am entirely baffled.

Mr Martin LEE has said earlier that drawing lots involves chances, but it is not a fair and just way of doing things. That I agree absolutely. But the fact is: now we are faced with only two proposals. One is drawing lots and that presents greater chances to the candidates. The other is to let the Government tell us which 12 seats, but that this arrangement will not apply to all other seats. As champions of democracy, what would you think? Which one is better? I urge Mr Martin LEE and all those from the democratic camp to think carefully on this point. Madam Chairman, I must say that even if they vote for my amendment, it will have no chance of getting passed. My only wish is that it will not be a disgraceful defeat.

I cannot quite agree to a point made by the Secretary earlier. He said that in the past elections held which foreigners were allowed to take part, out of the 25 people who stood for the elections, 16 were foreigners. This shows that

these 12 FCs indeed have a greater number of people who are foreigners. But the Secretary has not provided similar opportunities to other sectors, if he has, then the proportion of foreigners would not be so small. Madam Chairman, I think that such a proportion of candidates holding foreign nationalities under such circumstances is entirely without any logical grounds. I was not saying that you, Madam Chairman, were not being logical. I was saying that Mr SUEN was not being logical.

Lastly, I hope that Members can think carefully again. Even if they think that this proposal is not proper, I would still hope that they would give it some more thoughts. For there will be FC elections next time and Members may want to think about some other more open, just and workable ways.

Thank you, Madam Chairman.

**MR MARTIN LEE** (in Cantonese): Madam Chairman, I would like to discuss a point in logic with Mr SUEN. Actually, it seems to me that Mr SUEN has never studied any course in logic. He said that the 12 FCs picked by the Government had many people holding the right of abode in foreign countries. This is nothing but natural, for the Government permits them to stand for the elections without requiring them to renounce their foreign nationality.

On the other hand, I wonder why the Secretary is so smart as to make the other eight FCs entirely devoid of candidates holding the right of abode in foreign countries. Will he congratulate himself on his ability to make such a smart choice?

Lastly, I think the Secretary could have answered the question raised by Dr LEONG Che-hung in a much more ingenious way. He could have told us that the 12 seats were selected by drawing lots.

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

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

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by Dr LEONG Che-hung 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 not 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 negatived.

**CHAIRMAN** (in Cantonese): As the amendment moved by Dr LEONG Che-hung has been negatived, I now put the question to you and that is: That clause 21 stand part of the Bill. 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 who are present. I declare the motion passed.

**CHAIRMAN** (in Cantonese): We will now deal with the parts of the Bill relating to the cessation date for holding by-election for returning Legislative Council Members in the Municipal Councils FCs.



**CLERK** (in Cantonese): Clauses 1 and 45.

**MR AMBROSE CHEUNG** (in Cantonese): Madam Chairman, I move that clauses 1 and 45 be amended, as set out in the paper circularized to Members.

Madam Chairman, my amendments seek to show that the Government has handled the dissolution of the Municipal Councils in a manner which is not gentlemanly and is brutal. In the discussions which we have earlier, some Honourable Members have questioned whether it is a logical move to take.

I would like to draw Members' attention to a very important point in time and that is, at what time the two Municipal Councils are going to be dissolved. The Government suggests that it should be on 31 December 1999. But I would like to propose another date for your consideration, and that is, 30 June 2000. The fact that I have made this suggestion does not mean that I accept the dissolution of the Municipal Councils. Nor does it imply that I would accept the dissolution of the Municipal Councils on 30 June next year. I am only making an assumption. Suppose the Municipal Councils are really to be dissolved, which will be the most logical and normal date for it?

Should the Municipal Councils be dissolved on 30 June 2000, then many of the problems we face in the Bill will be gone. The reasons are: firstly, the Legislative Council will have ample time to deliberate on the relevant bill; secondly, the public will have ample time for discussion since there are different opinions among the sectors as to the reorganization of municipal services, sports, culture and the arts; thirdly, if this timetable is adopted, that is, 30 June next year, then there will not be worries as to whether the two seats in the Legislative Council currently reserved for representatives from the Municipal Councils should remain and continue. There will be no more worries over the dissolution of the relevant constituencies during the current Session of the Legislative Council and whether they are still representative of the interests of the voters when they discharge their duties in the Legislative Council. All these problems will not appear if the Government can be more open, that it knows what it is doing, and if the date of 30 June is taken on board.

What has the Government done instead? It has chosen the date of 31

December 1999. Then a host of problems start to appear and a lot of things have to be handled. First, in the deliberations on the Bill today, the Legislative Council is asked to accept the assumption held by the Government that the Municipal Councils will be dissolved, when, however, the Bill on the dissolution of the Municipal Councils is not to be examined until this October. But now we are asked to accept the assumption held by the Government that the Municipal Councils will be dissolved. In the Bill we are discussing, there are not even any pending provisions to provide for the introduction of two new FCs after the dissolution of the Municipal Councils. Now the Government is making the Honourable Members of this Council to accept something that they find hard to do so, and that is, to take the Government's assumption.

Second, the Legislative Council is asked to agree to a very bad precedent set by the Government, and that is: with regard to the term of office of any Member or any sector to which he belongs, if only the Government manages to get enough votes in the Legislative Council, then it can dissolve the constituency of any Member in the middle of his term of office or to abrogate that Member's seat, though the effective date may be slightly deferred. In other words, the Government is asking the Legislative Council to be its accomplice to help it do such things.

Third, the Government knows that it will have to deal with the issue of by-elections under such circumstances. Why? If the Municipal Councils are abolished on 31 December, the Government may tell Members that the abolition of the Councils does not mean that there will be no more voters, for the 100 members of the Councils in the voter register are still there. Even if the two Municipal Councils are abolished, there can be by-elections. This is what the Government may have in mind.

However, the Government is beginning to amend this Bill. Members may recall that the original Legislative Council Ordinance provides that should a vacancy arise in any seat four months before the termination of a term of office, no by-election shall be conducted. The Government is concerned about this issue of by-elections, bearing in mind the possibilities of vacancies arising during the period from January next year to the end of February. Therefore, it seeks to amend this Ordinance to stipulate that no by-elections will be held

should any vacancy arise from 1 January 2000 with regard to the two seats in the Legislative Council held by the representatives of the Municipal Councils.

Even if the issue of by-elections is properly dealt with, the Government needs to consider the issue of whether there should be members representing the Municipal Councils. In other words, should there be members representing the Municipal Councils when the Councils are abrogated? The argument which the Government holds is that these members should still hold their seats in the Legislative Council. Provisions on this should be laid down although they may not have much representativeness since the Municipal Councils and the electorates will have been dissolved by 31 December and that their status as members will come to an end. However, they still have their representativeness and they should retain their seats in the Legislative Council. I recall a few months ago, Mr SUEN explained in a panel meeting of the Legislative Council that the retention of these two Members was meant to create a better impression on the public, since basically there should be 60 Members occupying 60 seats in the Council. But actually the Government cannot find a better reason to explain why two Members may keep their seats. The Government needs to make a decision on by-elections on the one hand, and wants to retain the seats of the Members concerned on the other though they may no longer have any representativeness. Despite this, there still remains much tidying up work. And I am helping the Government with this. Should any vacancy arise after 1 January 2000, the Government may decide not to hold a by-election. But if a vacancy appears before 1 January 2000, then what should be done? What should the Government do if a vacancy appears on 28 December 1999? Should a by-election be held? If the Government decides to hold a by-election, since the Municipal Councils will soon be dissolved on 31 December 1999, the Government will have to ask the 100 people who may not yet be struck off from the voter register and those members of the Municipal Councils who can still vote, to elect one person in the by-election to represent them in the Legislative Council, though they will be no longer members of the Municipal Councils by that time.

This sounds very strange to me, for why is the Government not dealing with the period of time since the Bill is gazetted up to 31 December? What in fact is in the mind of the Government? I think it may tell us that it is not aiming at anything except preserving the rights. This situation may not happen in the first place. The two seats may not necessarily vacate by active or passive actions. Should a vacancy really appear, then the Government can decide on

how to deal with the matter. If a decision is made for by-election, the Government may hold a by-election from among the 100 people whose status is now reduced to a borderline between that of a council member and a non-council member. Moreover, a by-election is a good chance to select persons who hold similar views to the Government into the Legislative Council and become yes-men for the Government in the few months to come.

I am aware that the actions and stand of the Government are very firm. The Government understands that if the Legislative Council is willing to be the henchman for the Government, the two representatives of the Municipal Councils will gradually lose their representativeness as a result of the administrative decisions made by the Government. When their representativeness is lost, and when the Provision of Municipal Services (Reorganization) Bill is passed in October, there will not be any substantial meaning in holding by-elections. Administration-wise, if a by-election is required as a result of a vacancy which has arisen, more illogical consequences will be produced. So if the Government is determined to do it, then it should not cover up the matter and it should put it unequivocally that when after the Bill is gazetted, should any vacancy arise in these two seats as a result of any active or passive actions, then no by-elections will be held. Maybe the Government is concerned about the legal grounds in the Basic Law. For in so doing, it would mean that for a period of 11 months out of the entire 24 months' term of office, the two seats will remain vacant and no by-election will be held. It may be due to this reason that the Government hesitates to allow these two seats to remain vacant for up to 11 months. So it decided to draw the line at six months, that is, on 1 January. But drawing the line at 1 January will create a lot of administrative illogicalities.

Madam Chairman, I would like to expose the brutal measures which the Government has used in handling the issue by way of the amendment proposed by me. If the Government is really determined to dissolve the Municipal Councils, then the best and most convenient time would be 30 June 2000. But why does the Government deliberately choose another date? It is afraid of the uncertainties which may appear if the matter is allowed to drag on. Another reason is that the Government is of the view that it has arrived at a basis for co-operation among the various political groups. Such a basis can be seen in the debate held in this Council on 29 July last year. At that time, the Council was clearly opposed to the dissolution of the Municipal Councils and it was in favour of the "one Municipal Council, one department" proposal. Later on, the Government managed to secure sufficient votes. Many of our Honourable colleagues who saw clearly that the move was illogical and it would lead to

administrative problems and possible legal disputes, but nonetheless, they chose to take side with the Government. The move was not a good one. We were able to see clearly that there was an intentional disrespect for the Legislative Council on the part of the Government. Even if this is so, there needs to be some Honourable colleagues of this Council who are willing to follow the Government and act with it as partners to make this brutal move a success.

Let me quote one more example to show why I think that the Government has been using all sorts of means to play down the importance of the Legislative Council. In the Basic Law interpretation incident, the Executive Council decided on Tuesday that it would introduce a motion to the Legislative Council on Wednesday and expected that it should pass the motion. This makes many people feel that the executive authorities are not respectful of the Legislative Council. A better approach and one which would be entirely acceptable to the Government would be for it to inform the Legislative Council on the same day, that is, Tuesday, when the Executive Council decided on the interpretation issue. The Government should inform the Legislative Council that it would submit the papers to the State Council next Monday. The Legislative Council was expected to deal with and debate on the stand of the Government during the period from that day, that is, Tuesday, to the following Monday. This would be a much better approach. But what we can see from the many events taking place is that the Government was purposefully playing down the constitutional role of the Legislative Council and preventing it from playing its constitutional role. However, the blame does not rest on the Government alone, for part of the blame should go to the Legislative Council as well. For the Government can only succeed when the Legislative Council is willing to do so. Actually, the Legislative Council can discuss the matter with the Government if it is unwilling to do so. If the Municipal Councils are to be dissolved, it does not have to be on 31 December. What is the only reason for choosing 31 December to dissolve the Municipal Councils? It is because the term of office of the Members of the Municipal Councils will expire on that date. But there is an easy way to solve this problem; just extend their term of office to 30 June 2000 and things will be all right.

Madam Chairman, I wish to stress again that the reason I compare these two dates and my moving this amendment today is that I wish to express my opinion on the way the Government handles this matter. I am absolutely not accepting the dissolution of the Municipal Councils, nor do I accept the proposal

that the two Municipal Councils should come to an end on 30 June 2000. However, if the Government is determined to dissolve the Municipal Councils, that should be a more appropriate date instead of 31 December this year.

Thank you, Madam Chairman.

*Proposed amendments*

**Clause 1 (see Annex III)**

**Clause 45 (see Annex III)**

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

**DR TANG SIU-TONG** (in Cantonese): Madam Chairman, I agree with the criticisms which Mr Ambrose CHEUNG has made on the Government. When the fate of the Municipal Councils is still undecided, the Government is introducing the Legislative Council (Amendment) Bill to abolish our two seats. This is most regrettable. It is an act showing disrespect for the Legislative Council. I hope that the Government will not use this kind of "act first and report afterwards" kind of approach so often in future, for it will make Honourable Members feel disgusted.

However, I cannot agree with Mr Ambrose CHEUNG to set the cessation date for holding by-election from 31 December 1999 to the date when the Bill is gazetted. My objection is based on two reasons. First, the Provision of Municipal Services (Reorganization) Bill is still being scrutinized. The passage of that Bill depends very much on the discussions in the Legislative Council and it will come into force only after the Third Reading. If we propose to bring forward the date assuming that the Municipal Councils will be dissolved on 31 December, then we are only making a surrender. I cannot agree to that.

Second, even if the council scrapping bill is passed, the term of office of the members of the Municipal Councils has yet to expire by 31 December and there are still such Members in the Legislative Council. Even if anything

should happen to Mr Ambrose CHEUNG and I, two persons have to be found to take our place until our term of office expires. Therefore, I do not wish to support Mr CHEUNG's amendment, for this will deprive our colleagues in the Municipal Councils of the opportunity to become Members of the Legislative Council. So I oppose Mr CHEUNG's amendment. Having said that, I would still want to express my profound regret for the way the Government handles this matter.

Madam Chairman, I so submit.

**DR YEUNG SUM** (in Cantonese): Madam Chairman, I speak to support the amendment moved by Mr Ambrose CHEUNG. On behalf of the Democratic Party, I ask that it shall be put clearly on record that the Democratic Party strongly protests against the way the Government handles the bills concerning the Municipal Councils and the Legislative Council. This is nothing but executive hegemony.

In this Bill on Legislative Council Elections, we shall be dealing with some problems concerning the replacement of Members after the Municipal Councils are scrapped. While the relevant bill on the Municipal Councils has not yet been submitted to this Council for deliberation, the Government is pushing us to accept the abolition of the Councils as a *fait accompli*. How can this possibly happen under our legislative procedure? There may well be some Honourable colleagues who support the scrapping of the Councils, but they cannot possibly support the Government in terms of the procedure involved. We therefore want to put it on record that we strongly protest against the way the Government handles this matter.

Thank you, Madam Chairman.

**MR MARTIN LEE** (in Cantonese): Madam Chairman, it looks likely that this amendment will again be negated, for apart from the Democratic Party, all the other major parties are opposed to it. It may be that these parties are so sure of themselves that they think that when the two Municipal Councils are abolished, the two seats will be replaced by other new seats. They think that they will win these new seats for sure. The Liberal Party hopes to win one seat, and the DAB hopes to win two. And so they do not seem to care about the scrapping of the Councils at all, for they will still benefit from it. This is probably the mentality they have. If this is really the case, then they may regret once they stand for the elections. Although these are coterie elections, they are no easy elections to win. No political party can assert that it will win.

The way the Government handles this matter has made things very difficult for the two Honourable Members in this Council who represent the Municipal Councils. With the abolition of their constituencies, whom do they represent? The Sino-British Joint Declaration and the Basic Law stipulate that all the seats will be returned through elections. At least there should be some degree of representativeness. The forceful moves taken by the Government have made these two Honourable Members lose their representativeness, but they are allowed to remain as Members of the Council. Then what kind of legislators have they become? It will not matter very much if they are appointed Members. If they are appointed, they may claim that they are representing themselves. When they became Members of this Council, were they not representing the Urban Council and the Regional Council? But what are they representing now? Their wives? They may not necessarily be representing their own wives, for if their wives live on Hong Kong Island, there is a chance that I am the person who represents them. Therefore, I think that the move taken by the Government is not logical at all. It is imposed upon us. Mr SUEN seems to think that whatever he submits to the Legislative Council will be passed. If he wins again this time, then I really have to close my eyes and pretend that I can see nothing. And if I do this often enough, then I will get used to this kind of thing.

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



**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, in proposing this amendment, Mr Ambrose CHEUNG's purpose is, as he has just said, to take this chance to talk about something outside the scope of the amendment. I was looking at my watch while listening to him. His whole speech lasted 14 minutes 47 seconds. I heard every word and every sentence of his speech very clearly. I understand every word of it but when the words are linked up, I find that the gist has no direct relation with the Bill under discussion today, which is very clear.

He raised one question, which is why 31 December is taken as a watershed. But 14 minutes eight seconds into his speech, he gave the answer. He said that the statutory term of the two existing Provisional Municipal Councils shall not extend beyond the end of this year, that is, 31 December, and hence we take this date as the watershed. Mr Ambrose has clearly pointed out this idea.

Just now, Mr Ambrose CHEUNG and other Members have criticized the way that we handle the problems arising as a result of the reorganization of the two Municipal Councils and the way of the reorganization and the provision of services. I hope that Members will understand that we are dealing with many different proposals and although the approaches are different, the goal is the same. What do I mean? A Member has already said that for the sake of reorganizing the municipal services, we have drafted a bill which is now being scrutinized by a Bills Committee. We have held over 10 meetings and we hope that the work will move on and the bill be passed as soon as possible. Members should be aware that all the work is going on alongside one another. Today, the problems that we are faced with are unavoidable as they involve the arrangements of the seats of the Legislative Council. We have to pass this Bill as soon as possible so as to allow us to fully prepare for the second Legislative Council Election. Hence the time constraint does not allow us to postpone the discussion of the Bill, and thus the schedules cannot match totally. I recall that in several motion debates, question times or on other occasions recently, I have mentioned the mismatch of schedules, which is unavoidable. If we have adequate or ample time, and if we are not pressed with such urgency, we certainly hope that we could deal with everything in a concerted manner. But it is a pity that the situation does not allow us to do so. I wish to explain to Members here and also put it on record. We have no disrespect for the Legislative Council and we do not take Members as a rubber stamp, imagining

that all our motions will be passed by the Legislative Council. It would be wonderful if all motions tabled to the Council can be passed; and there would not be any disagreement between what Mr LEE Wing-tat said yesterday and what I believe — I think everyone knows what I am talking about.

Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Mr Ambrose CHEUNG, do you wish to reply?

**MR AMBROSE CHEUNG** (in Cantonese): Madam Chairman, just now the Secretary has said that most of what I have said is not related to the Bill in question. That is precisely due to the differences in perception of the issue from the perspectives of the Government and the legislators.

The Bill deals with the two new FCs, that is, about the question of whether the term of office of the two Members representing the Municipal Councils should be kept as it is and whether by-elections should be held when vacancies arise in these seats. These problems arise because of the Government's proposal to dissolve the Municipal Councils. There is a direct relationship between the two. The Government has made it clear that under the existing legislation for the Provisional Urban Council and the Provisional Regional Council, the term of office of the incumbent Members of these Councils will expire on 31 December. That is the only reason for adopting 31 December as a dividing line. If only the Government can propose a bill to extend their term of office, then the problem can be solved easily. If the Government can choose 30 June as the lucky date, then this problem can be overcome. There will be no need for the Legislative Council to bind its own hands to solve some hypothetical problems presented by the Government. No bad precedents will be set. There will be no worries about by-elections. Administrative continuity will be ensured. All these will not be problems any more. They will be solved satisfactorily.

As to the question of whether the amendment will deprive the right of the two Members of this Council representing the Municipal Councils in their attempt to nominate other representatives into the Council to fill any vacancy which may arise, I think that will have to depend on how the issue is made to appear and what it really is. If the Government thinks that there is in reality

sense in nominating candidates to become Members of the Legislative Council despite the fact that there may be no constituents and no Municipal Councils the next day after these Members have assumed office, and if there is still some substantive representativeness, I believe that there will still be people willing to join the Legislative Council. I also believe that the Government will encourage these people to do so. Why? Because in the few months to come there will still be a need for the Members to vote and votes will still have to be counted. This will go on no matter how lobbying is done, be it subtle persuasion or overt coercion. The Legislative Council will continue to play its role of deliberating on matters of public concern. But if it serves no substantive functions, then what will happen? If Honourable Members can join hands and are convinced that there is no need and it is not proper to dissolve the Municipal Councils and that they should be combined as "one Municipal Council and one department", then even if this amendment is passed, there will be no serious consequences. If the amendment is passed and if the clauses on allocating the two seats formerly held by the Municipal Councils to the Catering Functional Constituency and the District Council Functional Constituency are also passed, and if the bill on the Municipal Councils are not passed in October, I believe as a matter of proper procedure the Government must introduce a new bill to this Council at once to restore the two seats and to amend the relevant provisions on the "cessation date for holding by-elections". This explains very well why the Government has been saying that it will take steps in advance and that even if there is a mismatch in time, it will add these clauses into the Bill in order to allocate the two seats held by the Municipal Councils to the new FCs.

Madam Chairman, I wish to stress again that the Government could have kept the status of the Municipal Councils unchanged in the Bill and let them continue to exist. If the Provision of Municipal Services (Reorganization) Bill is passed in October, the Government may introduce a simple bill to this Council to deal with the problem of the existence or dissolution of the Municipal Councils. In this way, the problem can likewise be dealt with properly and will not become a thorny issue as described by the Secretary. Just now the Secretary has not answered my question of whether the voter register will still be kept after the dissolution of the Municipal Councils. Can voters on the register be allowed to vote in the by-elections? As a matter of procedure, how will the problem of a vacancy which arises in November or December be handled? Can the Secretary explain to us what will be done should a vacancy arise on 28 December because of some active or passive actions? What would happen by then if the Government does not support my amendment? Thank you, Madam

Chairman.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, Mr Ambrose CHEUNG has just raised a question. I hope Members will understand that the proposals in the Bill seek to make arrangements for the second Legislative Council Election to be held in September 2000, so all the parts in this Bill about election will only be effective when the election is held next year.

On the abolition of the two Municipal Councils, as pointed out by Members just now, the two Municipal Councils are not yet disbanded and still in operation. When this Council resumes in October this year, should the Bill that we table be passed, the two Municipal Councils will no longer exist after 31 December this year. It will only become a reality by then.

As Mr CHEUNG has asked earlier, what then if a vacancy arises on 28 December. Actually, this is the same situation as that we are now dealing with. As Mr CHEUNG has said, there will not be a by-election for any vacancies arising for any reason four months before the expiry of the terms of all seats in the Legislative Council. But if a vacancy arises one or two days before this period, a by-election will be held in accordance with the law.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr Ambrose CHEUNG 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 Ambrose CHEUNG rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr Ambrose CHEUNG has claimed a division. The division bell will ring for one minute.

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

**CHAIRMAN** (in Cantonese): Will Members please check their votes? If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Michael HO, Mr Eric LI, Dr David LI, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr Ambrose CHEUNG, Dr LEONG Che-hung and Mr SIN Chung-kai voted for the motion.

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Dr Raymond HO, Mr LEE Kai-ming, Dr LUI Ming-wah, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the motion.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr LEE Wing-tat, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr Andrew WONG, Dr YEUNG Sum, Mr Andrew CHENG and Mr SZETO Wah voted for the motion.

Miss Christine LOH, Miss CHAN Yuen-han, Mr Gary CHENG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr David CHU, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kuok, Mr CHAN Kam-lam, Mr Ambrose LAU and Miss CHOY So-yuk voted against the motion.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 27 were present, eight were in favour of the motion and 19 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 22 were present, nine were in favour of the motion and 12 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

**CHAIRMAN** (in Cantonese): As Mr Ambrose CHEUNG's amendment has been negatived, I now put the question to you and that is: That clause 1 stand part of the Bill.

**CHAIRMAN** (in Cantonese): 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.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, I move that clause 45 be amended, as set out in the paper circularized to Members.

*Proposed amendment*

**Clause 45 (see Annex III)**

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment 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): Clause 45 as amended.

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

(Members raised their hands)

**CHAIRMAN** (in Cantonese): Those against please 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 "the composition of functional constituencies".

**CLERK** (in Cantonese): Clauses 12, 13, 16, 42 and 44.

**DR LEONG CHE-HUNG** (in Cantonese): Madam Chairman, I move the amendment to para (za) in the proposed section 20(1) under clause 12, proposed section 20ZA in clause 13, paras (a)(xxvii) and (c) under clause 16, the deletion of proposed schedule 1E from clause 42, the amendments to paras (a)(ii), (h), (l)(I), (r), (s), (t) and (z) in clause 43, and the amendment to clause 44, as set out in the paper circularized to Members.

Madam Chairman, 24 hours ago this Council passed the Chinese Medicine Bill to put the development of Chinese medicine in Hong Kong on the right track. The Bill will enable Chinese medicine practitioners of a certain quality to be registered and ensure that they enjoy a certain social status. The Bill ends the century-old predicament which Chinese medicine has faced where its development is stifled. At the same time, the health of the public is protected. For those people of the Chinese medicine sector in Hong Kong, this is indeed an encouraging moment for them.

For a very long time Chinese medicine and Chinese medicine practitioners have lacked a legal status, but their contribution to the health of the public is undeniable. Now that Chinese medicine practitioners have been given a legal status, their voice should be heard in the legislative assembly. Therefore, the request of the Chinese medicine practitioners to have their own independent FC is very reasonable. In fact, they made a similar request a few years ago. Now they will soon have their own statutory registration system. It is therefore timely that this request is made again, for if the scrapping of the Municipal Councils is successful, vacancies will appear in some of the seats returned by the FCs. Unfortunately, the Government has allocated these two seats to the District Councils and the catering sector, rather than the Chinese medicine sector which the public recognized in the past and still does recognize as making enormous contribution to society.



Ever since the reunification, Madam Chairman, Chinese medicine has received a lot of attention. For two consecutive years, the Chief Executive has proposed in his policy address to make Hong Kong an international centre of Chinese medicine. Many people are hoping that Chinese medicine can become a driving force for the local economy. As a matter of fact, as an ancient art of therapy, Chinese medicine does have huge room and great potentials for development.

Over the past few months, Madam Chairman, this Council has held extensive discussions on the development of Chinese medicine. Honourable Members have shown their support for Chinese medicine. They have given a lot of valuable advice on the ways and means to develop Chinese medicine and to raise its international status. However, it is important to let people in the Chinese medicine sector have their own representatives and seats in the Council, for this will allow them to make contributions to the community as well as to their profession.

Yesterday, the Government made it clear in the Second Reading debate of the Chinese Medicine Bill that a registration system for Chinese medicine practitioners will be set up and in operation from the beginning of next year. By then the 6 000-plus practising Chinese medicine practitioners will become registered or listed Chinese medicine practitioners according to the requirements and terms of registration. Some Honourable colleagues are worried about what would happen if the Chinese medicine FC is set up but the registration system is not yet ready. I would think that this worrying too much, for it seems to me that every time when the Government is determined to do something, it would turn out to be a success.

Madam Chairman, I urge all Honourable colleagues who have lent their support to the development of Chinese medicine and are convinced that Chinese medicine does have a vital role to play in the health care system, and development of medical services and policies of Hong Kong to vote in favour of my amendment, so that the Chinese medicine profession can become an independent FC. Thank you, Madam Chairman.

*Proposed amendments*

**Clause 12 (see Annex III)**

**Clause 13 (see Annex III)**

**Clause 16 (see Annex III)**

**Clause 42 (see Annex III)**

**Clause 44 (see Annex III)**

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

**DR YEUNG SUM** (in Cantonese): Madam Chairman, I would like to talk briefly on why the Democratic Party is opposed to the amendment moved by Dr LEONG Che-hung. The Catering Functional Constituency comes into existence mainly because of the vacancy which arises after the Municipal Councils are scrapped. As we are opposed to the scrapping of the Councils, so we do not support the setting up of the Catering Functional Constituency. Now Dr LEONG proposes to replace the catering subsector with the Chinese medicine subsector, therefore we oppose it also because of this reason.

However, I wish to make it clear that we have nothing in particular against the Chinese medicine trade and the profession it is going to become.

**MR CHAN WING-CHAN** (in Cantonese): Madam Chairman, first of all, I wish to talk about the issue of the Chinese medicine practitioners sector. In my opinion, with the passage and coming into force of the legislation regulating Chinese medicine, the registration of Chinese medicine practitioners will become a reality in the foreseeable future. The long-standing popularity of Chinese medicine testifies its widespread acceptance in the community and that the public equally recognizes and accepts Chinese and Western medicines and treatments. Therefore, it is understandable that Chinese medicine practitioner groups and people within the sector are asking for representation of their interests in the Legislative Council and setting up their own FC. However, it does not follow that the Chinese medicine practitioners sector should necessarily

be independent from the medical sector.

Madam Chairman, I do not agree to Dr LEONG Che-hung's amendment. Although Chinese medicine and Western medicine are different medical systems, but taking into consideration their respective functions in society, they are not mutually exclusive. Besides, Western countries also accommodate alternative methods of treatment, such as the application of herbal medicine and plant extracts, natural therapy, massage therapy which is akin to physiotherapy, and even chiropractics and so on. It can be said that a diversification does exist. I do not come from the medical sector, but the terms that I have just mentioned are quite familiar to all of us. The public is picking the kind of medical treatment that they like and which in their opinion is effective. Therefore, for the sake of protecting public interest and keeping in line with the development of public health, different medical systems should have the sufficient breadth of mind to accommodate each other and avoid rejecting each other. So it is a reasonable move to incorporate the Chinese medicine sector into the Medical Functional Constituency. However, Dr LEONG Che-hung has withdrawn the relevant amendment and moved another amendment to replace the catering sector.

Madam Chairman, I wish to stress that the catering sector was a FC under the former Legislative Council since 1995. But later on when the Special Administrative Region of Hong Kong was reorganizing the seats of the first Legislative Council, the catering sector lost its status as a FC by a narrow margin since there was a long list of proposed FCs. What happened then and the amendment we have now runs like the following story: Once there were these people living in wooden squatter huts on the hillside. A storm came and they were made homeless. And there were also some people who used to live in apartments with three bedrooms and two sitting rooms, including a master bedroom. Now these people are asking for a duplex house. It is the same in reality. The sector is like these homeless people who have waited for years before they are housed by the Government. But their dream will not come true before the amendment is voted and the entire Legislative Council (Amendment) Bill 1999 is passed.

Madam Chairman, I understand that many sectors wish to have their own FCs in the Legislative Council to represent their interests. But as a matter of fact, there are only two new FCs. As demand exceeds supply, I think the Government has weighed all factors and proposes that the catering sector should be made a FC again. It is my earnest wish that Honourable colleagues would continue to lend their support to the proposal to make the catering sector a FC again and to have a seat in the Legislative Council. Changes should be avoided as much as possible, for they may lead to disorder.

With these remarks, Madam Chairman, I oppose the amendment moved by Dr LEONG Che-hung.

**MR JAMES TIEN** (in Cantonese): Madam Chairman, the Liberal Party supports the Chinese Medicine Bill. We do respect Chinese medicine and Chinese medicine practitioners. We think that Chinese medicine practitioners do have the professional standard required. However, as regards the proposal which Dr LEONG has made to set up another FC for Chinese medicine, we think that there is no difference between the work that practitioners of Western medicine and Chinese medicine do. They are all doctors seeking to help patients. There is basically no major difference between them. If we are to make so fine a distinction between them, shall we have different sectors for Chinese medicine practitioners, Western medicine practitioners, ophthalmologists, dentists, otorhinolaryngologists and internists? In fact, the number of FCs is limited. Take for example the FC which Mr Edward HO represents. There are architects, planners and environmental engineers in the same constituency. We may want to further delineate the FC, but the number of seats is not enough.

I agree very much with what Mr CHAN Wing-chan has said. In the former Legislative Council of 1995, the catering sector was a FC of its own and at that time Mr CHAN Wing-chan was its representative. Mr Martin LEE can rest assured that the Liberal Party is supporting the Government not necessarily

because it thinks that it will get the seat of the catering sector in the Legislative Council. Mr CHAN Wing-chan will get that seat for sure.

Madam Chairman, when the registration system for Chinese medicine practitioners put in place, we hope that the Government can consider incorporating Chinese medicine practitioners into the medical constituency, so that they can enjoy the right to vote in FCs.

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, the issue of FCs is a fundamental problem because there is no objective standard to determine FCs should be set up for what trades. The Government is not willing to spell out the relevant principles clearly, nor does it dare to consult public opinion. Now that there are so many sectors fighting for seats in the Legislative Council, if the Government is indecisive, then it may well let the public decide which sectors are more important. But the Government is not adopting this approach. Our party chairman Mr Martin LEE was simply being naive when he said that the Government would put everything up to public opinion to decide. To be frank, what the Government is doing is that it will put the matter up to public opinion when it finds the situation is favourable, and it will not do so when the situation is not favourable. Simple as that.

About Mr CHAN Wing-chan's speech, I find it quite sensible. It is because in 1995, the catering sector was made a FC. As for Chinese medicine and Chinese medicine practitioners, Honourable colleagues often say that they are very much concerned about these and they hope that the sector can prosper and do well. They also say that they will consider the Chinese medicine port proposal. Having said that, they will often say "but", that means despite all the things they have said, they would not necessarily agree to setting up a separate FC for the sector.

In my opinion, it is hard to determine the social function of a certain sector and the influence they have on society. In the process of selecting the sectors, some of Honourable colleagues have picked certain sectors while others made other choices. So it is very difficult to lay down a principle which is acceptable to all.

Just now when I was listening to Mr CHAN Wing-chan's speech, there

was one remark which made me feel very uncomfortable. Mr CHAN said that it was better to keep the things as they were and changes might lead to disorder. I do not agree to this. Had Mr CHAN said the following, then I would find it more acceptable, that is: If a change will bring benefits to me, then it should be made, if not, then there had better be no change. I think the debate will proceed more smoothly if this has been said.

**MRS SELINA CHOW** (in Cantonese): Madam Chairman, I am glad to see Mr LEE Wing-tat being so frank. People who get into politics are definitely like that: a change is welcome when it will bring benefit to themselves and they prefer to have no change when it will not bring them any benefits. I am sure everyone is thinking in much the same way, for people are not so noble and unselfish after all.

Actually I would like to talk about how the Chinese medicine practitioners should have their votes. Dr LEONG Che-hung insists to move this amendment and he has withdrawn another one. When these amendments were discussed in the Bills Committee, many Members who belong to political parties and those independent Members were not very much in favour of turning the two seats into uses other than those proposed by the Government. That is to say, they do not want to separate or split up any of the existing FCs. As a matter of fact, many Honourable Members do want to do so, but none of them are as bold as Dr LEONG Che-hung and Mr Howard YOUNG in moving amendments to seek to split up or replace the two seats other than the way proposed by the Government.

In my opinion, when a sound registration system is set up for the Chinese medicine practitioners, they should have their votes since they are professionals. For no matter how one wants to look at it, in any case they will be registered medical doctors. As a matter of fact, I have thought of discussing this problem but I do not have the chance, because Dr LEONG Che-hung has withdrawn the other amendment and the Government has no chance of moving its own amendment since we are opposed to it. I would like to make use of this opportunity to ask the Government or Dr LEONG, preferably Dr LEONG, for it is the Hong Kong Medical Council who requests him to withdraw his amendment, when and how can the Chinese medicine practitioners become voters? Will they become voters in the medical FC? What is the Government's stand on this?

We know that the proposal originally made by the Government is in fact not very sound. I am not trying to discuss the question of the Government being denied the chance to move its own amendment. I wish to talk about the background to this. There may be some problems with the original proposal made by the Government. For even if registered Chinese medicine practitioners are incorporated into the Medical Functional Constituency, there are 20 votes from Chinese medicine practitioners in the Election Committee. But this may not be the case in reality. I cannot say for sure that I would agree or disagree to this proposal, because there is no chance for us to discuss it in detail. I think we may have this feeling and that is, we do not have any chance at all to discuss it in detail.

Is there really a chance to incorporate registered Chinese medicine practitioners into the medical FC? The reason why I raise this question is that the Liberal Party is very much in support of this. We all know that it will be difficult to implement this in the coming elections because of the timetable. However, is the Government really going to do this? If so, when will it do it? Will Dr LEONG continue to work hard on this? How will he go about doing it? Is he for or against it? I hope they will answer these questions in their reply.

**MR LEE CHEUK-YAN** (in Cantonese): Madam Chairman, I wish to speak. The stand of the Frontier, the Hong Kong Confederation of Trade Unions and I personally are all very clear on this issue. That is, we do not support the elections of the FCs. We think that such elections will often lead to disputes in seats. Yesterday, many Honourable Members said that they were in favour of elections of the FCs. I would like to respond to that now.

Mr James TIEN complained yesterday that Members returned by direct elections did not come to the assistance of the business sector. I think one can look at the matter the other way round, that is, we can also complain why the business sector does not stand for direct elections. Should they think that Members returned by direct elections do not come to the assistance of the business sector, then it would be better if .....

**MR JAMES TIEN** (in Cantonese): Madam Chairman, a point of order. The question under discussion is the amendment moved by Dr LEONG Che-hung on the FC for the Chinese medicine sector, rather than on the replacement of

elections of the FCs by direct elections. Thank you.

**CHAIRMAN** (in Cantonese): Mr LEE, I was about to remind you that what you said had no direct relevance to the provisions in the Bill. Please speak later on an appropriate occasion.

**LEE CHEUK-YAN** (in Cantonese): Madam Chairman, they are relevant because voters in the catering sector are mainly businessmen and if we lend our support to the representatives from the catering sector who are mostly representing business interests, then we will be slanting in that direction. As a result, the comment made by Mr James TIEN yesterday that Members returned by direct elections did not come to the assistance of the business sector would have a point here. But actually Mr TIEN needs not worry, for there are too many people representing the business sector in the FCs already. I hope I can continue with my speech.

Talking about the comment that Members returned by direct elections do not assist the business sector, I would like to point out that in this Council there are as many as 30 seats returned by the FCs. Most of the Members come from the business sector. This is enough to upset the balance of the interests of Hong Kong as a whole, those of the employers and the employees, and those of the grassroots and the business sector. Mr James TIEN said yesterday .....

**CHAIRMAN** (in Cantonese): I know you can go on at great lengths on that topic. But I would like to remind you that you are beginning to sidetrack from the topic under discussion. Please continue.

**MR LEE CHEUK-YAN** (in Cantonese): Thank you, I will come back to the topic. Yesterday, Mr James TIEN also said that as Members from the labour sector had strived to gain a lot of rights, the garment factories had to be relocated. Therefore I would like to speak in response to this comment. It is relevant to the question under discussion.



**CHAIRMAN** (in Cantonese): Please explain how it is relevant.

**MR LEE CHEUK-YAN** (in Cantonese): I would like to explain to Members that I am discussing the issue of elections of the FCs and Mr TIEN was actually saying that I had fought for the labour sector 10 years ago and had obtained many rights for the sector, and this had caused the garment factories in Hong Kong to be relocated .....

**CHAIRMAN** (in Cantonese): There is a point of order, Mr LEE Cheuk-yan. We shall deal with that point of order. Mrs Selina CHOW, what is your point?

**MRS SELINA CHOW** (in Cantonese): Mr LEE Cheuk-yan said that we were discussing the issue of FC elections, but we are not supposed to discuss that topic. We are discussing Dr LEONG Che-hung's amendment.

**CHAIRMAN** (in Cantonese): Dr LEONG's amendment is about the replacement of the proposed Catering Functional Constituency with the Chinese medicine FC. Therefore, Mr LEE, please try to speak on that topic.

**MR LEE CHEUK-YAN** (in Cantonese): Yes, Madam Chairman. But the amendment is based on FCs. And I am discussing the issue of FCs. Therefore, I believe my speech is still within the scope of the topic under discussion.

**MRS SELINA CHOW** (in Cantonese): Madam Chairman .....

**CHAIRMAN** (in Cantonese): Mr LEE Cheuk-yan, please be seated. Mrs Selina CHOW, do you have a point of order?

**MRS SELINA CHOW** (in Cantonese): Madam Chairman, a point of order. May I ask if you could make a ruling on the point of order which I have raised?

Has Mr LEE Cheuk-yan deviated from the topic of discussion when he is debating on the topic of FCs? If so, should he focus again on the amendment moved by Dr LEONG Che-hung?

**CHAIRMAN** (in Cantonese): All right, I will make a ruling. What we are now discussing is about the Chinese medicine FC and the Catering Functional Constituency, but I know Mr LEE Cheuk-yan would very much like to discuss the issue of the behaviour and mentality of Members returned by FCs and direct elections of geographical constituencies. I think Mr LEE Cheuk-yan should not speak on these on this occasion. However, I would try to find an appropriate occasion for him to speak as much as he likes to.

**MR LEE CHEUK-YAN** (in Cantonese): Madam Chairman, please remember to find an occasion for me.

**MR LEE WING-TAT** (in Cantonese): I would like to speak on the amendment.

**CHAIRMAN** (in Cantonese): Yes, please do.

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, I would like to make a proposal to the Secretary for Constitutional Affairs for his consideration.

The amendment that we have today, that is, on the establishment of an independent FC for Chinese medicine practitioners, has only a very slim chance of getting passed. However, I agree with the analysis made by many Honourable colleagues that the Chinese medicine practitioners should be put in a FC. As a matter of fact, the Government has completed the amendment needed to include the Chinese medicine practitioners in the existing Medical Functional Constituency. The Government also thinks that its amendment is better than that proposed by Dr LEONG.

Yesterday, the Government used the derogatory word "confusion" to describe the paper prepared by the Legal Adviser of this Council. I was furious

when I heard this. The Government should have informed us about that a long time ago. If it is of the view that our amendment will cause "confusion", it should not have put the matter off and told us just one day before voting is to take place. This is showing a great disrespect to us. It is even more disrespectful to our Legal Adviser, Mr Jimmy MA. We have never forbidden the legal advisers from the Government to discuss with our Legal Adviser on the details and propriety of our amendment. It was only yesterday that the Government sent us a letter, pointing out that there was "confusion" in the paper prepared by our Legal Adviser. I am sure Mr MA would remember this word for a very long time to come. But unfortunately, he does not have a chance to speak. Having read this letter, I turned to look at Mr MA, to find his expression like a sour plum. Like Mr Martin LEE has said, I think this is an insult to Mr MA's professionalism.

If the Government thinks that there is any confusion, it should have told us earlier. In fact, the Bills Committee has discussed the Bill for two months and all the amendments proposed do comply with the procedures. Dr LEONG has complied with all the procedures required and submitted the amendment to the Government for its scrutiny. But all along it has not used the word "confusion" to criticize our amendment. This is the first point I wish to make.

Second, I hope that the Government should have the courage to undertake the moral responsibility in this matter. As the Government has completed the related amendment, it can submit the amendment to the Legislative Council when the new Legislative Session begins in October 1999. I assume and hope that there will be no objection from Honourable Members on the incorporation of Chinese medicine practitioners into a FC. The Democratic Party does not support FC elections, but we do not oppose the idea that Chinese medicine practitioners should become voters. Furthermore, the political parties in this Council, such as the Liberal Party, the DAB and the Hong Kong Federation of Trade Unions all have no objections to this idea. As for other political parties, I have not asked them for their views. I hope that the HKPA will not object to this as well. Then there should be enough votes to pass this amendment.

Yesterday, Mr Robin IP said that he was worried that even if this could be done, there would not be enough time to include the Chinese medicine sector into the voter register for the elections in 2000. I think this can be done. For if the Government proposes this amendment but no Bills Committee is set up in this Council — I hope this can be done though I do not know if this is possible —

then it will just take two or three weeks for those who hold some opinions on the provisions to scrutinize the amendment. After that, the amendment can be passed its three readings.

During the summer recess, the Government can indeed start drafting the scope and details of voter registration. This is not impracticable, for the Government has done that before. In dealing with some other ordinances, the Government has used the so-called parallel approach. In the scrapping of the two Municipal Councils, the Government has also used this parallel approach. But that is actually not a parallel approach, it has jumped the gun. So while the two Municipal Councils still exist, two seats will have been scrapped. However, I do not want to dwell on this point, otherwise I will sidetrack from the topic. In other words, this is possible from the point of procedures. If the Government is sincere about assigning Chinese medicine practitioners a FC, it will have the time to do so. The question is whether or not the Government has the sense of responsibility to fulfil the pledge it has made to the Bills Committee.

I hope the Secretary for Constitutional Affairs will tell us, in the reply he will give later, whether or not the Government will consider taking this approach.

Thank you, Madam Chairman.

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, Dr LEONG Che-hung's amendment seeks to introduce the new Chinese Medicine Functional Constituency to take the place of the Catering Functional Constituency, which is objected by the Government.

Before we propose the establishment of the new Catering Functional Constituency, we have considered very carefully and struck a balance among various points of view. The catering industry is a very important sector in the Hong Kong economy. We estimate that there are about 4 800 eligible voters in

this FC, with the total number of employees running to 200 000. Given the importance of this sector, we think that it is appropriate to establish this new FC.

As regards the Chinese medicine sector, it is a very important part of the whole medical system. Both the Chinese medicine practitioners and Western medicine practitioners serve the same target, and both of them are concerned about the health of the people. Although we oppose to the establishment of a Chinese Medicine Functional Constituency to replace the proposed Catering Functional Constituency, we think that it is appropriate to include the Chinese medicine sector in the Medical Functional Constituency.

Actually, Dr LEONG Che-hung intended to propose an amendment before yesterday, and Mr LEE Wing-tat also questioned why we tabled our amendment at such a late stage. Actually, everyone knows that Dr LEONG gave us a rather short notice about his intention to propose the amendment, and we only learned about it at the last minute. At that time, we also expressed categorically our opposition to the amendment.

Yesterday, I also explained that after we had learned about the preference of Members in their voting, we felt that the amendment might stand a chance of being passed, so at the very last minute, we proposed to add some points to explain the parts in the original amendment that had not been written clear enough. I already explained this yesterday and I wish to explain it once again today.

At that time, we hoped that the Bills Committee would support our proposal of the amendment and the President would dispense with the required notice because of Members' support and permit me to propose it. As I said yesterday, we had made such efforts but our proposal was not accepted by the Bills Committee and so the President did not grant me the permission. I also said yesterday that we respected Members' views and would follow their decisions.

Mr LEE and Dr LEONG both asked what the Government would do under this circumstance. We will consider this very carefully and find out as soon as possible the best way to include the Chinese medicine sector in the Medical Functional Constituency. I can assure Members that we will, in the shortest time possible, give the proposal the most careful consideration and then make appropriate arrangements.

Given this, I will continue to deal with the issue in this direction. We do not support Dr LEONG's amendment regarding the establishment of a Chinese Medicine Functional Constituency. Hence, I call upon Members to vote against this amendment.

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, I must respond to the Secretary on this issue. The Secretary has talked about the procedure involved earlier, and according to him, it seemed that they could only have a chance to look at the amendments after Honourable colleagues had moved their amendments within the specified timeframe. Of course, if we can submit our amendments before the deadline then he will be able to look at the contents of these amendments. However, I wish to tell the public as well as Honourable colleagues that the proposal made by Dr LEONG Che-hung was not made on the deadline for giving notice to move amendments. I must correct the Secretary in making the wrong impression. As a matter of fact, Mr Ronald ARCULLI, the Chairman of the Bills Committee, has been asking Members since May what kind of amendments they will move. Dr LEONG had made his intention known at that time. Therefore, had the Government agreed to that amendment in principle, it should have discussed it with Members.

Secondly, the Secretary was right when he said that they were not sure if it was due to indecisiveness on their part or that they might have other considerations that they had no intention to support Dr LEONG's amendment from the outset. They would count the votes. Just now they said that they did not have enough votes. I do not know the number of votes on which side they are thinking. Are they thinking of the possibility that the amendment moved by LEE Wing-tat on the cooling-off period will not secure enough votes or that the amendment moved by Dr LEONG Che-hung will not secure enough votes? We may assume that the Government has counted votes on both sides. When they were counting the number of votes in their favour, they thought that the number was quite enough. The result turned out that they lost by one vote, but on the whole, they won. The fact that they had said that votes were not enough makes one doubt what kind of things they were doing. Only they themselves can tell.

I wish to point out clearly that the procedures *per se* will not prevent the Government from doing anything. If there are really problems with the procedures, the Government had better request the Legislative Council to amend the Rules of Procedure so that they can have a longer time-frame within which

they can make a reasonable move to intervene and to advance reasonable opinions. Then these opinions can be merged with those of the legislators for the purpose of formulating amendments.

If the Government should handle matters the way it has been doing every time, no wonder Honourable Members would be so upset as they did in the Bills Committee yesterday. If an amendment is submitted on the final day for submitting amendments, then members of the Bills Committee will have no time at all to deliberate on them. This is not a proper procedure. And mind you, this problem is not solely confined to the Secretary for Constitutional Affairs alone, for other policy secretaries may have the same problem. I think we had a very bad example yesterday. Honourable Members of the Legislative Council were almost made to look like fools. It is fortunate that we did not agree to the Government's proposal.

May I ask why is the Secretary given this prerogative? Honourable Members of this Council also enjoy the same right to move amendments, but we stick to all the rules and we can move amendments only after giving a few days' prior notice. But the Secretary can move an amendment just one day before votes are to be taken. In fact, had the deliberations proceeded faster yesterday, votes would have been taken yesterday afternoon. And only in the morning that the Government submitted its amendment. How could such a ridiculous thing happen? Why can the Secretary enjoy such a prerogative?

Had the Secretary really wished to co-operate with us, then he should have notified us earlier. Therefore, there is no way he can wash his hands of it, not even with all the perfume of Arabia, as it were. People would surely suspect that some kind of exchange of political advantages is involved, though no one will ever know the truth. But the prestige of the Government is bankrupt once again. When the Government was counting the number of votes in its hands, and when it found out that it did not have enough votes to beat LEE Wing-tat's amendment, it turned to defeat him by another way, that is, by forcing other Members to strike a political deal with it. Had things been different, there would have been no need to use these tactics.

So to the best of my knowledge, there is nothing wrong with the procedures. It only so happened when the Government realized some problems after counting the votes that it turned to use some tactics which in my opinion were grossly unscrupulous. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): I would like to remind all Members once again, including Mr LEE Wing-tat, that the question under discussion is the replacement of the proposed Catering Functional Constituency by the Chinese Medicine Functional Constituency. So, Mr LEE, what you have said just now should be said later. I did not interrupt you then because I wished to save time. But still I would like to remind you that you should not repeat as far as possible what you have said when you speak later on.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, Mr LEE has made a very strong accusation against the Government, which is very unfair. I wish to take this opportunity to clarify it once again that the Government does not need prerogatives, neither has it requested any, as it totally goes by the Rules of Procedure. The Rules of Procedure permits us to request special leave from the President. The President indicated that she wished to make a decision after obtaining the consent from the Bills Committee. She did not grant us special leave afterwards. Had we got the leave from the President or she had granted us leave irrespective of the Rules of Procedure, then Members may say that we have a prerogative, but now I do not see we have any. We just followed the established procedure in the Rules of Procedure but we have not got the leave. Therefore, I hope that Mr LEE Wing-tat will withdraw his relevant comments.

Secondly, concerning whether there has been an "under-table deal", Mr LEE seems to hint that I have made an "under-table deal" with Dr LEONG. Mr LEE did not say that there was certainly such a deal but said that he did not know if there was any. I can very solemnly tell him that the counting of votes that I mentioned was carried out with respect to the amendment of Dr LEONG only and that had absolutely nothing to do with other amendments. I have to point this out once again very clearly. I do not wish to see such kinds of reports in future or anyone has the mistaken impression that there has been an "under-table deal", but in fact there is absolutely none. I have to say it once again here that there is not such a thing. I hope to put this on the record.

Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Dr LEONG Che-hung, do you wish to speak in reply?



**DR LEONG CHE-HUNG** (in Cantonese): Madam Chairman, I would like to speak a few words.

First of all, I had already pointed out when we were discussing the amendment on cooling-off period and I would like to stress again, please do not mention any "under-table" deals. No "under-table" deals have been reached between the Government and me on this issue.

I hold Mr CHAN Wing-chan in high respect. He said that the catering sector used to have a seat in this Council but it was taken away a few years ago and so he hoped that the sector could be given its own seat again this time around. I respect the idea that there should be a representative for the catering sector. However, it does not imply that no change can be made when there is a need for it.

Mrs Selina CHOW said earlier that two Honourable Members were bold. She was referring to Mr Howard YOUNG and me. She was right in saying that I am bold. Why? There are a few reasons for it.

First, I am bringing up the issue because I wish to bring hope to the Chinese medicine sector.

Second, the Secretary for Constitutional Affairs said just now there are a lot of people in the catering sector, some 4 800 people in it. With the launching of the registration system for Chinese medicine practitioners, there will be more than 6 000 voters, and there are of course many more patients behind them.

Third and also the most important point, the Chinese medicine sector has made this request before. Last time when we discussed this, we lost because we did not have enough votes. Now is the only chance they have to set up an independent FC successfully, for I do not expect them to have another chance of creating a new FC after this. Therefore, I hope Honourable Members can support my amendment.

Madam Chairman, I would like to speak in my capacity as the Chairman of the House Committee to the Secretary that I believe every Honourable colleague who moves amendments to this Bill has done so according to the time limit as specified in the Rules of Procedure. If the Government or other

Honourable colleagues think that there are any problems regarding the time limit, they should refer them the Subcommittee on Rules of Procedure and then to the whole Council for discussion, with a view to amending the time limit. As there is a prescribed time limit, we should stick to the rules. If we have done so, then we should be immune to any criticisms.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by Dr LEONG Che-hung 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)

Dr LEONG Che-hung rose to claim a division.

**CHAIRMAN** (in Cantonese): Dr LEONG Che-hung 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? I declare that voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Raymond HO, Mr Eric LI, Mr Bernard CHAN and Dr LEONG Che-hung voted for the motion.

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Mr Michael HO, Mr LEE Kai-ming, Dr LUI Ming-wah, Miss Margaret NG, Mrs Selina CHOW, Mr

Ronald ARCULLI, Mr CHEUNG Man-kwong, Mr Ambrose CHEUNG, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Mrs Sophie LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr LAW Chi-kwong and Dr TANG Siu-tong voted against the motion.

Mr HUI Cheung-ching and Mr FUNG Chi-kin abstained.

Geographical Constituencies and Election Committee:

Prof NG Ching-fai voted for the motion.

Mr Albert HO, Mr LEE Wing-tat, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr Gary CHENG, Dr YEUNG Sum, Mr LAU Kong-wah, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung and Mr CHAN Kam-lam voted against the motion.

Miss Christine LOH, Mr David CHU, Mr NG Leung-sing, Mr MA Fung-kwok, Mr Ambrose LAU and Miss CHOY So-yuk abstained.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 28 were present, four were in favour of the motion, 22 against it and two abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 21 were present, one was in favour of the motion, 13 against it and six abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negated.

**DR LEONG CHE-HUNG:** Madam Chairman, in as early as 1984, during the stage of the Basic Law Consultative Committee, I took the opportunity of working closely with some Chinese medicine practitioners to urge them to

seriously consider pressing the Government to introduce proper registration of Chinese medicine practitioners. This is to ascertain that "quack" will be excluded and the public be better protected. This move was supported by quite a few senior members of the medical profession. The misconception of the fact that Western medicine practitioners are against Chinese medicine practitioners is thus dispelled.

Nothing active took place due to unco-operation of the Chinese medicine practitioners groups. Yet, the stage is set for the future development of health care service to be a co-operation of Western medicine practitioners and Chinese medicine practitioners, each doing their part and yet working towards the same goal — 維護民康.

I have not stop this drive and in my subsequent election campaigns, co-operation of Chinese medicine practitioners and Western medicine practitioners has constantly been one of my platform: 這是中西合作，並非中西結合.

In 1989, Madam Chairman, an unfortunate incident happened — there was loss of life from the ingestion of wrong herbs. The Government woke up all too late that some control and regulation for Chinese medicine practitioners and Chinese medicine (herbs and patent medicine) was imminently needed. A working group was thus set up.

In the meantime, the Basic Law was promulgated and in it specified that Chinese medicine must be properly developed.

Chinese medicine started to assume importance in other parts of the world — notably Germany, the United States and Australia.

The recent Harvard Report on health care reform of Hong Kong has criticized that Chinese medicine is not given its proper place in the spectrum of health care in Hong Kong.

Western medicine practitioners are using Chinese medicine methods — acupuncture of various forms, herbal medicine for cancer supplement and so on. Some forms of co-operation between Chinese medicine practitioners and Western medicine practitioners appears to be already in the pipeline.

Only yesterday, Madam Chairman, the stage seems to be set for even better rapport. We have passed the Chinese Medicine Bill entitling the Chinese medicine practitioners a statutory registration. Is this another milestone for a further working relationship between these two groups of health care providers for Hong Kong medical service to develop?

Since the move to have a new functional constituency for Chinese medicine practitioners was defeated just now, perhaps including Chinese medicine practitioners into the Medical Functional Constituency may well be a way forward. Any disagreement amongst these two groups could well be solved before passing to the Government and to this legislature, and together, Chinese medicine practitioners and Western medicine practitioners could push for any health care reform fitted to this population.

But, Madam Chairman, it would be fool hardy to presume that life is always that rosy.

As a start, the Government is against this idea, initially stating that voter registration for Chinese medicine practitioners may not have taken effect yet, although the law is passed, and there would be no voters. Such, however, must be the prerogative of the Government who have the full responsibility to make the passed laws take effect. Let me remind the Government, too, that there was a former example of her own doing. In 1993, the Chiropractors Registration Bill was passed. In 1995, the chiropractors were placed into the Health Care Functional Constituency. Alas, until now, no voter exists under this category because the registration process has not yet taken effect.

Madam Chairman, my own constituents are even more vehement. Within a week of announcing my intention to include Chinese medicine practitioners into the Medical Functional Constituency, objections were heard loud and clear. Regrettably, those who support the issue belonged to the silent overwhelming majority.

Whatever the reasons behind these groups of opposition are, be it political or otherwise, they are unknown. The benefit of the wider context of Chinese medicine practitioners and Western medicine practitioners working together for the common good was conveniently forgotten. Instead, it was blurred by the uncalled fear that thousands of Chinese medicine practitioners could come to

Hong Kong, swamping the voter registration and thus the western medicine practitioners; the fear that untrained, untested, unvetted personnel are allowed to stand as partners with Western medicine practitioners, and more, disregarding the fact that a law is now in place to stringently control the registration of Chinese medicine practitioners basing on an acceptable practising standard.

The whole principle, Madam Chairman, of Chinese medicine practitioners and Western medicine practitioners working side by side to push for a proper and effective health care reform is thus shattered.

If the whole movement is a political motivated one against myself, I am more than willing to swallow and bear the consequence. Regrettably, the whole issue has led to widening rather than closing the gap between Western medicine practitioners and Chinese medicine practitioners. Years of work in establishing the very difficult and seemingly improving partnership is now down the drain. Why? Why has this to happen?

Madam Chairman, with a heavy heart, and the greatest sadness, I have to withdraw this amendment for three reasons:

- (1) Adverse reaction and discontent from a sector of my constituents;
- (2) The request from the Hong Kong Medical Association Council to withdraw my amendment; and
- (3) The worry that if I insist on bringing the amendment forward and do pass (which is very likely), further conflict between Chinese medicine practitioners and Western medicine practitioners may escalate, and which is to nobody's interest. In fact, the recent loud opposition noise from the Western practitioners has already sent a wrong message to the Chinese medicine practitioners. Some of them were so annoyed that they said, "We do not value the joining of Medical Functional Constituency."

To the Chinese medicine practitioners, I sincerely apologise and thank them for their indulgence. Many have gracefully given me their mandate to move one way or the other.

Madam Chairman, the trouble is not over by any degree. The

Government at the eleventh hour attempted to introduce a similar amendment to this Bill, similar to what I have put up. Whatever is the reason behind it must be for the Government to explain. Regrettably, sinister accusation against me has come from many sectors, including colleagues from this Council, accusing me of horse-trading with the Government; accusing me of dirty plan and that knowing the Government will introduce the amendment, I conveniently withdraw mine as a show.

This is downright unfair, a humiliation to my integrity. I have categorically stated my reasons for withdrawal, nothing more and nothing less. And that my decision, Madam Chairman, would not be deterred by whatever decision you, Madam Chairman, made to the Government's proposal.

But is there a silver lining behind any dark cloud? Madam Chairman, as an optimist (you better be one as a legislator), I always believe that there is always one. The introduction and withdrawal of my amendment, though heavily upset a lot of people within and outside this Chamber, could bring on a few lessons to be learnt:

- (1) There is still a lot of misunderstanding and conflict between the Western medicine practitioners and Chinese medicine practitioners.
- (2) Politics is a complicated and an ugly issue that, irrespective of your sincerity, if you could be used in any occasion as a political pawn, you will be so victimized.

How do we solve this saga, this conflict to bind the health care providers in moving our health care forward?

- (1) I do hope that if the Government is sincere in pushing for the Chinese medicine practitioners to join the Medical Functional Constituency, the Government should bring an amendment bill to this effect after summer recess. Hopefully, proper discussion and after a cooling down period will lead to better consensus amongst the medical profession.
- (2) The medical profession should show a wider vision to achieve the best health for all.
- (3) The Chinese medicine practitioners should not take this incident as a discrimination of Western medicine practitioners against them.

Instead, it is a lack of understanding which we all should attempt to improve.

Madam Chairman, if my withdrawal of this amendment upset many people, I do sincerely apologize. Definitely, it has upset many Members of this Council because they will have no chance to speak and to show their support or otherwise to the Chinese medicine practitioners. No doubt, the Chinese medicine practitioners will be the group to lose most, for with the failure of obtaining an independent functional constituency and now with my withdrawal of the amendment, they are left with no functional constituency voice in this legislature. To them, it is sans hope, sans faith and sans everything.

If my intention to introduce this amendment upset some people, and obviously it did, I send no apology. Ever since my very first taste of the health care system of Hong Kong, ever since I embarked on public activities to fight for my ideal in future health care for Hong Kong, it has been my vision, and I have worked hard for it, that there should be a non-compartmentalized health care structure where primary, secondary and tertiary health care runs in a continuum, where private Western medicine practitioners run side by side with their public counterparts, and where Western medicine practitioners work in partnership with Chinese medicine practitioners for the best interests of the patients whom we serve.

Now when this aim is only a step away from the finishing line, helplessly, I have to damage my own dream like castle in the air. How disheartening!

Actually, Madam Chairman, who wins and who loses? Madam Chairman, I suspect that we all lose, in particular, the medical profession that I honourably represent.

With these remarks, I withdraw my amendment.

**CHAIRMAN** (in Cantonese): Honourable Members, I believe there may be some colleagues who wish to speak on this matter. However, since Dr LEONG has withdrawn his amendment, according to our practice, we shall not proceed to a debate on this. Honourable Members may speak on this when we come to page 71 of the script on "Clause 13 as amended". Since Dr LEONG's original amendment is related to clause 13, Honourable Members may speak as much as they want on the issue of the withdrawal of Dr LEONG's amendment if they so wish when we come to that part of the script.



Please now turn to page 59 of the script. We will now discuss Miss Christine LOH's amendment to include veterinary surgeons in the Medical Functional Constituency.

**MISS CHRISTINE LOH:** Madam Chairman, I think you instructed us to look at page 59, do you accept my moving the amendment now?

**CHAIRMAN:** Yes.

**MISS CHRISTINE LOH:** Madam Chairman, thank you, I move my revised amendment to proposed section 20H in clause 13 as set out in the paper circularized to Members. Madam Chairman, I appreciate this opportunity to speak to Members on why I wish to include veterinary surgeons in the Medical Functional Constituency.

The word "medical" does not cover only one kind of animals, and that is, the human being. I believe that there are many medical practitioners who, through their training, should come under the Medical Functional Constituency. I believe that the only reason why people have any hesitation is that they regard the human being as a higher form of animals and other kinds of animals as a lower form. They are unused to treating the medical practice and medical practitioners as putting together those who treat people with those who treat other forms of animals. I recall maybe about six or seven weeks ago, at one of the more casual discussions I had with the Secretary's team in the Ante-Chamber. I asked what really was the objection to including veterinary surgeons, and I got the distinct impression that it was simply because they thought that doctors for people and doctors for animals were not quite the same thing.

I hope that I will be able to convince Members that there is another way of looking at qualifications, and that is to look at their training and practice. If we agree that veterinary surgeons are medical practitioners and they have had medical training, except they do not treat human beings, but other forms of animals, perhaps it is easier for people to consider that this is a proper place to

put veterinary surgeons. Also, we do have the Veterinary Surgeons Registration Ordinance, and there are currently about 160 registered practitioners. So, we do not have a problem of identifying the proper persons for inclusion.

I expect that my amendment will lose from a casual survey on how people are going to vote. I would like to endorse Dr the Honourable LEONG Che-hung's call just now that if the Government is serious about including Chinese medical practitioners in the Medical FC, that they should bring back a bill for further discussion. If they do that, I would also ask them to consider including chiropractors and also veterinary surgeons in one bill so that we can have a fresh look at all these issues once more. Of course, we remember the last discussion on the Legislative Council Bill in 1995 about the inclusion of only 44 chiropractors. I was stunned at that time by Dr LEONG Che-hung's and the medical profession's pressure for exclusion of again clearly a group of medical practitioners who are practising medicine, and this time, on human beings.

So, that is really my one point, that for veterinary surgeons, this is the right place for them to be in. I believe that the Government has said before that they had considered perhaps there were other more appropriate places to put veterinary surgeons, perhaps in the Agriculture and Fisheries Functional Constituency or the Health Services Functional Constituency. And in both cases, they decided against it. Well, of course those are not the proper places. So, what is the proper place? I think the proper place is here, with the Medical Functional Constituency.

*Proposed amendment*

**Clause 13 (see Annex III)**

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

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

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, the Democratic Party agrees to the proposal made by Miss Christine LOH.

During the Bills Committee's deliberations, Mr Robin IP answered members' questions on behalf of the Government. We asked to which functional constituency (FC) should veterinary surgeons belong. At first, Mr IP thought they should belong to the Agriculture and Fisheries Functional Constituency. Veterinary surgeons have nothing to do with agriculture; as for fisheries, they seldom treat fish, nor do they know how to catch fish. Veterinary surgeons treat dogs and cats, while some of those veterinary surgeons overseas even treat elephants. In Hong Kong, it seems that veterinary surgeons do not treat fish, so the Agriculture and Fisheries Functional Constituency does not seem to be a suitable constituency for them. So Mr IP's reply was incorrect. Then we thought about the Medical Functional Constituency to which Dr LEONG Che-hung belongs and the Health Services Functional Constituency to which Mr Michael HO belongs. During the discussions, I agreed with Miss Christine LOH's analysis that all veterinary surgeons had received formal training and passed rigorous qualifying examinations and they were required to possess professional competency. The issue would present little difficulty if it cropped up in a foreign country. But in Hong Kong, we may have to make some other special considerations, such as veterinary surgeons are not accepted by some professionals. Having said that, we are still of the view that from a professional perspective, veterinary surgeons should be included in the Medical Functional Constituency.

Thank you, Madam Chairman.

**MR MARTIN LEE** (in Cantonese): Madam Chairman, we all know that we would consult a Western medicine practitioner if we have a headache, hypertension, cardiac troubles or kidney disease. If we have a bone fracture, then we have to decide whether we should consult a Western medicine practitioner or a Chinese bone-setter.

Recently I have a problem in my neck. When I was treated by a Western medicine practitioner, I had to use a neck brace over a long period of time. But my problem was gone after two treatment sessions by a chiropractor. How does it relate to veterinary surgeons? If the pet owners really love their pets, it will make their heart ache to see their puppies or kittens get sick, but Western medicine practitioners cannot treat such kind of heartache, only a veterinary surgeon can help.

I agree with what Miss Christine LOH has said. Not only those who treat human beings should be incorporated into the Medical Functional Constituency. After careful consideration, the Democratic Party has come to the view that veterinary surgeons should be incorporated into the Medical Functional Constituency and be qualified as voters. If Chinese medicine practitioners are included, then chiropractors should be included as well. In this way, all kinds of people in the medical field can come under one single FC. We are therefore in support of this amendment.

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, the Honourable Miss Christine LOH's amendment seeks to add veterinary surgeons registered under the Veterinary Surgeons Registration Ordinance to the existing Medical Functional Constituency. For reasons just mentioned by many Members, the Administration opposes to this amendment. Apart from the fact that those in the trade are not very enthusiastic about the amendment, the main reason for our objection is that the work of veterinary surgeons, as mentioned by Miss Christine LOH, is entirely different from that of the two groups of electors in the Medical Functional Constituency. The patients of registered medical practitioners and dentists are human beings while the patients of veterinary surgeons are animals.

Miss Christine LOH has just asked if veterinary surgeons are not included in the Medical Functional Constituency, then which is the more appropriate FC for veterinary surgeons. I think we have to carry out a more extensive consultation before we can make a decision on this issue, but at this point the Administration opposes this amendment.

**CHAIRMAN** (in Cantonese): Miss Christine LOH, do you wish to reply?

**MISS CHRISTINE LOH**: Madam Chairman, I think I heard the Secretary say that the industry is not in favour of my amendment. It is really quite surprising that the industry has not even bothered to give me one phone call or write me one letter. Obviously, when we propose to include the veterinary surgeons in the industry, they of course have been lobbying hard for my amendment to

succeed. Perhaps we see one thing, that the very powerful people in the senior ranks of the western medical profession, who had put such terrible pressure on Dr the Honourable LEONG Che-hung to withdraw his amendment, are the same people who did not even bother to give me a call, to lobby me and tell me why my amendment is unsuitable. Instead, perhaps just one phone call to Mr SUEN, the good Secretary, is sufficient.

And of course the good Secretary still, I think, harbours a rather old fashioned idea of different types of animals, human and others, rather than concentrating on the nature of the work. If he thinks that if the work on human body is a kind of medical practice, but on anything else, it is not, then I would very much like to urge the Secretary to reconsider his position.

Now, of course, when a lot of people think about veterinary surgeons, they think of dogs and cats, they think these are little pets. So, they would think how people who treat dogs and cats can possibly be ranked in the same way as doctors who treat people. But actually, this just shows their ignorance of the training of veterinary surgeons. Indeed, I think that we do not use enough of their expertise to improve our food safety and food handling systems. A lot of the experience of how to handle food — you are all meat-eaters here, we owe a lot to veterinary surgeons. So, there is no complete divorce between animals and people.

I do not think that I will be able to convince the Government to support me. I just hope that Members of this Council will rethink in the last moment whether they would support my amendment.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by Miss Christine LOH 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)

Miss Christine LOH rose to claim a division.

**CHAIRMAN** (in Cantonese): Miss Christine LOH has claimed a division. The division bell will ring for one minute.

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

**CHAIRMAN** (in Cantonese): Members may wish to check their votes. Are there any queries? If not, the result will now be displayed.

Functional Constituencies:

Mr Michael HO, Dr Raymond HO, Mr LEE Kai-ming, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr Ambrose CHEUNG, Mr SIN Chung-kai and Mr LAW Chi-kwong voted for the motion.

Mr Kenneth TING, Mr Edward HO, Mr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr HUI Chueng-ching, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Dr LEONG Che-hung, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the motion.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr LEE Wing-tat, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss Christine LOH, Dr YEUNG Sum, Mr Andrew CHENG and Mr SZETO Wah voted for the motion.

Miss CHAN Yuen-han, Mr Gary CHENG, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr David CHU, Mr NG Leung-sing, Prof NG

Ching-fai, Mr MA Fung-kwok, Mr CHAN Kam-lam, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Miss CHOY So-yuk voted against the motion.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 26 were present, eight were in favour of the motion and 18 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 23 were present, nine were in favour of the motion and 13 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

**MR HOWARD YOUNG** : Madam Chairman, I move the amendments to para (zb) in the proposed section 20(1) in clause 12, proposed sections 20O and 20ZB in clause 13, paras (a)(xxviii) and (d) in clause 16, paras (a), (h), (l), (p), (q), (r), (s), (w), (x), (y), (z) in clause 43, the deletion of para (t) from, and the addition of para (xa) to clause 43, and the amendment to clause 44, as set out in the paper circularized to Members.

**MR HOWARD YOUNG** (in Cantonese): Madam Chairman, on behalf of the hotel sector in the Tourism Functional Constituency I move an amendment to propose the setting up of a FC for the hotel sector in the Legislative Council. As early as in 1991, when the Tourism Functional Constituency was not yet established, the hotel industry had expressed its wish to have a FC of its own in the Legislative Council. The reason was that although there were only 90 hotels in Hong Kong, the amount of investment involved was enormous. At present, the amount of money invested by the hotel sector in Hong Kong exceeds \$130 billion. 30% of the money spent by tourists here is on hotel accommodation and related expenses. The relevant total consumption has grown from \$19.3 billion in 1994 to \$24 billion in 1997. The hotel industry directly employs more than 34 000 people, and there are more than 100 000 people indirectly employed. The industry is a vital link in the local tourist industry, and also a sector making a great contribution to the Hong Kong economy.

With the unremitting efforts of the industry, in its discussions on the formation of the first Legislative Council in 1997, the Provisional Legislative Council resolved that the hotel sector could have 11 seats out of the 800 seats in the sector representatives of the Election Committee. Though the hotel industry was made a member of the sector sub-group in the Election Committee, it was not a FC and hence did not fulfil the expectations of the industry. Although at present the hotel industry is included in the Tourism Functional Constituency and enjoys the right to vote, some members of the industry are of the view that if the industry can become a FC in its own right, this will serve to push the Government to implement certain policies. One such example is to clearly define "hotel" and "guesthouse" in law. But unfortunately, this has not been successful to date.

I have proposed an amendment to the Legislative Council (Amendment) Bill 1999, seeking to separate the hotel sector from the Tourism Functional Constituency and to set up a seat for the hotel industry to replace the new District Board Council Functional Constituency proposed by the Government in the Bill. I urge all Members to support my amendments.

With these remarks, I beg to move.

*Proposed amendments*

**Clause 12 (see Annex III)**

**Clause 13 (see Annex III)**

**Clause 16 (see Annex III)**

**Clause 43 (see Annex III)**

**Clause 44 (see Annex III)**

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

**MR RONALD ARCULLI:** Madam Chairman, I rise to speak on behalf of the Liberal Party, and basically, I simply want to remind Members that the Liberal Party's position has always been that in view of the possibility of the Honourable



Edward HO, the Honourable Howard YOUNG and myself putting forward amendments to the functional constituencies, it would allow us to pursue our constituent interests, but nonetheless, the Party would take an abstention position. As life would have it, neither Mr Edward HO's nor my proposal received adequate support at the Bills Committee stage. After due consultation with our constituents, we decided not to pursue it by way of an amendment in this Council, or rather at this Committee.

But on the other hand, I know how strongly the hotel industry feels about their business being somewhat different from overall tourism, due to what I call the property aspect of the business. Nevertheless, they are not a commercial office collecting rent, but are really in the service industry, and they feel that distinction much more than others would. Apart from that, of course, there is also in the hotel industry a lot of goodwill attached to it, whether for local chains, regional chains or international chain hotels. So, I think from that point of view, there is also a copyright or trade name dimension to it. Therefore, they have always felt that they would prefer to have their own representative putting forward ideas and measures, instead of one from tourism which is only part of their business, but not entirely their business, because a lot of their clients are not tourists *per se*, but business people who travel around the world. So, I think from that point of view, we can understand and appreciate why they have long fought for a seat of their own. Therefore, to that extent, it is really with some regret that we feel that the Liberal Party is unable to support their quest for separate representation.

That having been said, I think that if they know Mr Howard YOUNG well enough, they would know that whenever given the opportunity, he would represent their interests and from my perspective, he certainly represents it very well. Thank you.

**MR EDWARD HO** (in Cantonese): Madam Chairman, just now Mr Ronald ARCULLI has mentioned that both he and I had made requests in the Bills Committee to split up our respective FCs and to add an additional seat for each of them.

I represent the architectural, surveying and planning sectors. As early as

in 1995, the Hong Kong Institute of Surveyors made the request to the Government to set up a FC of its own. Members may have the impression that there is little difference between architects and surveyors, but in fact our jobs and scopes of work are quite different. There are also different professions within the surveying sector, such as land surveying and building materials surveying.

However, when we put forward the relevant proposal in the Bills Committee, the response from the members was clearly not supportive. I am very much aware that in our progress towards democracy we wish to have more participation from other sectors, professions and people from all walks of life in society. This will enhance their representation and to enable them to have a seat in the assembly which they have not been able to get to date. What we should do, however, is not to seek an additional seat on top of the existing one. I am well aware of this and I have explained it to my constituency. I will continue to represent the different interests in my constituency to the best of my ability, such as those of the architectural, surveying and urban planning professions, both in this Session of the Legislative Council and in the next, provided of course that I succeed in being re-elected. Therefore, I will not move an amendment to add extra seats. On the amendment moved by Mr Howard YOUNG, as explained by Mr Ronald ARCULLI just now, I will abstain from voting.

Thank you, Madam Chairman.

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

**MR AMBROSE CHEUNG** (in Cantonese): Mr Deputy, I support the spirit of the amendment moved by Mr Howard YOUNG, but since one of the seats of the Municipal Councils will be affected, so technically speaking, I cannot support this amendment.

I am fully aware of the spirit behind the amendment moved by Mr Howard YOUNG. Some Members have pointed out that a similar situation does exist in other sectors where there are certain trades which wish to be separated from the FC to which they belong and become independent FCs. But I wish to point out that the situation in the professional and business sectors is often different from that in the tourist industry. As Mr YOUNG has said, from the perspective of investment or the overall contribution to society, there may exist certain problems in the tourist industry which need to be addressed to, or these problems have not been dealt with under the existing distribution arrangement. In the Tourism Functional Constituency, the investors account for only a small portion, that is, there are only about 100 of them. But they have injected enormous investments and capital in the hotel industry. If we look at the other members of the industry, including tourist agencies and so on, there is also an imbalance in the percentage of voters. Should we let the hotel industry go independent and become a FC? This is not necessarily the only solution available. In any case, even if we oppose the idea of making the hotel industry a separate FC, I would suggest that the Government should seek a more balanced arrangement on the basis of the representation of different sectors and people within the tourist industry.

Thank you, Mr Deputy.

THE CHAIRMAN resumed the Chair.

**DR YEUNG SUM** (in Cantonese): Madam Chairman, the District Boards Council Functional Constituency in this proposal comes from the abolition of the Municipal Councils. As the Democratic Party is opposed to the abolition of the Municipal Councils, we are also opposed to the amendment moved by Mr Howard YOUNG.

**MR RONALD ARCULLI**: Madam Chairman, I would like to take this opportunity to declare my interest as a board member of several hotels in Hong Kong. Because of that, I will not take part in the voting.

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, the proposed amendment of the Honourable Howard YOUNG seeks to split the existing Tourism Functional Constituency into two. It also seeks to delete the District Council FC proposed by the Administration and incorporate the new Hotel Functional Constituency proposed by Mr Howard YOUNG.

The Administration opposes this amendment. As the hotel industry is already included in the existing Tourism Functional Constituency and fully represented in the Legislative Council, we do not think that there is any justification to split the existing Tourism Functional Constituency into two. On the other hand, we think that the District Council FC proposed by the Administration is more appropriate. The inclusion of this constituency will strengthen the ties between the District Councils and the Legislative Council.

I hereby urge Members to support the proposal on the establishment of the District Council Functional Constituency and vote against Mr Howard YOUNG's proposed amendment.

**CHAIRMAN** (in Cantonese): Mr Howard YOUNG, do you wish to reply.

**MR HOWARD YOUNG** (in Cantonese): Madam Chairman, I shall be very brief, for the arguments I wish to put forward have nearly all been covered and there is nothing more I wish to add. I just wish to respond to the comments made by Mr Ambrose CHEUNG earlier. There are indeed three sectors in the Tourism Functional Constituency, and they include the airlines, the tourist agencies and hotels. Though these three sectors may not necessarily agree with each other in their views on all issues, their views on most of the issues are quite similar since they are closely related to each other. Should this amendment which is moved at the request of the industry fail to get passed, I would be glad

to continue to represent the views of the entire industry, including the hotel sector, in this Council to the Government as I have done in the past.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr Howard YOUNG 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 not 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 negatived.

**CHAIRMAN** (in Cantonese): As the amendment moved by Mr Howard YOUNG has been negatived, I now propose the question to you and that is: That clauses 12 and 44 stand part of the Bill. 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.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, I move that clause 43(t) be amended. This is a technical amendment which seeks to correct a wrong term.

*Proposed amendment*

**Clause 43 (see Annex III)**

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment 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.

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Since the mover of this amendment is not present in this Chamber, I will suspend the meeting for five minutes.

3.52 pm

Meeting suspended.

3.57 pm

Council then resumed.

**MR ERIC LI** (in Cantonese): Madam Chairman, I move the amendments to the proposed section 20M in clause 13, para (c) of clause 16 and para (d) of clause 16 as set out in the paper circularized to Members.

I would like to apologize to the Chairman and Honourable Members first. I just went outside to receive a document and I thought that I could certainly come back in time. But my estimation was wrong and I returned to the Chamber late.

As I have given a clear account of the background of my proposal during the Second Reading debate, I would just make some more points here. I would like to respond to the rumours and slanders arising from this amendment today and the day before.

I would first quote the remarks of Secretary Michael SUEN, to point out that formulating the original bill is a tortuous process. The original bill is not satisfactory while my amendment is not good enough.

Firstly, Mr Michael SUEN said at our debate on 27 September 1997 that the Government did not have "any secret weapon" that could properly set out Mr CHAN Kam-lam's amendment as sound legal provisions. Less than a month after Mr CHAN's amendment was passed, the legal provisions were ready. However, I knew that he had no alternative. Many Members present at that time are here today. At that time, nine Members opposed the relevant amendment and seven Members abstained from voting. As the legislation might not have been drafted satisfactorily then, the Government would like to present it better and introduce a bill again. In fact, there were grounds for doing so at that time, I was on the same front as the Government and our views on the bill were basically fairly similar.

I was the first Member to propose an amendment to this Bill, for I intended to do so long ago and wrote to the Bills Committee a month or so ago. It is not easy to tackle the technical problems related to the amendment. Take clause 44 in my original amendment as an example, the Government and the

legal experts of the Legislative Council had to spend quite some time discussing the amendment and they only told us clearly yesterday afternoon that the amendment could be deleted for it was not essential. This proves that careful legal considerations should be made when we propose amendments especially in respect of related ordinances. I need assistance because I do not have enough experience and I also need technical assistance. I have tried to take on board the opinion of the DAB and proposed dividing up the votes of the social welfare sector in the Election Committee into 20 votes each for registered social workers and social welfare bodies. However, I failed because of insufficient time and technical problems encountered by my ward office. This also proves that it is not an easy task at all.

Shall the Government propose a new amendment, it could make up for the inadequate time I have and my inadequacy in the technical aspect. I have explained to the DAB (if I have not remembered wrongly, I told Mr IP Kwok-him) that I could not propose an amendment. If the Government proposes an amendment, it may introduce a supplementary bill afterwards for only the Government can introduce such a bill. As a Legislative Council Member, I cannot propose a supplementary amendment again to supplement a proposed amendment. I conveyed to Mr Michael SUEN a month or so ago the merits of an amendment proposed by the Government as compared with the merits of an amendment proposed by me in my capacity as a Legislative Council Member. I lobbied Mr SUEN at that time and asked him to consider my suggestion. Therefore, I can prove that I have not rashly accepted the Government's proposal because we have discussed the issue for a long time.

Members know very clearly the merits of obviating a separate voting when we vote on the Government's amendment. I will not repeat them but I hope that Members will not think the Government can tolerate or accept a substitutive amendment policy-wise. Although our policy objectives are not greatly different, the Secretary will not be lenient to my amendment when he canvasses support for his amendments.

The Democratic Party and the Liberal Party in co-operation may not necessarily be invincible and the amendment of Mr LEE Wing-tat for a "cooling-off" period is sufficient proof. A heading of a newspaper today reads "total defeat for 14 amendments" and I hope that it will not be a prophecy. Another newspaper states that Mr Bernard CHAN and I were stopped and



lobbied by government officials who talked with us for around 20 minutes in the corridor. In fact, I was stopping the government officials from lobbying Mr Bernard CHAN to vote against the amendment. I was making efforts for the social worker sector. The Government has been carrying out large scale lobbying activities these two days. I would like to tell Members of the Frontier that the situation is grim and the prospect is not promising.

Many Members have referred to Article 74 of the Basic Law. If the Government enforces the provision in an extremely conservative manner, it can deprive Legislative Council Members of the chance to propose amendments. When amendments were brewing for the Rules of Procedure, I supported the position of the Legislative Council and stated time and again in the press that if the views of the Government and the Legislative Council differed, it would be inevitable for us to seek a judicial review, and the sooner the better.

If my amendment is made into an experiment today, I do not know if it will be successful but I am sure an experiment will be made on the amendment of another Member tomorrow. We should not put the Rules of Procedure of the Legislative Council to the test in a hurry as we have plenty opportunities to do so. The Secretary and I have been exchanging views on Article 74 of the Basic Law and I believe Members know clearly that the position of the Government differs from mine on this point. Although I take the position of the Legislative Council while the Government takes its position, in respect of this amendment, it is not impossible for us to seek common ground while reserving differences.

I have explicitly stated at the outset that I will definitely not withdraw my amendment until the Government proposes a substitutive amendment. This proves that I am not retreating at all. I accept the Government's well-intentioned suggestion of achieving conciliation but I am not surrendering in principle.

Some say that we are "exchanging interests" but their remarks are groundless and unreasonable. This is their malicious and senseless political conspiracy. I am extremely disappointed at those who made such accusations.

I would like to ask: What interest do I have? The representative of the social welfare sector is Mr LAW Chi-kwong, not me. As Chairperson of the Hong Kong Council of Social Service (HKCSS), I am the first person to give up

the corporate votes of the HKCSS in the interest of the social welfare sector rather than for my personal interest. Even Mr LAW Chi-kwong feels uneasy when he has to do this but I have done so in order to be fair. Social workers and the social welfare sector have not exerted pressure on me and they have given me unlimited support and encouragement. As I am entrusted, I will be faithful and I hope that I will be able to act as entrusted without a hitch. What is wrong? Why do I have to betray my principles?

In the evening when I received the Secretary's proposal, I was having dinner at the Trade Development Council together with some Members from the Liberal Party and the Democratic Party and I told them the good news in an excited manner. I also told Mr SIN Chung-kai who was also there. Besides, I made dozens of telephone calls during the dinner. Madam Chairman, you should know this clearly and that I am telling the truth because you and the staff of the Secretariat kept contacting me during the time. After I got the message and heard the views of Members, the President and the staff of the Secretariat, I tried to find Mr Ronald ARCULLI's telephone number through other Members of the Liberal Party. Finally, I called up Mr Ronald ARCULLI after I contacted Mrs Selina CHOW. Madam Chairman, I immediately accounted for the issue and I did not know where the media got the news and why they chased after me. I was definitely not the one who gave them information. The media called me up after the incident and I took the trouble to answer their questions at great length. Do these actions show that I am a person who has hidden secrets or plots conspiracy? It was totally unexpected when Members of the Council mentioned the conspiracy theory on the following day.

If certain Members wish to elevate this amendment to a confrontation between the executive authorities and the legislature, it will be unfair to the social worker sector, and this amendment may ultimately become the victim of political struggle.

At this stage, I find it hard to be a good person. I would like to tell the social worker sector that I have tried my best and I have no regrets.

I would like to tell the Government that it should not adopt the political attitude it adopted 50 years ago, in particular, it should not pressurize independent Legislative Council Members who have always supported the Government too much!

I would like to ask Honourable colleagues to act according to their conscience and respond to the reasonable appeals of the social worker sector, put correct ideas into practice and vote of our own volition, not for me or merely to show our political posture.

I would like to tell Dr LEONG Che-hung whom I respect very much this: "gossip is a fearful thing!"

*Proposed amendments*

**Clause 13 (see Annex III)**

**Clause 16 (see Annex III)**

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

**MR LAW CHI-KWONG** (in Cantonese): Madam Chairman, as a representative of the social services sector, why am I not proposing this amendment?

Mr Eric LI has talked about the reasons for moving this amendment. If anyone proposes to abolish the social services functional constituency and change it into a directly elected seat, then I would certainly come forth to move a motion. However, since Dr YEUNG Sum has made a proposal on direct elections for the 60 seats, including turning the seat presently held by the social services sector into a directly elected seat, I think there is no need for me to make this proposal. Even if I wanted to, the President would not give me her consent.

In 1984 when the Legislative Council was conducting a consultation on the election methods for the FCs, the social services sector had more or less reached a consensus that the "one-person, one-vote" method for social workers should be used. If I remember it correctly, Mr Michael SUEN was already taking charge of the Registration and Electoral Office at that time. The consensus reached after the discussions was quite a uniform one. However, the Government thought that something was wrong because there was no

registration system for social workers and it was difficult to define who was a social worker. And so it was not possible that the "one-person, one-vote" system could be used in returning a representative for the social services sector. So when elections were conducted in 1985, the corporate members of the HKCSS used the method of "one-organization, one-vote" to elect a representative for the sector. It was not revised until the 1994 Legislative Council Election. As a voluntary registration system for social workers was in place then, registered social workers were able to be included into the FC for the sector which was still called the social services FC. The history after that has been mentioned by Mr Eric LI, so I would not repeat it here.

In brief, the demand of the social services sector has been consistent throughout these 15 years from 1984 to date. We hope that social workers can elect their representative by the "one-person, one-vote" method rather than the "one-organization, one-vote" method. Therefore, the amendment moved by Mr Eric LI in fact represents the demand of the social services sector all through these years.

However, in this incident, that is, during the two days since Mr Eric LI proposed his amendment, it can well be said to be the most difficult time I have ever experienced during my term of office as a Member of the former Legislative Council as well as a Member of the current Legislative Council. I learned yesterday morning that the Government was going to move this amendment. On all other public occasions, I have never heard the Government mention anything about Article 74 of the Basic Law. However, from all other sources and taking all reasons into consideration, we fail to see why it is not because of Article 74 of the Basic Law that the Government is opposing our amendments. Mr SUEN, the Secretary for Constitutional Affairs, has been saying that there are some problems with the amendments made by the two Honourable Members. Since these amendments are going to be passed any way, the Government may as well move the amendments on behalf of the Members, so he has been saying.

Members of the Provisional Legislative Council know very well that in 1997 when technical problems arose after an amendment moved by Mr CHAN Kam-lam had been passed, the Government proposed consequential amendments immediately. Therefore, when technical problems arise after an amendment is passed, the Government can propose further amendments without any difficulty.

There is no need to resort to the method which was attempted yesterday.

The most upsetting aspect of it is that while the Government thinks that it may take the place of Members and move on their behalf amendments which deemed acceptable to it, it would then turn to lobby for votes to oppose this amendment when you, Madam Chairman, has not given them your consent to do so. This is something that should not have happened if the issue at hand is purely of a technical nature or is purely an issue concerning the composition of the social welfare sector. The ulterior reason behind this may be open to speculation, but Honourable colleagues can see with their acute and discerning eyes that the Government is concerned because this will have an impact on its operation. Therefore, should the amendments moved by Members be passed, the Government will think that these are not acceptable and that these amendments may even violate the provisions in Article 74 of the Basic Law.

Today, the Secretary for Justice, Miss Elsie LEUNG appeared unexpectedly while deliberations were being made on the motions, and she is now in this Chamber. This makes me feel strongly that this may well be an honour for the social services sector to have the presence of Miss LEUNG here. Why does the Secretary for Justice appear because of this amendment?

I am very unhappy with this issue. It is because as Members of the Legislative Council, we have to scrutinize bills to the best of our ability and we should also move amendments on matters which we think are reasonable and fair. However, the Government is obstructing all the amendments because they think that any one of these amendments will have an impact on the operation of the Government. They are even using all kinds of means to meet their ends. This makes me wonder whether the Legislative Council is a legislative body or a body of purely a consultative nature. Will only amendments which are in line with the wishes of the Government be accepted or passed? Why do we have to elect a number of people as Members of the Legislative Council?

I believe Mr SUEN will not discuss the question of Article 74 of the Basic Law later, but if he will, I think he owes all the people of Hong Kong and the voters an explanation. Can Members of the Legislative Council move amendments to bills of such a nature as this?

If the eventual voting negatives this amendment, the Government will think that a constitutional crisis has been averted. As a legislator, I have an ardent wish. We have been having a dispute over Article 74 of the Basic Law for too long. Should any amendment moved by Honourable Members be passed but found to be not acceptable to the Government, I hope the Government can initiate legal proceedings, as this will enable us to have a clear understanding of and to find a final solution to the issue at hand. This will also enable us to deal with problems of a similar nature appropriately in future. We do not want to see every amendment that we move, including the amendment moved by Dr LEONG Che-hung yesterday on the addition of the Hospital Authority into the Chinese Medicine Bill, has to undergo the severe test of whether it will violate Article 74 of the Basic Law. Thoughts of these simply send a chill down my spine.

Now I would like Members to ponder one question: if a few days ago you were in favour of this amendment and if you will also vote in favour of this amendment if it is proposed by the Government, I hope as Members of the Legislative Council and in accordance with the provisions in the Rules of Procedure, you should respect the decision made by the President in not giving her consent to the Government to move this amendment, and that you should vote in favour of the amendment in accordance with your previous stand on it. I know that some Members have been opposing this amendment, but I do not know if they will change their mind if the Government is proposing the amendment instead. Will these Members support the amendment? If they are still thinking this way, I hope that they can vote on the merits of the amendment *per se*. They should not base their decision on whether giving support to the amendment will disrupt the relationship between the executive authorities and the legislature, or if a constitutional crisis will arise, or if Mr TUNG will sign and endorse, or if legal proceedings will ensue and so on. It would simply be tragic if Members are thinking along these lines. For as legislators, if we do not vote in favour of the amendment according to our beliefs and convictions, but change our mind as a result of the above reasons, then we are admitting defeat and making a surrender in the first place. Such things, I hope, will never happen to any one of us.

The stand of the social services sector on this is clear enough. We also hope that elections can be held in the "one-person, one-vote" method. But personally I do not care so much about what method will be used to return a representative for the sector. In the debate today, I hope that everyone can make deliberations seriously and to cast their votes in their capacity as

legislators, without ever allowing their choice to be adversely affected by political pressure or other considerations.

I beg Members' support for Mr Eric LI's amendment. Thank you, Madam Chairman.

**MR CHAN KAM-LAM** (in Cantonese): Madam Chairman, the DAB opposes the amendment moved by Mr Eric LI on the Social Welfare Functional Constituency. Ever since 1991, eligible voters of the Social Welfare Functional Constituency include various social welfare organizations which are mainly members of the HKCSS, as well as the professional social workers. I once moved an amendment in the Provisional Legislative Council. At that time, we had a heated debate on the composition of this FC. As I speak now, the DAB still thinks the debate was very helpful. The voters for that particular FC are social service organizations registered under the Societies Ordinance and the Companies Ordinance and those organizations which meet the mission objectives of the HKCSS. At that time, we made it clear that there were many groups and organizations which were not members of the HKCSS or organizations under it, but they had been making a lot of silent contributions to society and providing services to the needy. They are not given any funding or assistance by the Government because they are not members of the HKCSS. Their funds come entirely from the annual fund-raising activities and donations. People make donations and pitch in their efforts to help these organizations to provide services to the needy. Thus their enthusiasm in helping people deserves the recognition and respect of us all. We cannot afford to neglect them when we try to identify the voters of the social welfare sector. Nor must we show any discrimination against them. When we are talking about "one person, one vote" for the social workers, it should be taken to mean that there should be no distinction between any social service groups and there should be no dispute about it. Unfortunately, some views represented in the said debate were not only extreme but also irrational. Some of these views had gone so far as to claim that the amendment moved by the DAB was undermining the social welfare sector and displayed an intention of planting votes. I said at that time that we did not want to make a prolonged dispute on that point because history and the facts would speak for themselves.

Now that two years have passed and the Election Committee has announced its results. We all know very well how this FC is to be composed. In his letter to the Honourable Members, Mr Eric LI has made everything crystal clear. How many new organizations are added to the FC as a result of

my amendment? How many votes have we planted? Has the social work profession or its dignity been undermined? History will tell everything. I know what Mr Eric LI has done is simply to help social workers fight for the "one person, one vote" ideal and to help them form their own FC. To be honest, we also support this idea. In the last debate in the Provisional Legislative Council, many Honourable Members made their stand clear. We are in support of the "one person, one vote" idea of forming the social welfare FC. However, we must also address the fact that there are also other groups in the sector and they should also be given the right to vote. We must not deprive them of the right to vote on account of their size. We must make this point clear. The amendment moved by Mr Eric LI today aims mainly at excluding all corporate members of the HKCSS and the other groups which do not belong to the HKCSS from this FC. This is a drastic change. Should the same change happen in other FCs, it will probably change the entire concept of the composition of FCs. In the construction sector, for example, can elections be held in the form of "one person, one vote" among construction workers? This will change the very nature of functional groups completely. Therefore, the DAB opposes this amendment.

Moreover, in the letter given to the Honourable Members, Mr Eric LI has extracted the views of some Honourable Members. I think he is quoting things out of their context. We have stated clearly that we do support "one person, one vote" for the social workers. But insofar as the social welfare sector as a FC is concerned, we have a prerequisite which we think must be satisfied. Let me give an example, and Mr Jasper TSANG has said this before. Should corporate members of the HKCSS no longer take part in the next election in the social welfare sector, that is, the "one-person, one-vote" election by the social workers, and should some other opportunities be made available for social service groups to join the FC, then the DAB Members will certainly clench their fists like Mr Eric LI and say we will support that idea in the coming elections. The prerequisite is that social service groups should be allowed to join and to retain their original right to vote. Besides, Mr IP Kwok-him has also said that if the HKCSS thinks that the social welfare sector can represent the social work profession and make its wishes known, then the social service organizations can all go to another FC and they can join the elections of the second Legislative



Council through the Election Committee. Providing that, the DAB will definitely give its support. I hope Mr Eric LI will not be confused about our stand at that time.

As a matter of fact, our opposition to Mr Eric LI's amendment and our call for social welfare organizations to stay in the Social Welfare Functional Constituency will not in any way cause any harm to the interests of the social workers, nor their existing rights. Just now when Mr Eric LI was appealing to the Honourable Members of the Frontier, he said that the situation was very urgent and critical so he hoped that they could vote in support. I also remember Miss Emily LAU was very firm in saying that she would not support the Election Committee, nor any amendment moved in respect of the FCs. I do not know if she would make a volte face. If she would, then it implies that Mr Eric LI is successful in persuading her. If she would not, then her position is firm and will not be swayed.

I hope every one of us can stand firm on our own ground. That we are opposed to this amendment does not mean that we are attacking Mr Eric LI's efforts in fighting for the deserved rights of the social workers. We are supportive of his efforts. The most important question is to solve the problem of finding a FC that can allow these social welfare organizations to cast their votes. Thank you, Madam Chairman.

**MISS EMILY LAU** (in Cantonese): Madam Chairman, every time we talk about elections, the atmosphere becomes heated. It is our bad luck that half of the air-conditioning system has broken down and many colleagues have to take off their clothes. Now, it is getting hotter and hotter. Some people say that this is the climax today, except for the part just now when Mr LEE Wing-tat failed to win on the proposal for a cooling-off period. Why is this the climax? Madam Chairman, as you know, the votes are very close now. Otherwise, who cares?

We in the Frontier have already indicated that we will not vote for any

proposal that does not adopt the method of "one person, one vote".

As Mr CHAN Kam-lam said just now, there are notes everywhere. Madam Chairman, this reminds me of the PATTEN package in 1994. Madam Chairman, you had left the Legislative Council by that time. That discussion was really heated. In my view, today's discussion is not as heated as that time. On that day, there were calls from Beijing. Today, I do not know who is calling whom. Still, the debate is rather heated. That is why I wrote you a note just now. I asked you to urge Members to cool down a bit before the voting and consider how things are developing.

However, why is it such a close contest? Madam Chairman, the reason is because some votes can be lobbied. If Members' mind is made up, there would be no room for lobbying. But since some colleagues would change their stance and their mind would waver, there is a chance for other people to lobby for votes. When someone wants to change his stance, he will tell other people. Seeing this, the Government will grasp the chance to lobby for votes.

Just now, Mr LAW drew attention to the presence of the Secretary for Justice. I believe that the Secretary obviously has a mission too, since some votes were lobbied by the Secretary herself. We have known since 1994 that the person responsible for lobbying will be present at the voting to monitor the votes. I recall that when Chris PATTEN was Governor, members of the Kuomintang, the Chinese Communist Party and the Bar Association were all here to overlook the voting. Today, I wonder how many votes the Secretary has lobbied. She wants to keep an eye on the voting too.

I wish to tell the public that when we support something, we follow certain principles. Once these principles are laid down, they are not changed easily. However, when it comes to controversial matters, people's minds will often change. That is why we have this thing called lobbying. Knowing that Members' minds can waver, the Secretary and those colleagues would very often lobby for votes. If the principles remain unchanged once they are laid down and if people do not vacillate, lobbying will simply not work.

Madam Chairman, I would like to talk about Mr Eric LI. We will not support anything that has to do with the functional constituencies. However, we find Mr Eric LI's remarks about this issue regretful. Yesterday at twelve o'clock noon, we held a Bills Committee meeting, during which Mr LI

proposed that he could withdraw his amendment and let the Secretary introduce one instead. At that time, we said that the Secretary's amendments had just been tabled and neither Members nor the legal advisers had had a chance to look at them. Since 1991 when I first became a Member of the Legislative Council, there has never been an occasion on which we are not given any time at all to study an amendment or consult the public about it, and in respect of which we are supposed to act as rubber stamps. Therefore, on this point, I have some criticisms against Mr Eric LI. After talking to the Secretary on the phone the night before, he considered withdrawing his amendment and letting the Secretary introduce one instead. However, has he ever considered whether it is fair to Members if the Secretary introduces another amendment into this Council and colleagues of this Council have to vote on it before they have had a chance to deliberate on it? Is such a proposal proper in the light of our legislative procedures? Madam Chairman, I think this point alone is problematic enough, without mentioning whether we support the functional constituencies. I really fail to understand why Mr Eric LI would consider doing this, unless he thinks that the amendment could be passed easily if it is introduced by the Secretary, since it would obviate the need for separate voting by each of the two groups of Members, or more people would support it. Now, since we have objected to the introduction of an amendment by the Secretary, Mr Eric LI will move the amendment himself. Will the Secretary oppose it as a result? Later, the Secretary will have to explain whether he will support it if it is introduced by him, and oppose it if it is introduced by Mr Eric LI. I believe this will certainly be the case. Just now I went out a few times and the Secretary and his colleagues kept asking us how we would vote. Actually, we in the Frontier will not change our mind once it is made up. Members of the Frontier and I have been vigorously lobbied on this occasion. Some people also mentioned Article 74 of the Basic Law and said that even if Mr Eric LI's amendment were passed, the Chief Executive might refuse to sign it. Mr LI said he had never heard anything of the sort, while some Members said they had heard somebody say it. Later on, the Secretary can comment on this. Madam Chairman, if one invokes the Basic Law or suggests that this will lead to a serious confrontation between the Chief Executive and the legislature, or even that the Chief Executive will refuse to sign this Bill, I am sure that the Frontier will very carefully consider how to deal with such a serious matter. However, as I said to colleagues and the Secretary just now, the Frontier has laid down some principles that we will not change lightly. If we really have to change our stance, we will ruin our reputation and be attacked for trimming our sails. But if it is really that serious, we can explain to the 7 million people why the Frontier

has to change its stance. However, as of this minute, I do not think it will come to that. The lobbying is massive indeed. I hope the Secretary will clear up the air a bit later on and tell us whether the Chief Executive will really refuse to sign it and start such a serious constitutional crisis in the Special Administrative Region. This is what we want to know.

Lastly, Madam Chairman, I wish to say something to colleagues of the DAB. They told us to stick to our principles. We certainly will. We in the Frontier have always done so. Let me say in return that I hope that they will do so, too. If they stick to their principles, they will be more influential.

Thank you, Madam Chairman.

**DR YEUNG SUM** (in Cantonese): Madam Chairman, yesterday, we met for about two hours at the special meeting of the Bills Committee chaired by Mr Ronald ARCULLI. I expressed deep dissatisfaction with the proposals respectively of Mr Eric LI and Dr LEONG Che-hung to withdraw their amendments and let the Government introduce them instead. My objection was based mainly on Article 74 of the Basic Law. We did not have any proof then. However, when the Secretary Michael SUEN speaks later, we will have the proof.

If Mr Eric LI's amendment is introduced by the Government, the Government will lobby Members to support it. Now, what will be the Government's stand when Mr LI introduces it himself? Although the contents of the amendments are more or less the same, I am sure that the Government will urge Members to vote against Mr LI's amendment. I believe this mainly has to do with Article 74 of the Basic Law. We will have the proof in a few minutes or sometime later.

I was very frustrated yesterday. I hope that Mr Eric LI and Dr LEONG Che-hung will understand this. We have known one another since 1991. After working with one another for so many years, we know the style of one another quite well. However, on this question, you might have accepted the Government's interpretation of Article 74 of the Basic Law. Due to doubts or fear of the Government's legal challenge afterwards, you wanted to give up your amendments and let the Government introduce them instead. Mr Eric LI, the newspapers said that the Government let you do the penalty kick, so that the

amendment would not be subject to separate voting by the two groups of Members. That might be one reason. However, if you or Dr LEONG Che-hung who is our House Committee Chairman gave way because of Article 74 of the Basic Law, I would feel strongly indignified indeed.

After Dr LEONG Che-hung has given his speech, I will state my views again. I hope to put my speech at least on the record. If Dr LEONG, as Chairman of the House Committee, gives up the stand of the Legislative Council and supports the Government because of Article 74 of the Basic Law, I have to raise a strong protest.

Just now, I was very glad to hear Mr Eric LI say that he will not withdraw his amendment and he has also stated his views on Article 74 of the Basic Law.

I would like to say one thing to Members (including Miss Emily LAU). We should give our full support to Mr Eric LI precisely because of Article 74 of the Basic Law. If we do not support Mr LI, the Government will use Article 74 of the Basic Law as part of the argument to lobby Members to accept the bill proposed by the Government. As for amendments introduced by Members, the Government will certainly prevent their passage, nor will Mr TUNG Chee-hwa allow any of them to be passed. This is because the passage of any amendment is tantamount to a challenge of the Government's position.

I sincerely urge Members to defend the unanimous stand of the Legislative Council in respect of Article 74 of the Basic Law for the sake of the dignity and independent operation of the Legislative Council and to ensure that the Legislative Council can monitor the Government. As chairman of the meeting last night, Mrs Selina CHOW emphasized repeatedly that we must maintain a unanimous stand and harbour no doubts. In this respect, I hope that Members will unite in supporting Mr Eric LI. For the sake of this Council, we must not overturn an amendment by all sorts of excuses just because the Government opposes the introduction of amendments by Members. Actually, the reason behind the Government's objection is merely that Article 74 does not allow Members to introduce amendments. If this is the case, what can the Legislative Council do at all, when we are not even allowed to introduce amendments?

I hope that Members will consider this carefully. If Members need time, perhaps we can ask the Chairman to give us a little time to hold separate

meetings again. I hope that Members will seriously consider my plea and support Mr Eric LI for the sake of the dignity of the Legislative Council.

Of course, the Democratic Party has always supported the electoral method of "one person, one vote" in the social worker constituency. This is very important too. Members may have different views about this electoral method. But for the sake of the independent operation of the Legislative Council and for the sake of insisting that Article 74 allows the Legislative Council to introduce amendments, I hope that Members will seriously consider the matter. We can even ask the Chairman to give us some time to think about it, and I hope that Members will consider the matter seriously.

Thank you, Honourable Members. Thank you, Madam Chairman.

**MRS SELINA CHOW** (in Cantonese): Madam Chairman, I just wish to state the Liberal Party's stand on Mr Eric LI's amendment. All along, we have intended to support Mr Eric LI's amendment. When the Bills Committee met again yesterday, we raised objection to the Government's proposal since we found it rather problematic in terms of procedure. Therefore, we raised our objection. However, we support the content of the amendment. Thus, if the majority of Members had approved the introduction of the amendment by the Government at the meeting, we would still support it since our view on the amendments remained unchanged. Today, since the Government will not introduce the amendment and we are looking at Mr Eric LI's amendments again, we will of course give them our full support. Therefore, we did not make a volte-face.

**MR JASPER TSANG** (in Cantonese): Madam Chairman, the DAB opposes the amendments moved by Mr Eric LI. Just now, Mr CHAN Kam-lam has made this quite clear. I now reiterate that even if the amendments were introduced by the Government, the DAB would still oppose them. I would also like to ask Members of the Democratic Party to consider the issue of civil rights which was raised by Mr Martin LEE when we talked about advance polling yesterday. In this present discussion on Mr Eric LI's amendments, we must not forget that if Mr Eric LI's amendments are passed, there will be "one person, one vote" in

that constituency. From the Democratic Party's point of view, "one-person, one-vote" might be a more appropriate method, it would however mean that certain organizations would be deprived of their right to vote. Under the original law, these organizations do have the right to vote. If the amendments are passed, they will lose the right. That was why in 1997, during the debate on the Legislative Council Ordinance, several members of the DAB made it very clear in their speeches that it was for the sake of fairness that we fought for the participation of social service organizations which were not members of the HKCSS. I fully understand the social workers' aspiration for a "one-person, one-vote" election after the establishment of the registration system. We also support this. At that time, we suggested that a proper arrangement should be put in place to let those who originally had the right to vote to continue to exercise their right. If we had universal suffrage on "one-person, one-vote" basis, as Mr LAW Chi-kwong has said just now, there would be no more functional constituencies and no such organizations. Then it would be fair and there would not be any problem. However, we cannot apply double standards. We cannot allow these organizations to continue to exist without giving them the right to vote. We do not think that it is fair. Those organizations do have the right to vote now. Even if most of them are willing to give it up, and if a minority wants to retain this right, as Mr Martin LEE said yesterday, what right do we have to deprive them of their right? Thank you, Madam Chairman.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam Chairman, in view of the turn of events, I have to pointedly ask Mr Michael SUEN to reply, because this is about the political ethics and integrity of the Government and the Policy Bureau under his leadership. If the Government really wanted to introduce amendments to the social worker constituency yesterday to bring about "one-person, one-vote" elections for social workers, does it support the amendments today if the overall aim is the same, except that it is Mr Eric LI who introduces the amendments? Why would it change from supporting to opposing them overnight, only because they are not introduced by the Government or by Mr Michael SUEN himself? In that case, what are the Government's logic and standards? What is its criterion? The Secretary must give a reply. This is about the political ethics and integrity of himself and the Government that he represents. He has to give a clear answer.

Second, I wish to say something to Miss Emily LAU and the Frontier. I was one of those who wrote a note to Miss Emily LAU, because I wanted Miss

LAU and the Frontier to think about this. I have great respect for Miss LAU and the Frontier for their firm stand on the cause of democracy. I will support any proposal she makes to promote development of democracy. However, why does the Legislative Council strive for democracy? It is for the sake of justice for the people. The Government is now going back on its word and using Article 74 of the Basic Law to obstruct upholding justice for the people. The principle of justice is of paramount importance. We must defeat the Government. Why can we not propose amendments? If the Government uses Article 74 every time to obstruct the introduction of bills by Members, allowing only those Members' bills that follow government policy but obstructing those that do not, it goes against the principle of justice for the people. In that case, Legislative Council Members will have failed to discharge their duty as expected by the people. The people would ask, "why should we vote for you? If you are elected, you will only do things that the Government allows but cannot go against the Government. Then why should we cast our votes?" Therefore, one should not say that one will abstain from voting when it comes to the functional constituencies, because there is something more important than the minor matter of voting in respect of the functional constituencies. There is the wider context to be considered, such as justice, democracy, whether the Government's power can be checked by the Legislative Council and whether Legislative Council Members can introduce bills independently even if they do not conform to government policy. The wider context is more important. Therefore, I feel that we should cast our votes, irrespective of win or lose, irrespective of whether we would have to take it to the courts. Justice and reason are the most important considerations. I am openly lobbying the Frontier and Miss Emily LAU. I know that members of the Frontier will consider this matter seriously. I do not want to let this capricious Government get away with this so easily. Thank you, Madam Chairman.

**MR MARTIN LEE** (in Cantonese): Madam Chairman, the last sentence of Article 74 of the Basic Law talks about the introduction of "bills relating to government policies". Actually, it means that such bills require the written consent of the Chief Executive. The question now is that the Government insists that this includes amendments introduced by Members. We have been haggling over this point for a long time indeed. The Legislative Council's Committee on Rules of Procedure has talked to government officials about this question several times. The conclusion is quite clear and the views are unanimous. Let me quote from paragraph 2.35 of the report published in April



1999: "The Committee concludes that .....". I now jump to item (b) which says that the restrictions in Article 74 apply only to the introduction of Members' bills, and not Members' proposal of Committee stage amendments to Government bills. This is very clear. As we all know, the Committee members come from many different parties. Except for the HKPA which did not send any representative, all other parties have sent their representatives, including two representatives from the DAB. It is the unanimous stand of all Legislative Council Members. We have told the Government very clearly that it is welcome to challenge us in the Court. We have already asked Mr Denis CHANG, SC, to prepare a submission. If the Government insists on its view, it certainly has the right to do so. But it should not remain silent now. Actually, the Government should say to the President that it opposes the introduction of the amendments by Mr Eric LI, since it is in contravention of Article 74 of the Basic Law. The Government should speak out by now at the very latest. In legal terms, it is called "estoppel". It means that one deliberately lets something happen and only speaks out when it is to one's disadvantage. By that time, the judge might consider it to be too late. Therefore, one should speak out as soon as possible. The word "estoppel" is Latin. I do not know how to translate it into Chinese. But I have explained what it means. Therefore, the Secretary for Justice is welcome to rise to tell the Chairman that according to Article 74 of the Basic Law, the introduction of these amendments by Mr Eric LI is in contravention of the Basic Law, and to ask the Chairman to make a ruling. Any party which refuses to accept the ruling can file an appeal with the Court. I demand that the Government do this, or shut up on this point from now on and refrain from threatening Members with it anymore. Frankly, if we let ourselves be threatened this time, we will let ourselves be threatened in future. The Government just remains silent and quotes Article 74 of the Basic Law only when it is lobbying. Actually, the Democratic Party is used to threats from the start. Some Members are not so easily scared too. I very much despise these tactics of the Government. I very much respect and admire the Liberal Party for the way it has acquitted itself in this matter. Clearly, the Liberal Party focuses on the issue itself instead of the person. I really wonder about the Government's stand. Why does it ask people to support something when it is introduced by the Government? Why is it that the Government's followers refuse to support it when it is introduced by someone else? I am really baffled by all this. If it is about Article 74 of the Basic Law, they should rise and speak out now. Even government representatives should rise and speak. I am really surprised at the Government, which focuses on the person instead of the issue *per se*. Mr Jasper TSANG

referred to the question of civil rights which was raised by me yesterday. The answer is in fact quite obvious. I am not so easily daunted. As Mr LAW Chi-kwong has said already, when this constituency was set up long ago, the aim was only to allow only social workers to vote. Unfortunately, in the absence of a registration system then, we had to rely on the organizations, that is, the employers of the social workers. Now, with the registration system in place, we should move forward. I hope that Mr Jasper TSANG will take a look at Article 68 of the Basic Law: "The method for forming the Legislative Council shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress (rather than retrogression). The ultimate aim is the election of all the Members of the Legislative Council by universal suffrage." Therefore, we are moving forward step by step. The Democratic Party wants all 60 Members to be directly elected along the way though, failing this, we still have to progress gradually. How can we stop instead of moving forward? It is in keeping with the principle to slowly open up a certain functional constituency by substituting "one-person, one-vote" for the corporate votes and enlarging the electorate. We are not so easily deterred by this question. Members of the Frontier might feel flattered that so many people are lobbying them. They are lobbied by Mr Eric LI and the Government. I am very glad that the DAB is also lobbying them. We feel more reassured because the DAB is doing this, because I am sure that Members of the Frontier do not want to appear being influenced by the DAB in this voting. That is not too good for their reputation.

Madam Chairman, there are amendments to so many clauses of this Bill. I am sure that many Members have had the same experience. When the Government lobbies Members to support something, it will say a lot of fine words and accommodate Members as far as possible. However, if a Member dares to make a proposal out of principle that is unacceptable to the Government, the Government will put the greatest pressure on him if he continues with it. I believe this is a very good experience for us Members. In dealing with the Government, if we give way once, good; if we give way twice, even better; if we give way all the time, excellent. But if we do not give way once, we will suffer. Therefore, I hope that when the independent Members consider a question, they should consider how Mr Eric LI feels now. Actually, we should act in the interest of society. "Despite the opposition of everyone, I will carry on. Despite the pressure of the whole Government, I will carry on." Thank you.

**MR LEUNG YIU-CHUNG** (in Cantonese): Point of order. Mr Martin LEE questioned whether the amendments moved by Mr Eric LI contravene Article 74 of the Basic Law. May I ask whether the Government can clarify this point first before we continue with the debate?

**CHAIRMAN** (in Cantonese): Please sit down. This is not a point of order. The President has given permission to the introduction of this motion, and the President enforces the Rules of Procedure in accordance with the Basic Law. Members should be aware of this.

**MR ANDREW WONG** (in Cantonese): Madam Chairman, although this question basically has nothing to do with Article 74 of the Basic Law, many people have linked them together. In view of this, I would like to share with Members some of my views and the historical background.

I quite sympathize with the Government's stand. Article 74 uses the term "bills", which is construed as "any bill with legal effect", including bills, any amendments proposed by the Government or Members to the bills, as well as legislation passed by way of resolutions under existing ordinances, and the amendments under the resolutions. I rather sympathize with this view. Unfortunately, this is a great departure from past practice. Article 74 also imposes very great restrictions. It was discussed at the Provisional Legislative Council without any request from the executive authorities or any indication from the Government. At that time, two colleagues gave their views. One of them was Miss Maria TAM, who is now a member of the Basic Law Committee. She insisted on what the legislative intent was at that time. The other one was Mr LEUNG Chun-ying, who is now the Convenor of the Executive Council. He was also a member of the Basic Law Drafting Committee. He pointed out that the legislative intent was that the term "bill" merely refers to "bill" and

nothing else. Accordingly, the Rules of Procedure that we drafted in the Provisional Legislative Council also stipulate that Article 74 merely applies to bills, not amendments.

With the first Legislative Council coming into office in 1998, the controversies began, while there was no argument in 1997. Two kinds of bills are mentioned in Article 74. One kind of bill may not be introduced at all, while another kind relating to government policies may be introduced subject to the consent of the Chief Executive. The Government says now that the present amendments are all right if they are introduced by the Government, but not if they are introduced by Mr Eric LI. I do not know whether this is because they relate to the political structure, public expenditure or the operation of the Government, or to government policies. If they only relate to government policies, it would be much simpler. One only has to say that although Mr LI does not consider that they relate to government policies and the Legislative Council does not interpret Article 74 of the Basic Law this way, the Government interprets it this way. Still, he may introduce the amendments with the consent of the Chief Executive. Therefore, it will not constitute a breach of Article 74 of the Basic Law.

If colleagues who have served on the Provisional Legislative Council can remember this, I hope that they will testify to this and ask the Government whether this was true and how the Government understood this. On 1 July 1997, the Secretary for Justice was Miss Elsie LEUNG and the Secretary for Constitutional Affairs was Mr Michael SUEN. Obviously, they knew how Article 74 was reflected in the Rules of Procedure. This is the first piece of history.

The second piece of history concerns the remarks made by Mr Martin LEE and Mr LAW Chi-kwong just now. What was the original intention when the social welfare constituency was first set up in 1985? I do not know what the original intention was, because the registration of social workers was only at the initial conception then. The social welfare constituency in 1985 consisted of members of the Hong Kong Council of Social Service (HKCSS) on a "one-corporate, one-vote" basis. With the registration system of social workers in

place later, it is a totally different situation. The social welfare constituency should now become the social worker constituency.

Therefore, the Government might have made a mistake the last time by retaining the original members of the social welfare constituency which were organizations while adding the registered social workers to the constituency. The mistake was the failure to exclude all members of the HKCSS. Thus, it gave some people the chance to take advantage. I can recall that when the relevant amendments were introduced, Mr CHAN Kam-lam asked why other societies of a similar nature were not accepted when some societies were accepted. At that time, we won. The amendment was passed. As a result, the Government had to rectify the situation by allowing some societies to register without the need to meet certain eligibility criteria. Thus, too many societies were eligible. This was what happened.

I hope that Members of the DAB can recall that I made it clear in that particular debate that this constituency should be a constituency for social workers. Mr Jasper TSANG made a moving comparison. He said that to deprive these organizations of the right to vote would be tantamount to depriving them of human rights. In fact, this is not true. Article 25 of the International Covenant on Civil and Political Rights says that every citizen shall have the right to take part in the conduct of public affairs, directly or through chosen representatives, and the elections shall be by universal and equal suffrage. Functional constituency elections are neither universal nor equal. And if participation is effected through organizations, it would deprive the individuals of their rights. If Mr TSANG really thinks so, he should have opposed it when the corporate votes were turned into votes for the corporate directors, which was passed in 1994 and implemented in 1995, because the individuals were deprived of their right to vote and the votes became corporate votes. This is strange indeed.

Having heard the whole story, Members would understand why I do not wish to take part in the voting on these amendments, but will still remain here to support Mr Eric LI. I helped him draft the last bill, which was considered by the Government to be unacceptable after it was submitted. Madam Chairman, I cannot recall what your ruling was at that time. Later, the Government seemed to have given this matter up. I can only marvel at it for having the nerve to propose it again today.

Thank you, Madam Chairman.

**MISS MARGARET NG** (in Cantonese): Madam Chairman, I support Mr Eric LI's amendments. Members are well aware of my position on whether there should be Functional Constituencies (FCs). In my view, this electoral method is extremely undemocratic and should be replaced by direct elections as soon as possible. But since FCs are stipulated in the Basic Law, our target should be to make FCs as democratic as possible, that is, there should be as many voters as possible. Another thing is that between direct and indirect elections, the more direct the elections, the better. "One-person, one-vote" is the most preferable, while "one-corporate, one-vote" is the least preferable. Based on this simple principle, I support Mr Eric LI's amendments today.

Madam Chairman, Honourable colleagues have expressed many views on Article 74 of the Basic Law today. Actually, the first point that I wish to make is that we have absolute respect for the President's ruling. Since the President has given permission for Mr Eric LI to introduce these amendments, it means that according to the judgment of the President of the Legislative Council, these amendments do not contravene Article 74 of the Basic Law. Therefore, colleagues of this Council should not harbour doubts as to whether Mr Eric LI's amendments would contravene Article 74 of the Basic Law.

What I am going to say is meant to remind Members. I wanted to mention it because I was also a member of the Committee on Rules of Procedure and I have some recollection of the discussions. Actually, it is very simple, not at all complicated. I do not agree with Mr Andrew WONG's remarks just now that bills should also include Committee stage amendments. Why? Not just because the term "bills" is used and it must be strictly interpreted as the bills themselves and nothing else. This is not the reason. Nor is it because the English version says "may introduce bills" and therefore the bills referred there are different from amendments. It is not as simple as that.

In the Committee on Rules of Procedure, we noted that the wording of the Basic Law is extremely careful in many areas. If there is a difference in wording, it does have a meaning. But most important of all, why do we consider that the "bills" only mean Members' private bills? Not because we think that the powers of the Legislative Council should be expanded infinitely

and that we can give it more powers whenever we wish, but because we have objectively studied the aims incorporated in the Basic Law. Its aim is that under the executive-led government, Members should not introduce bills relating to the policy areas. If a bill is introduced by the Government, there are two kinds of restrictions on any amendments that may be introduced. The first restriction is that if an amendment exceeds the scope of the bill, it will not be permitted. Therefore, any amendment introduced by Members must be within the scope of the Bill. This is the first point. The second restriction applies to a situation where individual amendments which propose partial changes may lead to a change in the policy. Since the bill is introduced by a public officer, he has the right to withdraw the bill at any time. This will not affect the executive-led arrangement.

Due to the various reasons given above, and having had the benefit of counsel's opinion, we were very clear that Article 74 does not cover Committee stage amendments. Thus, I have no doubt about this at all.

When the Committee on Rules of Procedure gave its views in detail and the Government disagreed, we repeatedly asked the Government to respond to the legal advice we received and the views advanced by us, so that we could reconsider them. However, the Government did not give us more detailed views in the end. In my view, we have dealt with this matter very carefully. Colleagues who still have any doubts about this should also rest reassured.

If the Legislative Council agrees on a view on Article 74 which is different from that of the Government, will it lead to a constitutional crisis? I do not think it will go to that degree of severity. If the Government considers the Legislative Council to be wrong, the ruling of the President of the Legislative Council to be wrong and our interpretation of Article 74 of the Basic Law to be wrong, there are legal procedures to obtain a court ruling, since ours is a society ruled by law. That will decide who is right and who is wrong and officially resolve this problem. Litigation should not be seen as a kind of confrontation. For the above reasons, I think we should deal with this by asking a very simple question and that is: Do we support the content of Mr Eric LI's amendments and do we think this is right? If Members think this is right, even though they do not approve of FCs, do they not wish that a not very good thing would not become worse? Do they not think that these amendments

deserve our support?

Thank you, Madam Chairman.

**DR RAYMOND HO** (in Cantonese): Madam Chairman, ever since I took part in the consultation for the Basic Law in 1985, I have recognized the value of FCs before all Members of the Legislative Council can be returned by direct elections. In my view, "one-person, one-vote" is the best arrangement for FCs. In many FCs, we already have "one-person, one-vote". However, under certain circumstances, I will reluctantly accept it if all electors are corporate electors. However, I cannot accept that some electors are corporate electors while some are individual electors.

Therefore, I told Mr Eric LI yesterday that I would support his amendments. Today, he asked me whether I would change my stance. I said I would not. I am not a person that easily changes stances. I will certainly continue to support Mr Eric LI's amendments.

Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Mr LAW Chi-kwong, are you seeking to speak for the second time?

**MR LAW CHI-KWONG** (in Cantonese): Madam Chairman, I would like to respond to certain remarks made by Mr Jasper TSANG earlier. But I will not repeat the points made by Mr Martin LEE and Mr Andrew WONG. Much of what they said was what I wanted to say. I simply wish to point out that if the DAB supports functional constituency elections, it should not regard it as a right. If it is a right, everyone in Hong Kong who is eligible to be a voter should be able to vote. If not, it would be depriving Hong Kong people of their right. Therefore, if the DAB supports functional constituency elections, it should regard it as a privilege rather than a right. If the DAB supports functional



constituency elections in this form, it should not say that the amendments would deprive certain organizations of their right to vote, since they will only have lost a privilege. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Mr Jasper TSANG, speaking for the second time.

**MR JASPER TSANG** (in Cantonese): Madam Chairman, I wish to respond to the speeches of Mr Martin LEE, Mr Andrew WONG, Miss Margaret NG and Mr LAW Chi-kwong.

Mr Martin LEE mentioned the legislative intent earlier, although he did not use those words. He said that "one-person, one-vote" was intended for this FC when it was established. Several Members talked about gradual and orderly progress and expanding the electorate. Both Miss Margaret NG and Mr Martin LEE used those words. But how can the electorate be expanded? Even if Mr Eric LI's amendments were passed, the number of electors in the FC would not be increased. If the amendments are passed, they have the right to vote in their constituency. If not, they are still there. However, before the passage of the amendments, that is, if there were no amendments, certain bodies could vote. Whether you call it privilege or right, they have the right and are eligible to vote. These bodies which have the right to vote before the law is amended will lose this right after it is amended. Therefore, we want to ask whether the electorate will be expanded or narrowed and whether more or fewer people will have the right to vote.

As regards the combination of individual electors and corporate electors in one constituency, Dr Raymond HO already talked about this just now. This is not only true for the FC that Mr Eric LI is introducing amendments to and which we are talking about now. We admit that the electoral method of FC is a transitional electoral method and an interim arrangement before the election of all Members by universal suffrage can be achieved as stipulated in the Basic Law. I also fully agree that we should explore how to make the most of an undesirable or less than satisfactory arrangement. We support this principle. But I do not understand why one would call it more democratic and a gradual and orderly progress if certain bodies which have the right to vote are pulled out from the constituency. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Miss Cyd HO, before you speak, let me say that some Members said they wanted very much to hear the public officer's reply. However, Members keep rising up to speak. I have no alternative but to let Members speak first.

**MISS CYD HO** (in Cantonese): Madam Chairman, actually, I just wish to ask the Government a question. I believe its answer would very much influence how we in the Frontier would vote this time.

Just now many colleagues have questioned why the Government should lobby Members to vote against the amendments introduced by Mr Eric LI when it would lobby Members to vote for the very same amendments when they are introduced by the Government. Recently, we have seen many people in this Council changing their stance. However, the one who keeps changing its stance is the Government itself. It has changed its stance from opposing other people's amendments to introducing these amendments again itself. Furthermore, it lobbies Members to vote for or against the amendments depending on who introduces them. I really hope that the Secretary could explain this. If he fails to do so, Article 74 of the Basic Law can be the only explanation. Even if the Government does not admit it, we can only assume that that is the reason.

This morning, the Government wanted to embrace the Frontier. But since members of the Frontier are full of thorns, one would only get hurt. That was why the Government kept a distance from us this morning. Nevertheless, I would like to tell the Secretary that the Frontier will not change its stance as a matter of principle. However, if there are any major new developments, we would indeed reconsider. I would also like to say to colleagues of the Democratic Party that they need not worry that we would feel flattered. If one wants to lobby for the three votes of the Frontier which are so hard to get, one must be quite desperate indeed. There should be no flattery to speak of when we were the last to be lobbied. We were not the first whom they wanted to lobby. Therefore, we are neither afraid, nor flattered, nor scared. Members

can be reassured. The best way to deal with members of the Frontier who are full of thorns is to show mutual respect and work our way forward together.

I also have a question for Mr Eric LI. I think the protagonist himself sounds hardly convincing. Yesterday, during the emergency Bills Committee meeting, Mr Eric LI mentioned the phone call with the Government. During the phone call, someone mentioned Article 74 of the Basic Law first. Just now, he suddenly became a "victim of the Government". We are totally puzzled. We would really like to know the truth and get more information, so that we can make a good decision.

Lastly, I would like to respond to the advice that Mr CHAN Kam-lam has given to us. We would be very grateful for the same advice if it were given by some colleagues who take a very firm stand. We would also consider it very seriously. However, I have to beg Mr CHAN Kam-lam's pardon in saying this. Having seen how the DAB acquit itself in the last few days, I really could not help but smile when he gave us this advice. Thank you, Madam Chairman.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, I said the same thing at the Second Reading of this Bill yesterday that the Legislative Council was to deal with the amendments moved by Members to this Bill in accordance with the Rules of Procedure on this day. I have to make it very clear that the Government totally respects the autonomy of the Legislative Council in formulating the Rules of Procedure but as the Government already indicated last year, it has reservations over the application of the Rules of Procedure of the Legislative Council on certain provisions of the Basic Law in respect of the Legislative Council's operation. I think that it is necessary to put this stance of the Government on record again. This I also made it very clear yesterday. What does this indicate? This indicates that as long as the Rules of Procedure is not amended, no matter what difference between our interpretation and Members' interpretation of the Rules of Procedure or the Basic Law is, neither Members or we will discuss it when dealing with matters. We do follow every procedure set down in the Rules of Procedure formulated by Members.

Just now some Members have queried what procedures we follow. We follow the Rules of Procedure. I have said it several times today that I follow the Rules of Procedure. The Rules of Procedure allows me to do so but the

decision rests with the President. The President has already ruled that my petition for the dispensation of the required notice of amendment is not acceptable, and I fully respect her ruling. Therefore, this has nothing to do with the Basic Law and we do accept all these procedures. The Government of course has its stance and its view as to whether to agree to Members' amendments, but it may not influence Members' decision on whether or not to pass an amendment. Some Members say that in principle the Government hopes that all motions moved by Members be negatived. This is certainly our stance. If the Government can accept a certain motion or amendment, it will normally propose it in its own way. As for others, we will do our best to convince Members of our viewpoint. In this regard, we can make our stance known to the public only by lobbying the Members, but the decision, that is the vote of Members, is always in the hands of Members. We cannot point a gun to the head of Members to force them to vote in favour of or against anything. The decision always lies with them. What I can only do is like what I am doing now, to speak to Members in this Chamber, explaining the Government's position, and why I hope that they should support the Government's position. But in the end, if Members do not agree with the Government or consider its arguments justified, they will of course act according to their conscience and view in casting their votes. Members of course need not care about the consequence of their vote, neither do they need to care about the Government's view on the Basic Law or the Rules of Procedure, as these are questions of the Government. Should that case arise, the Government will certainly study where the problem lies, but we cannot hypothesize now what problems will arise and how we would deal with them.

Concerning Article 74 of the Basic Law, I understand why some Members would make such speculations. But as I have just said, we should not make such speculations beforehand. The Government will definitely do its best to lobby Members, as that is its job. Since the Government has no vote in this Council, if I do not lobby Members, how can I secure their support for the Government's proposals and bills so as to implement them? All along, despite the strong and varied views of Members, we have made great accomplishments. In the face of certain highly controversial issues, win-win results have been achieved after heated discussions here. We know that politics is business about people. We all wish to strive for things that are acceptable to everyone but we

cannot stick to a rule all the time and stubbornly insist on something; otherwise, how can we achieve anything in this Council? Therefore, Members have to understand very clearly that the Government does need to lobby, and as it has no vote, it has to lobby Members.

Yesterday, Mr Martin LEE questioned our lobbying work last time. Perhaps he was mistaken that we had gone beyond the limits, but we did go by the book. We know where the bottomline of our lobbying lies. Everything we do is in the overall interest of Hong Kong. Very often Members would ask why the Government should hold a view contradictory to that of the public on many issues. Is it that the Government does not accept the public view? Members should ask themselves why, although the Government is actually open to the public view on many issues, it keeps on changing its position. Members are very afraid of being accused of "changing their positions". But the Government keeps changing. If the Government does not change constantly, how can it carry the public will? What is our purpose in putting forward proposals to go through the various procedures in this Chamber or the discussion of the panels? Some say that we are releasing balloons. Actually it is our attempt to find out the public response. The Government is not omnipotent, it cannot have a good grasp of everything. The Government needs to work through a committee system. Although Members denounce the system of appointing members to these committees, the committees are one channel through which the Government can find out what the public needs. Of course, Legislative Council Members are also one of the channels, and they very often reflect to us the public views on many issues. After learning their views, we can make correct decisions in administration.

We have been doing such work over the past few days. Of course, our approach at times may arouse people's doubts or speculation, but I hope that after these few days, after hearing the two Members' and my repeated open explanations, Members will all come to understand it all. Otherwise, there is no point for me to give further explanation. It would be fine if they believe me but if they do not, I cannot help it. But I have made it clear that what our words do count and have been kept on record where people can look it up in future. Thank you, Madam Chairman.

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, Mr SUEN is certainly a skilled speaker in this Council. He spoke for seven minutes without answering any of our main questions. However, Madam Chairman, I am also like that sometimes. (*Laughter*) I have two very important questions to ask him, which he can hardly dodge even if he tries.

First, I wrote a note to Mr Eric LI just now about a certain point. Unfortunately, in his reply, he said he could not remember it. With regard to Mr LI's amendments, according to the procedures, a staff member of the Constitutional Affairs Bureau or the Secretary himself wrote a letter to the President to express his view on the amendments, either supporting or opposing them, and asked the President to make a ruling. I do not know whether Mr Eric LI's amendments met with the same fate as our amendments. The ruling on my amendments is quite simple. Much of it has to do with Article 74 of the Basic Law. Many of the questions that we raised were considered to be in contravention of Article 74 of the Basic Law.

I remember that Mrs Selina CHOW once told me that even the inclusion of the Hong Kong and Kowloon Poultry Dealers and Workers Association in the respective functional constituency is considered to be in contravention of Article 74, that is, it is related to the operation of the Government and political structure. This is ridiculous. I really had no idea that the inclusion of the Hong Kong and Kowloon Poultry Dealers and Workers Association in the respective functional constituency will affect the operation of the Government and the political structure. This amazes me. Madam Chairman, I am quite speechless. I could not conceive how the addition of the Hong Kong and Kowloon Poultry Dealers and Workers Association could affect the political structure. Does it mean that poultry running wild will affect the operation of the Government? How incredible!

The Government uses almost the same argument against all the amendments, saying that Members have contravened Article 74 of the Basic Law. If I remember it correctly, Mrs Selina CHOW once told me that many of her amendments could not be introduced because they were said to contravene Article 74. She did not know whether to laugh or to cry. I have this same feeling too. I have thought about it long and hard. Still, I could not understand why the inclusion of the Hong Kong and Kowloon Poultry Dealers and Workers Association would constitute a breach of Article 74. Therefore, I think the Secretary owes us a frank explanation. I think his colleagues must have brought a copy of the ruling with them, because they are so careful. They

have so many Administrative Officers under them. There are six here and a dozen outside. They must have brought the ruling. The Secretary or Mr SO sitting next to him will certainly have it. Therefore, I hope that the Secretary could tell colleagues in this Chamber clearly whether he had written to the President to raise questions about Article 74 of the Basic Law.

Second, the Secretary has refused to say whether he supports Mr Eric LI's amendments. We are all straining our necks, not to be executed, but in anticipation of his reply on whether or not he supports them. Will the Government oppose an amendment if it is proposed by our colleague, and only support it if it is proposed by the Government? If so, it is a very serious case of executive hegemony. I believe this will be hardly acceptable to Honourable colleagues. If this is the case, this Council has basically nothing to do. Only one thing would remain between us and the Government in future and that is, confrontation. Anything it proposes, we oppose.

I do not wish to take up too much time. I hope that first, the Secretary can tell us whether they have brought the ruling with them, and I think they must have. Second, I would like him to state whether he supports Mr Eric LI's amendments or not. Third, I would like him to answer one further question and that is, how the addition of the Hong Kong and Kowloon Poultry Dealers and Workers Association would affect the operation of the Government and the political structure. However, he needs not answer that question now, because I would have a chance to ask it again later.

Thank you, Madam Chairman.

**MRS SELINA CHOW** (in Cantonese): This is not the time to discuss the poultry. I hope we will wait until it is time to discuss them. *(Laughter)*

**MR LAU CHIN-SHEK** (in Cantonese): Madam Chairman, my question is the same as Mr LEE Wing-tat's second question. I do not understand why the Government was so very much on its guard when Mr Eric LI introduced his amendments, and then turned around and introduced the amendments itself. If the Government opposes Mr Eric LI's amendments, does it mean that it will ask Members to oppose the same amendments when they are introduced by the

Government itself? I hope the Secretary will give us a clear answer to that. Thank you, Madam Chairman.

**DR LEONG CHE-HUNG** (in Cantonese): Thank you, Madam Chairman. I beg your pardon, just now I was interviewed by reporters outside. However, during the interview, I heard Dr YEUNG Sum mention Article 74 of the Basic Law and the House Committee's stand. He was absolutely right. Since we have endorsed our Rules of Procedure, it would be totally unacceptable for the House Committee or any colleague to give in to the Government because of the provisions in Article 74. Madam Chairman, in my speech earlier, I already clearly explained the reasons why I withdrew the amendment to include Chinese medicine practitioners in the Medical Functional Constituency. There were three reasons for my withdrawal. First, it was because my constituents were of the view that .....

**MRS SELINA CHOW** (in Cantonese): I thought we were discussing Mr Eric LI's amendments. But Dr LEONG revisited the motion already debated. Madam Chairman, could you make a ruling?

**CHAIRMAN** (in Cantonese): I will allow Dr LEONG to continue to speak. Just now, Dr YEUNG Sum said that it would be a grave problem if Dr LEONG Che-hung as the House Committee Chairman, believed in this too. That is why I will allow Dr LEONG Che-hung to respond to this.

**DR LEONG CHE-HUNG** (in Cantonese): Thank you, Madam Chairman. As I said just now, there were three reasons why I withdrew my amendment and they had nothing to do with Article 74 of the Basic Law. Due to the time constraints, I will not repeat them here.

I can remember that when we resolved on the Chinese Medicine Bill yesterday, I also said that as Chairman of the House Committee, I should certainly uphold the rules of the Council.



Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Mr Andrew WONG, speaking for the second time.

**MR ANDREW WONG** (in Cantonese): Madam Chairman, I hope that the Secretary for Constitutional Affairs will not mistake this for a question time. Actually, I just want to ask a simple question, which Mr LEE Wing-tat also mentioned in the second part of his question just now, as did Mr LAU Chin-shek. This has something to do with Article 74. It is strange that the Government has so far not indicated whether it supports the amendments that it intended to introduce itself. The Government has been conducting a lot of lobbying over the past few hours. Is its purpose to persuade Members to support or oppose Mr Eric LI's amendments? If the Government is lobbying for votes to oppose Mr Eric LI's amendments, it should say so outright. If the Government is willing to introduce a motion, it means that it supports it. Otherwise, it should not agree to introduce the motion. The Government should not lobby for votes to oppose Mr Eric LI's amendments now. The Government must understand that it cannot do one thing in the open and another behind people's backs. Otherwise, its conduct will only intensify our suspicion that the Government's intention is to introduce the amendments itself and then secure votes to negative the amendments.

**MR RONALD ARCULLI**: Madam Chairman, I really admire my colleagues for being so persistent over the last few days, in asking questions of the Secretary for Constitutional Affairs, knowing that he is not going to answer. (*Laughter*) So, as an old legal hand, I would recommend to my colleagues a rule that we use and that is used in court, called circumstantial evidence.

Circumstantial evidence means that when you are faced with a set of facts and you are driven only to one conclusion, you do not have to get direct evidence of that fact. And the only conclusion we can come to is the Secretary's persistent refusal to answer directly or indirectly the first question to

the hundreds of questions on this issue of Article 74 of the Basic Law. I would add one new fact which I hope will be the final nail on this particular issue. And that is, one of my colleagues here said that in 24 hours, the Government has changed from supporting the Honourable Eric LI's amendment to opposition today. What they have forgotten is that throughout the 23 meetings, maybe that is not entirely correct, I would probably say that from about mid-May onwards, Members have very broadly indicated what their line of thinking was, for the benefit of the Bills Committee and for other colleagues to consider. Mr Eric LI, who is not a member of the Bills Committee, right from the outset, told the Bills Committee that he was going to make this amendment. Persistently from then, those representing the Administration and the Bureau opposed his proposed amendment, even before they saw it on paper. Yet by a letter dated 13 July and which was faxed to you, Madam Chairman, on the morning of 14 July, they would have us believe that out of the goodness of their heart, because of technical matters, because of one or two things not terribly clear, they would take up not only Mr Eric LI's amendment, but also Dr the Honourable LEONG Che-hung's amendment. Dr LEONG also told us that it was from the way back when he proposed his amendment, that is, seeking a separate constituency for Chinese medicine practitioners, and failing which, he would seek to include them in the Medical Functional Constituency. So, it is not a 24-hour development, it is not.

Hence, we have this situation, Madam Chairman, consistent opposition, sudden support and immediate reversal. That is the situation. Now, has that nothing to do with Article 74 of the Basic Law? I think I can understand why the Secretary for Constitutional Affairs is not answering the question, I would not if I were him. The Secretary for Justice would not answer that either, she has left. Because if they say "yes", they would be precipitating some form of crisis. Whereas, as we all know, the name of the game of Article 74 of the Basic Law is "hit and run". They hit first, if you run, they would have got you. I think as far as that is concerned, I perfectly understand. In fact, I sympathize with the government officials, when sometimes they have to use Article 74 of the Basic Law, maybe they have no reason or no need to do so, as there is nothing to do with it, but if it can persuade Members or some of us to change our minds to go along with the Government's line of thinking, why not? All is fair. You have to make up your own mind as to whether you want to be persuaded by the use of Article 74 of the Basic Law or to face even a more serious situation that the Chief Executive may not sign the Bill. That is not something new, Madam Chairman, not just for this Administration, but even before the reversion of

Hong Kong to China, we have heard them saying that "the Governor is not going to sign the Bill". I think all of us are adults, and we are playing in this game called "politics". The people that I really feel sorry for are Dr LEONG Che-hung, Mr Eric LI and the Secretary for Constitutional Affairs. I do not feel sorry for any one of us.

I think as far as the argument is concerned, I think the Honourable Miss Margaret NG has pointed out to all of us that you, Madam Chairman, would have ruled us out of order if you considered that the amendments put forward impinged on government policy which required the Chief Executive's consent. So, as far as that is concerned, as far as you and this House are concerned, we should go along with that. I believe that the irresistible conclusion, or the only one conclusion that we can draw is that, from the Government's point of view, they have been trying to play a very hard-and-fast game on this particular amendment. It is sad, but unfortunately this time, they got caught with their trousers down. *(Laughter)*

**MR JAMES TO** (in Cantonese): Madam Chairman, since we are arguing about Article 74 of the Basic Law, I would like to read out Article 158 of the Basic Law which says "The power of interpretation of this Law shall be vested in the Standing Committee of the National People's Congress". This controversy will come sooner or later. As Mr DENG Xiaoping said, it is independent of man's will. I just want to know if this matter will again call for an interpretation of the Basic Law by the Standing Committee of the National People's Congress.

**CHAIRMAN** (in Cantonese): Before I ask Mr Eric LI to reply, does anyone else wish to speak?

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, some Members say that the arguments we have submitted to you in opposition to the various amendments are all based on Article 74 or related provisions of the Basic Law. This is of course true. I have pointed out before that my views are different from those of Members. Members have one interpretation while I have another. But my duty is to do my best to explain the situation to Members on basis of my understanding, but I will certainly comply with the Rules of Procedure.

The questions that I have raised with Members are subject to the decision of Members who will certainly follow the rules of this Council. I have discharged my duty the best I can, and by the book. I think that what I have done is perfectly reasonable and Members should not be surprised. This is all due to the difference in our fundamental position. That is why I stated my stance right from the very beginning and requested that it be put on the record. I have not mentioned Article 74 or any other rules whatsoever because I know that Members understand what our present situation is. Under these circumstances, I believe that everyone is very clear about that.

Why did we agree to consider the amendments proposed by Dr LEONG Che-hung and Mr Eric LI? I have already said that our initial idea was if we could persuade Members to vote down those amendments, then it did not matter whether the provisions were properly written or not. However, if the amendment stood a chance of being passed, I was obligated to point out and explain the inadequacies of those amendments clearly. That explains why we pointed them out at the last stage rather than earlier. Now we have followed the procedure and asked the President to rule on this and allow us to proceed this way. But the President turned down our request on the ground that we had not made the application in time and at the same time we had failed to obtain the consent of the Bills Committee. As this failed to work, we could only resort to our original approach, that is, to oppose those amendments. It is so simple and I have explained the Government's position. There is nothing unusual about it and anyone can do that.

**CHAIRMAN** (in Cantonese): Mr CHEUNG Man-kwong, speaking for the second time.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam Chairman, Secretary Michael SUEN finally indicated that he opposes Mr Eric LI's amendments. That is to say, if the amendments were proposed yesterday by the Government, Mr SUEN would support them and lobby others to support them. Today, when the amendments with the same purpose and content are proposed by Mr Eric LI, Mr SUEN opposes them. He explicitly said just now that he opposed them. I am not surprised, not at all. I have never expected Mr SUEN and the Government that he represents to have political ethics and integrity. I questioned this earlier. His reply has confirmed that my suspicion was justified.

Poor old Eric LI. Yesterday, he asked should he miss the boat when the Government lets him do the penalty kick? Of course not. He could stand so near the goal to do the penalty kick. At first, Mr Eric LI just wanted to do a free kick outside the penalty area. There was no knowing whether he could make it or not. Suddenly, he had a godsend chance to do a penalty kick. He thought that he had a greater chance to score a goal since he could be nearer the goal in doing the penalty kick. So, he chose to do the penalty kick. However, the President suddenly ruled that he could only do the free kick, not the penalty kick. As a result, the Government removed the goalposts altogether. Does the Government have any ethics and integrity? Now, Mr Eric LI can only do the free kick in the direction of the goal. The goal which was there has now disappeared. Why? Does the Government have any credibility at such a time? Can it be trusted by the community? It changes its attitudes all the time. The goal is sometimes there, sometimes not. We should give up the game altogether. Unfortunately, social order is maintained by the Government's credibility. The Legislative Council needs order. However, the Government does not observe the order because it has no credibility.

**DR LEONG CHE-HUNG** (in Cantonese): Madam Chairman, thank you for allowing me to speak for the second time. Just now Mr Ronald ARCULLI said that a few people might suffer. Actually, I think that some Policy Secretaries might suffer under certain circumstances. The Legislative Council has a clear stand on Article 74 of the Basic Law, that is, this article applies only to the introduction of private Members' bills, not on amendments to Government bills, at least for the time being.

Madam Chairman, thanks to your wise decision, those amendments were allowed to be introduced. Since the Legislative Council came into operation last year, we have been arguing this point with the Government which has been telling us that it reserves the right to seek a judicial review. However, it has not done so so far. It might be because there has as yet been no so-called "test case". As the saying goes, "it is better to cut short the suffering". Should we not put an end to this soon? If Mr Eric LI's amendments are passed, they might be useful to the Government as a "test case". We should also consider this, since we cannot allow this deadlock to continue. Next year, more bills will be

tabled to this Council. Members have the duty to scrutinize bills and to make amendments when they find any impropriety with them. These amendments will not just be of a technical nature. Very often, amendments are made to the principles or policies. The same problem would arise.

Sometimes, the poor Secretaries have a hard time. At first, they opposed the amendments and tried to prevent the motions from being passed. Then everything would be all right. However, after counting the votes and discovering that the amendments might be passed, they panicked. So, they thought they might as well introduce the amendments themselves. This is a very great problem. I hope these amendments could help the Government by serving as a "test case". Thank you, Madam Chairman.

**MISS CHRISTINE LOH:** Madam Chairman, I said during the Second Reading debate yesterday that I thought that the Secretary had a very difficult position. Because the Government believes that if any amendment gets passed, it contravenes Article 74 of the Basic Law. So, he has sort of let on that if that is the case, he is doing his job, he is interpreting the Government's position, and the Government's position, presumably, comes from legal advice from the Secretary for Justice's office. Then, Dr the Honourable LEONG Che-hung has just alluded to the fact that if we win, it is becoming incredibly attractive actually to vote for the Honourable Eric LI. If we win, we can expedite our constitutional development. And if the Government is serious about its legal advice, it will have to take the Council to court, it would have to go and get a judicial review as to whether the Basic Law has been contravened.

Thus, as I said, if any Member, perhaps the Frontier, is really concerned about constitutional development, this is the golden opportunity. It would also put our Chief Executive in a very difficult position as to whether he would assent to this Bill. Now again, this is very interesting, because I certainly agree with the Honourable Ronald ARCULLI that from the previous Administration, from time to time, we hear about things like: The Governor will not sign the Bill or would not assent to the Bill. And I remember Mr Ronald ARCULLI once said, "我們是 '嚇大' 的". So, I wonder whether with the new Administration will again just be promoting fear, scare-mongering to Members of this Council, or whether they truly mean it. It would be a constitutional crisis. If something is really not going to the heart of "one country, two systems", one would imagine that this is going to push for a constitutional crisis. But even if such a case is to

push us there, let us have a very clear understanding of what this version of "one country, two systems" is about, and let us not have any dreams about what is possible for the future.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Thank you, Madam Chairman. I respect Members' rights and privileges in this Chamber. They do not have to bear criminal or any other liabilities for the things they say. I do not mind being criticized as having poor judgment or not being clear-sighted. But it is a very serious accusation to say directly that I have problems with my morality or integrity. I feel obliged to explain it here and I also feel that Members have to be fair when they look at this issue. This is not an issue on which we can lightly pass remarks about someone's morality or integrity. I have to say once again what reasons I have and why I hold a different view. I have said before that we felt there were problems with both the motions of Dr LEONG and Mr LI. These problems needed remedies and we could support the remedied motions. But now we have missed the chance to remedy these problems. Of course we can do that later. But since I do not have the chance now, I have to resume our former stance. I have already given an account about this and Members should be aware of it.

I think Members have to look very carefully at the Government's or my morality and integrity. We cannot make irresponsible remarks. Although people can say many things in this Chamber, if the targets of their remarks are not given the chance to clarify or make corrections, it is very unfair to them. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Miss Emily LAU, speaking for the second time.

**MISS EMILY LAU** (in Cantonese): Madam Chairman, I would like to ask the Secretary a question. Our earlier amendments concerning Chinese medicine practitioners have failed. Now, the Secretary should support the amendments concerning the social workers in principle, since at least he was willing to propose them. If these amendments are still negated, will the Secretary undertake to introduce amendments at the earliest opportunity as in the case of the amendments concerning Chinese medicine practitioners?

Thank you, Madam Chairman.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): I will follow through what I have said. Since I have made a promise to the Chinese medicine practitioners, I will of course be very willing to make the same promise to this sector as well.

**CHAIRMAN** (in Cantonese): Mr Eric LI, do you wish to reply?

**MR ERIC LI** (in Cantonese): Madam Chairman, the air-conditioning in this Chamber is now back to normal. Although my name has been mentioned several times today, it seems that some of the attacks were directed to my left, while some were directed to my right. Thus, I was able to take a break. I believe I do not need to lobby for votes now.

Nevertheless, I would like to talk about some questions. In particular, I would like to respond to Miss Cyd HO's question about who mentioned Article 74 first during my telephone conversation with Secretary Michael SUEN on the afternoon of the day before yesterday. I said to her that I could not remember it clearly when I was asked this question all of a sudden. Having racked my brains, I think it was I who raised it. As for the content of the conversation, I told the Secretary that it was just fine, since the Government were to propose the amendments, there would be no need to continue to haggle over Article 74. We probably spoke no more than two or three sentences about this. Then we began to talk about the procedures and how to contact Dr LEONG Che-lung, since we had not yet got in touch with him. I believe the Secretary can confirm this.

I would also like to make it clear that the Secretary did not discuss Article 74 with me or make threats against me on the phone that day, since it might be unfair to the Secretary. Therefore, I have to clarify this point. As we all know, we have very divergent views on Article 74. Today, I have to state my stand clearly too.

I know that Miss Emily LAU has seriously considered how she should vote. She asked me whether the Secretary or other government officials had



talked to me again or other Members that I know with regard to Article 74. Miss Emily LAU pointed out earlier that I did not give a clear answer. Actually, I think my answer is already quite clear. I told her that I had not heard that any government official had tried to use Article 74 to achieve anything. I just heard someone mention Article 74 when Members were lobbying and discussing with one another. But I could not tell Miss Emily LAU exactly who raised it first, although I know that government officials had mentioned that Article 74 would be helpful in lobbying for votes. In my view, winning or losing does not matter in this voting. The most important thing is to tell the truth.

I would also like to say that although this matter has stirred up sort of a small storm, I still think that the Government should not act in very much a diehard way. In dealing with amendments introduced by Members, it should be more flexible and should seek common ground while reserving differences. It is a good thing if the Government and Members can seek common ground while reserving differences. With regard to certain proposals by the Government, we should not overreact or oppose them so strongly. This kind of political compromise is a kind of art. The Government has no need to turn around and oppose me on the last day. Otherwise, we should be able to gain more experience from this. Personally, I would like the Government to continue to leave room for discussion with us over various questions. I think all Members do share this hope, too. I hope that there will be more political compromises in this relatively new legislature. As our art becomes more mature, we might handle this with greater elegance.

I am very grateful to various Members for their speeches, in particular several Members who have given me support and encouragement. I am also very grateful to the President. I have brought a lot of trouble to her over the past few days, since I have submitted these amendments to her very hastily and asked her to make a very difficult ruling. I have also asked her to make an urgent ruling on whether to reject them. Today's debate seemed to be more about Article 74 than my technical amendments. Even I was not quite sure as to whether this debate was about my amendments or about other things. Under these circumstances, the Chairman has given us great indulgences. I feel that today's debate has been quite thorough and I hope that Members will vote according to their conscience.

Madam Chairman, I claim a division.

**DR YEUNG SUM** (in Cantonese): Could I seek your permission to suspend the meeting for five minutes? Five minutes.

**CHAIRMAN** (in Cantonese): Fine. The meeting will be suspended for five minutes.

5.53 pm

Meeting suspended.

5.59 pm

Council then resumed.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendments moved by Mr Eric LI be passed.

Before the suspension of the meeting, Mr LI had already indicate that he would claim a division. Therefore, the division bell will now ring for one minute.

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

**CHAIRMAN** (in Cantonese): Will Members please check their votes? If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Mr Michael HO, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Miss Margaret NG, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr CHEUNG Man-kwong, Mr Ambrose CHEUNG, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG,

Mr SIN Chung-kai, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU and Mr LAW Chi-kwong voted for the motion.

Mr LEE Kai-ming, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Dr Philip WONG and Mr WONG Yung-kan voted against the motion.

Mr HUI Cheung-ching, Mr FUNG Chi-kin and Dr TANG Siu-tong abstained.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss Christine LOH, Mr LEUNG Yiu-chung, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr Andrew CHENG and Mr SZETO Wah voted for the motion.

Miss CHAN Yuen-han, Mr Gary CHENG, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr CHAN Kam-lam and Mr YEUNG Yiu-chung voted against the motion.

Mr David CHU, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok, Mr Ambrose LAU and Miss CHOY So-yuk abstained.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 28 were present, 20 were in favour of the motion, five against it and three abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 28 were present, 14 were in favour of the motion, seven against it and six abstained. Since the question was not agreed by a majority of each of the two groups of

Members present, she therefore declared that the motion was negatived.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clause 16 stand part of the Bill. 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.

**CHAIRMAN** (in Cantonese): We will now deal with Mr SIN Chung-kai's amendment.

**SIN CHUNG-KAI** (in Cantonese): Madam Chairman, I move the amendment to clause 13 to renumber the proposed section 20Z as section 20Z(1) as well as the amendment to section 20Z(1)(k) in clause 13, as set out in the paper circularized to Members.

Madam Chairman, the main purpose of my amendment is to add the Information and Software Industry Association Limited to the Information Technology Functional Constituency. The Information Technology is a rather special FC under the Bill, comprising members of about 10 professional bodies as well as several other bodies. These bodies include the Hong Kong Information Technology Federation Limited, the Hong Kong Internet Service Providers Association, the Hong Kong Radio Paging Association Limited and the Telecom Association of Hong Kong. This amendment seeks to add the Information and Software Industry Association Limited to the above-mentioned bodies, whose corporate members entitled to vote at general meetings of the relevant body are electors of the FC.

Madam Chairman, in a bound loose-leaf document that I distributed to colleagues yesterday, I attached a letter from the Information and Software Industry Association Limited to colleagues. Earlier, it had also sent letters to Members to introduce itself. All members of this Association are local companies engaged in the development of software. The Association was set up a short while ago with the assistance of the Hong Kong Productivity Council and has now several members. In the letter addressed to Members which was attached to this loose-leaf document, the president of the Association introduced its aims and membership. I just hope that Members would understand that the Information Technology Functional Constituency is a rather special FC. Earlier, Dr Raymond HO said that he did not like a FC with both individual and corporate members. This FC is exactly the type of FC that Dr Raymond HO dislikes. But there is nothing I can do.

This recently established Association consists of several local software companies based in Hong Kong which specialize in software development. Some of them are doing quite well and have been awarded a number of government projects. Members of this Association are in fact companies of the same category as those under the Hong Kong Information Technology Federation Limited. I believe its members are of the same nature as the existing corporate members. I hope Members will support this amendment.

*Proposed amendment*

**Clause 13 (see Annex III)**

**MR YEUNG YIU-CHUNG** (in Cantonese): Madam Chairman, I oppose Mr SIN Chung-kai's amendment on behalf of the DAB. The reason is that we have to look at this from the point of view of safeguarding a profession. The professional qualifications of a FC should not be accredited by itself or by the employers. This is .....

**CHAIRMAN** (in Cantonese): Mr SIN Chung-kai, if you wish to clarify, I can let you speak later in accordance with the Rules of Procedure. But if Mr YEUNG Yiu-chung is willing to give way, you may speak now.

**MRS MIRIAM LAU** (in Cantonese): Madam Chairman, point of order. It

seems to me that Mr SIN is introducing an amendment to include the Information and Software Industry Association Limited in the Information Technology Functional Constituency. Actually, there are two parts to his amendment. He is now talking about part one, while it seems to me that Mr YEUNG Yiu-chung is talking about part two of the amendment.

**MR SIN CHUNG-KAI** (in Cantonese): Madam Chairman, Mrs Miriam LAU has said what I wanted to say.

**CHAIRMAN** (in Cantonese): Mr YEUNG, do you wish to speak on the expansion of the electorate of the Information Technology Functional Constituency? I will call upon you to speak later.

**MR YEUNG YIU-CHUNG** (in Cantonese): Fine.

**MRS MIRIAM LAU** (in Cantonese): Thank you, Madam Chairman. The Liberal Party supports Mr SIN Chung-kai's amendment to include the Information and Software Industry Association Limited in the Information Technology Functional Constituency so that its corporate members would become electors of this FC. The Liberal Party's stand is, as long as the rules of the game of FCs remain unchanged, the Liberal Party supports the expansion of the scope of the electorate of the relevant FCs as far as possible. The Liberal Party is of the view that this will increase the representativeness of FCs. We will also support the expansion of the electorate base of FCs. The Liberal Party will support proposals to expand this base. Later, I will propose seven amendments similar to this amendment. I hope that Mr SIN and the Democratic Party will support my proposed amendments. Thank you, Madam Chairman.

**MR LEE WING-TAT** (in Cantonese): Madam Chairman, I am sorry. The Democratic Party opposes the first part of Mr SIN Chung-kai's amendment. Our principle is quite simple. We will not support any proposal that involves corporate voters. We will only support those FCs which expand the electorate consisting of individual electors. I am sorry. Thank you, Madam Chairman.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Sorry, Madam Chairman, there is a little confusion here. *(Laughter)*

**CHAIRMAN** (in Cantonese): It does not matter. Please take your time and look carefully. What we are discussing now is .....

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): I know. I just have too many papers on hand. Sorry, Madam Chairman, I have kept everyone waiting.

Madam Chairman, Mr SIN's amendment seeks to include the Information and Software Industry Association Limited as a corporate member of the relevant FC. As the association was set up only late last month and is still recruiting members, before we know whether the association can represent the information and software development industry, we do not consider it appropriate to include the association in the constituency at the moment. For this reasons, I call on Members to vote against Mr SIN Chung-kai's amendment.

**CHAIRMAN** (in Cantonese): Mr SIN Chung-kai, do you wish to reply?

**MR SIN CHUNG-KAI** (in Cantonese): Madam Chairman, when I talked to the relevant software companies, we also talked about this question and that is, the Association has been set up only recently and still lacks representativeness. Actually, I have explained to them that it is stipulated elsewhere that members can only vote after joining the Association for 12 months. The corporate members of this Association are all heavyweights in Hong Kong. Only the Association is new, while some of these companies are quite well-established. I hope Members could understand this. I have to respect that body since its members are rather dedicated to the development of information technology in Hong Kong. The Government is now actively promoting information technology. They also think that it should be promoted. I hope Members will continue to give their support.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr SIN Chung-kai 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 SIN Chung-kai rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for one minute.

**CHAIRMAN** (in Cantonese): Honourable Members, the question now put is on Mr SIN Chung-kai's amendment to add the Information and Software Industry Association Limited to the Information Technology Functional Constituency. Will Members please proceed to vote.

**CHAIRMAN** (in Cantonese): Will Members please check their votes.

**DR LEONG CHE-HUNG** (in Cantonese): There is a problem with my voting machine.

**CHAIRMAN** (in Cantonese): My screen shows that you have cast your vote. If your voting machine has a problem, please tell me your voting intention.

**DR LEONG CHE-HUNG** (in Cantonese): Madam Chairman, I oppose it.



**CHAIRMAN** (in Cantonese): You oppose it. If the result displayed later is incorrect, we will rectify it. Any other questions? If not, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Dr LUI Ming-wah, Mrs Selina CHOW, Mr Ronald ARCULLI, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr Howard YOUNG and Mrs Miriam LAU voted for the motion.

Mr Michael HO, Dr Raymond HO, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Wing-chan, Dr LEONG Che-hung, Dr Philip WONG, Mr WONG Yung-kan, Mr LAW Chi-kwong, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the motion.

Mr LEE Kai-ming abstained.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr LEE Wing-tat, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Mr Andrew CHENG, Mr SZETO Wah, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Miss CHOY So-yuk voted against the motion.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 24 were present, 10 were in favour of the motion, 13 against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 18 were present and 17 were against the motion. Since the question was not agreed by a

majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

(The above voting result had been amended in accordance with Dr LEONG Che-hung's original voting intention on the instructions of the Chairman. This voting result was confirmed.)

**CHAIRMAN** (in Cantonese): I will now call upon Mr SIN Chung-kai to move his other amendment on expanding the electorate of the Information Technology Functional Constituency.

**MR SIN CHUNG-KAI** (in Cantonese): I move that clause 13 be further amended as set out in the paper circularized to Members.

Honourable colleagues, I move this amendment today with the purpose of allowing all people with information technology professional qualifications and relevant educational qualifications and working experience to become electors in the Information Technology Functional Constituency and elect their representatives in the Legislative Council election.

The development of information technology in Hong Kong has been very rapid over the past decade, seeing a steady increase in the workforce of information technology industry. In addition, since tertiary institutions in Hong Kong and overseas have offered a lot of courses related to information technology, there are an increasing number of people with qualifications and knowledge in that field. But under the current legislation, those who are engaged in information technology must first of all join a prescribed information technology body before they are eligible to be registered as electors. In fact, many people in the information technology industry are not members of any prescribed professional bodies. Subject to the legal constraints, they cannot register as electors. As a matter of fact, they are fully qualified to become members of those specified professional bodies. It is merely a matter of personal choice that they do not join them. They are deprived of the eligibility and right to vote in the Information Technology Functional Constituency simply because of this reason. So I think it is essential that those who are not members of these professional bodies should be allowed by way of legislation to become electors in the relevant FC.

Last year, the Government established the Information Technology

Functional Constituency so that the voices of the industry can be reflected in this Council since it has recognized the importance of information technology to the long-term development of Hong Kong. So my amendment seeks to complement the shortcomings of the existing legislation and to enlarge the electorate of the FC by introducing other eligibility assessment methods apart from membership of those prescribed professional bodies. According to the reports on the manpower situation by the Vocational Training Council, about 45 000 professionals in information technology were employed in various sectors in 1998. But issue only those who are members of the prescribed professional bodies are eligible as electors, the Government estimated that only 8 000 people were registered as voters in 1998, showing that the electorate was rather small.

On the other hand, it is rather difficult to estimate the registration rate in this particular FC since there could be duplication of membership in specified professional bodies. The number of registered electors in the election held in 1998, for instance, was only 3 147, representing around 40% of the eligible electors as estimated by the Government. I hope the Government will enhance its publicity work in the coming Legislative Council Election and appeal to the qualified persons to register as electors, particularly for those comparatively new FCs. Only then will we be able to serve the purpose of establishing the FCs.

I have consulted the industry on the eligibility of electors and the content of this amendment. There is an unanimous view on the expansion of the electorate. But the industry has also expressed to me the concern that an expanded electorate may enable those who are not engaged in information technology work to take this opportunity and register as electors by filing untrue information. That will bring damage to the professional status and reputation of the industry. Therefore I suggest that the Registration and Electoral Office should invite the professional bodies as prescribed in the legislation to send representatives to help it formulate the relevant eligibility criteria. I have made it clear in the paper distributed to Members that the essence of my approach is that prospective electors are required to possess certain educational qualifications and relevant working experience. As far as educational qualifications are concerned, the electors should possess qualifications recognized under the Post Secondary Colleges Ordinance. As regards the relevant working experience, it should vary according to the electors' educational qualifications. For those who have a higher qualification, the working experience required will be shorter, say four years or above. For those non-degree holders or diploma holders, they are required to have longer working experience such as eight years.

I understand that it may be difficult to assess and vet such qualifications. But when I was conducting the consultation, some relevant organizations had indicated their willingness to assist the Government in verifying whether such qualifications are recognized by the professional bodies. As far as the actual operation is concerned, the Government can invite representatives from these 10 statutorily recognized professional bodies to help the Registration and Electoral Office or the Voter Registration Section to verify whether the qualifications and working experience concerned tally with the statutory requirement.

It is widely accepted that the electorate of the Information Technology Functional Constituency should be enlarged, as reflected by the industry. I would like to stress that today's amendment is one of the proposals offered by the industry to define the Information Technology Functional Constituency when it was fighting for the establishment of such a FC. I would also like to highlight the difference between the Information Technology Functional Constituency and others. For instance, members of the medical sector in Hong Kong have to join the relevant professional bodies before they can practise. But the information technology industry is more volatile and members need not join any professional bodies before they practise. Because of this, quite a number of people in the industry have not joined any professional bodies. Thus my amendment seeks to rectify this anomaly.

In fact, the concerned parties had expressed their views when I consulted them in writing. These may include those views mentioned by the Honourable YEUNG Yiu-chung in his speech just now. The relevant response is the letter by the Hong Kong IT Joint Council (ITJC) as attached to appendix 3 in the paper distributed to Members. In its letter, the ITJC pointed out that it would like to see an expansion of the electorate but it had reservations in the assessment and approval process. In fact, as highlighted in my reply to the ITJC, I hope that through this legislation, those who apply to be registered as electors will be required to submit documentary proof showing that they possess the relevant educational qualifications and working experience. The Registration and Electoral Office will then invite people from the prescribed professional bodies to verify whether their qualifications and working experience are acceptable or recognized. This approach seeks to rectify the shortcomings of the existing mechanism. Of course, the Government may not necessarily accept such an approach, but I hope it will offer some explanation.

In the long run, I hope the Government will consider my proposal carefully and seriously since I understand that it is more difficult for a Member's amendment to be passed. But even if my amendment is negated today, I will

introduce it in the future. If it can be improved in the technicalities, I hope Members of the DAB or even the Government will accept it. This is not a matter of principle. Rather, it is a matter of how to draft the law so as to serve the purpose. If the Government accepts it, it can deal with it in the same way as it deals with the social workers. It may then say that it can accept the proposal and will plug the loophole later. Frankly speaking, I welcome such an approach by the Government. I totally accept that if the system can be improved. If the Government later tells us in its reply that there are a lot of technical problems in this piece of legislation, I will accept any improvement proposal by the Government. However, as regards the question of principle, that is, to assess the eligibility of electors by their educational qualifications and working experience, I have to make it clear that this is not my personal proposal. Rather, it was proposed by those who had fought for the establishment of this FC. The problem before us is how to incorporate the proposal into the legislation in a comprehensively manner. I hope Members will give us advice on this point.

If Members accept this proposal in principle, the Government can in fact take the initiative as I believe that it may re-introduce a bill in November for it has to work on at least two areas. I hope the Government will consider the purpose of my amendment. As I have just said, if my proposal is impracticable technically, the ITJC is ready to assist in the verification process as long as the Government finds it necessary to do so. I also support that those who apply to be electors should possess these qualifications. I also support that there should be statutory provision prescribing that representatives be sent by these professional bodies to help the Registration and Electoral Office to verify the applicants' qualifications. From this we can see that there is no problem as far as the principle is concerned. The only problem is how to deal with the technical matters in a proper way. In my opinion, if this amendment is negated today, the Government can plug the loopholes when it re-introduces the bill on its own initiative in November.

The Government has been saying that no one knows how to assess the educational qualifications and the relevant working experience. Now there is an organization which is ready to come forward to give assistance as long as the

Government is willing to accept the proposal. I think the procedure is very simple. Since there are 10 recognized professional bodies prescribed in the ordinance, the Government should invite representatives from these bodies to help the Registration and Electoral Office verify the qualifications one by one. Had we got a registration system through legislation, it would be easy as we can just follow the names on the register. Failing that, the workload will certainly be increased tremendously.

Perhaps, I cannot secure Members' support for my amendment today. But I hope Members will understand that there are two matters. Firstly, it is a matter of principle as to whether such an approach should be adopted. Secondly, it is a matter of technicality. If Members oppose my amendment, I hope they can give me a clear explanation. I believe I will have an opportunity to move such an amendment again since the Government has already given an undertaking to the Social Welfare and the Medical Functional Constituencies. On that basis, it may re-introduce a bill in November. The Government said that it is technically infeasible, but there is a solution, not proposed by me, but by an organization which has promised to assist in the assessment process. So I urge the Government to consider it seriously. I dare say that all those organizations which I have come into contact with are ready to help as long as the Government sends letters to invite their representatives. So I hope Members will support my amendment.

Lastly, I would like to say that since I belong to this sector, I support this amendment in principle. I also hope that Members can support it. Thank you.

*Proposed amendment*

**Clause 13 (see Annex III)**

**MR YEUNG YIU-CHUNG** (in Cantonese): Madam Chairman, I oppose Mr SIN Chung-kai's amendment on behalf of the DAB. I am looking at this question from the point of upholding a profession. The professional qualifications in a constituency should not be validated by itself and then verified by the Electoral Affairs Commission. Let us look at other professions. In the case of teachers, they are registered as professionals before registering as voters with the Electoral Affairs Commission, rather than letting the Electoral Affairs Commission verify their professional qualifications before registration. The same applies to other professionals, such as social workers. Therefore, there is a technical problem with this.

Actually, there exists a strict mechanism for the validation of professional qualifications in the information technology sector. This mechanism is accepted and supported by members of the sector. Under the mechanism, the professional qualifications of members of designated institutes are validated by the respective institutes. As long as the relevant members of the information technology sector are members of a professional institute of the sector, they can become electors of the Information Technology Functional Constituency. This practice is acceptable and there is no need to change it at this stage. However, I have to make clear one point. The DAB recognizes that persons who possess the professional qualifications of the information technology sector have the right to become electors of the Information Technology. However, in exercising that right, the relevant persons must go through a process of validation to confirm their professional status. Of course, the validation mechanism can be implemented by professional institutes, government departments or independent professional bodies appointed by the Government, but not the Electoral Affairs Commission. In other words, there must be an authoritative validation mechanism recognized by the industry. Certification by employers is not enough.

I understand that Mr SIN Chung-kai is concerned that those who possess the professional qualifications might not be eligible to become electors of the Information Technology Functional Constituency and might be deprived of their right to vote if they choose not to join the designated institutes. Actually, the Information Technology Functional Constituency has an established set of procedures to enable those who are eligible to become electors. If they refuse to comply with these procedures, they are giving up their right voluntarily. They should not complain or make any demands. Indeed, the present mechanism of validating electors of the Information Technology Functional

Constituency is practical and workable. Professionals in the information technology sector can choose to become members of one or more professional institutes out of the different institutes of their own volition, in order to become electors of that FC. No situation would arise where someone who possesses the professional qualifications is unable to join a professional institute and therefore deprived of his right to vote.

The DAB is of the view that the eligibility of electors of the Information Technology FC will affect the professional status of information technology professionals and the recognition they receive in society. This involves far-reaching implications. Any radical changes in this respect must be thoroughly discussed in the industry and among the professionals in order to obtain a consensus. This is not the time to act hastily.

With these remarks, I oppose Mr SIN's amendment on behalf of the DAB.

**MR EDWARD HO** (in Cantonese): Madam Chairman, the Liberal Party also opposes this amendment. Insofar as I am concerned, Dr Raymond HO and I had spent a lot of time discussing the professional system during the days when we were members of the Basic Law Consultative Committee. At that time, we had a hot debate on Article 142 of the Basic Law. The spirit of paragraph 3 of that Article is mainly that the recognized professional organizations may, on their own, assess and confer professional qualifications. I think the most important principle is that we do not want to see a government body taking charge of the assessment of any professional qualifications. According to Mr SIN Chung-kai's proposal, however, the Registration and Electoral Office (REO) would be responsible for verifying the professional qualifications. The REO is basically neither a professional body nor a professional organization. It is only responsible for making the necessary electoral arrangements. Therefore I do not think it is a suitable proposal.

At present, there are a lot of institutes or associations which have established their own mechanisms to assess their professional qualifications. If we want to expand the electorate of this FC, I would suggest that either the institute concerned or the Government should set up a more general registration system, a la the association of engineers and the institute of architects. It should also enact relevant legislation on registration and set up a relevant registration bureau. Under such a system, anyone who wish to be registered as



a professional needs not become a member of a professional institute. Through the assessment of the registration bureau, the applicant can get the professional qualification. Of course, if an institute is recognized by the Government and the general public, its members will be automatically conferred the relevant qualifications. I think this would be more appropriate. For the time being, there is no such mechanism. Although the organizations concerned have expressed their willingness to provide assistance to the REO in vetting and assessing the qualifications, I think they have not considered the matter clearly. On the basis of this reason, I oppose the amendment.

**DR RAYMOND HO** (in Cantonese): Madam Chairman, first of all, I would like to ask all of us here a question: What is a professional sector? I do not think anybody would deny the fact that information technology is a very professional FC and its electors must have professional qualifications generally recognized by the sector. On that basis, I cannot agree to the amendment proposed by Mr SIN Chung-kai concerning the eligibility criteria of the electors in the sector. I think Mr SIN's amendment must be totally in line with the generally accepted basic definition before he can move such an amendment. I understand that Mr SIN's amendment seeks to expand the electorate of the sector through amending the eligibility criteria of its electors. This should give no cause for much criticism. But the sector seems to have raised queries about this amendment, particularly the ITIC which comprises the IT Division of the Hong Kong Institution of Engineers (HKIE).

I remember that in 1997 when I spoke on the Legislative Council (Amendment) Bill 1997, I strongly stated the case that members of the IT Division of the HKIE should be given voting right in the Information Technology Functional Constituency. My argument was that members of the IT Division of HKIE did possess recognized professional qualifications in relation to information technology and they were professionals engaged in that field. Most importantly, they had to pass a very rigid professional examination organized by the IT Division of HKIE. The examination seeks to assess the professional standards of those engineers specialized in information technology. In other words, we cannot rely on self-accreditation or accreditation by a registered company to validate the professional standard of a person. We must set up an accreditation mechanism generally accepted by the sector and ensure that stringent vetting procedures are put in place. In fact, the information technology professionals can freely choose to join one or more professional

bodies depending on their job nature. So, if it is the duty of the relevant institutes to assess the members' qualification and validate their professional qualification, so as to give the members recognition and acceptance within the sector.

I highly appreciate the spirit of Mr SIN's amendment. But we must consider the fact that the eligibility of the electors will have a bearing on the professional status of the whole sector, as well as its recognition by society and even the international community. It involves far-reaching implications. In the sector of engineers of which I am a member, for example, engineers have to obtain their professional qualification through examination. Even if they have obtained recognized educational qualifications in the university, they are not regarded as holding professional qualification. They must go through some standard training and be assessed and accepted by the relevant institutions before they can obtain recognized professional qualifications. As regards item (c) and item (d) of Mr SIN's amendment, I think the proposal warrants careful consideration, and Mr SIN has misunderstood the true definition of profession. Let me cite an example. A graduate from the faculty of engineering claims that he has acquired professional qualification through self-accreditation or the assessment by some registered companies. But in fact his professional qualification has not been accredited by any recognized accreditation mechanism. In that case, who would feel comfortable to live in the building or to use the bridge designed by him? So, accreditation of professional qualification is very important and we should respect the generally accepted mode of operation in society. In my opinion, institutions in the information technology field have been actively recruiting members and are more than willing to provide assistance in the accreditation of the qualification of these professionals. Hence, to be an elector of the sector, one must first of all respect and accept the professional qualification of the sector and its views before he can claim to be a professional.

On basis of these reasons, Madam Chairman, I cannot support Mr SIN's amendment. I so submit.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, the Government opposes the amendment moved by Mr SIN Chung-kai. Mr SIN Chung-kai's amendment proposes to allow some workers in the information technology industry to become voters. Our opposition is based on three reasons: first, the criteria for the classification of voters proposed by Mr

SIN are very vague; second, unfairness will arise if professionals who actually do not belong to this sector are included in this FC; third, those who truly meet the criteria in the mind of Mr SIN have long had the chance to register as voters. Mr SIN proposes that whoever proven by his employer to have worked in the information technology industry for a certain period of time and also holds a certain academic qualification in fields related to the industry be eligible to register as a candidate in this FC. Mr SIN tries to define what professional information technology working experience is but the definition is not a conclusive one. The wording he uses is, "includes but not limited to working experience in the following [eight areas]".

We have to consider in the first place whether every employer is able to objectively determine whether his employer is working in the information technology industry by these vaguely defined criteria. Even if every employer is able to determine that, will everyone be consistent in the criteria used? Mr SIN not only assumes all employers are authorities in the information technology industry, but he has also somehow put the responsibility of determining whether a certain person has the professional working experience on the employer. In regard to this point, many Members have spoken on it and I will not repeat their points.

Moreover, Mr SIN suggests adding another qualification that some persons shall hold an academic qualification in a field related to information technology. He attempts to define in the proposed provision what a degree and a diploma in information technology is about. But again, this definition is, just like the one on professional information technology working experience, very vague. This amendment will pose great difficulties to the Election Committee in vetting the qualification of voters, so it simply will not work. In fact, many Members have also alluded to this point. They opine that a professional body should be given the authority to vet their own members' professional qualification.

Actually, most of those who truly meet the criteria proposed by Mr SIN are already qualified as members of the professional bodies listed in the Legislative Council Ordinance. If they wish to become voters, they can surely join those bodies. Given the above, I call on Members to vote against Mr SIN's amendment.

**MR SIN CHUNG-KAI** (in Cantonese): Madam Chairman, I would like to thank the Members who have spoken on my amendment.

I believe that information technology is comparatively unique in nature compared with other professional institutions which have either set up a registration system or an accreditation system. However, the information technology field is in fact a rather unique sector. I hope Members will appreciate that information technology develops in leaps and bounds. In fact, the proposal I put forward concerning the requirement of educational qualification plus working experience is not invented by me. Rather, it was suggested by the ITJC when it fought for the establishment of the FC. What I have done is to try my best to put its original intention into legal language.

I therefore share the views of Mr Edward HO, Dr Raymond HO or Mr YEUNG Yiu-chung in that the accreditation work should be done by certain professional organizations commissioned by the Government. I hope the Government can consider this suggestion. The problem before us now is a group of people who are eligible but have chosen not to join any prescribed institutions. Under such a premise, how can these information technology professionals be registered as electors? The Government is unable to cater to the wishes of these people. Mr YEUNG Yiu-chung suggested that the Government should commission an organization which would then send representatives to provide assistance in the accreditation work. This organization could be the IT Division of the Hong Kong Institution of Engineers, or the ITJC, as mentioned by Dr Raymond HO.

Perhaps my amendment may not be carried today. But I hope that after this problem has been raised, the Government will try to find a way to cater for the situation that those who have chosen not to join any prescribed institution can still be entitled to professional status and voting right. Undoubtedly, the simplest solution is to join a professional institution. Even if my amendment is negated today, I still hope that the Government can move a relevant amendment to complement the technical inadequacies in my amendment when it introduces an amendment bill in November again. This will be the most effective way in solving the problem.

I accept Mr YEUNG Yiu-chung's proposal for I consider it a good idea for the Government to commission an organization among all the professional bodies to assist in the accreditation work. In that case, the Registration and Electoral Office would not have to worry that they are not competent to do the job since all those who are commissioned are professionals. This can be regarded as a win-win proposal and I hope the Secretary will consider this suggestion.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr SIN Chung-kai 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 not 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 negatived.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, I move the amendment to the proposed sections 20B, 20V and 20X in clause 13, as set out in the paper circularized to Members.

*Proposed amendment*

**Clause 13 (see Annex III)**

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment 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.

(No hands raised)

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

**CLERK** (in Cantonese): Clause 13 as amended.

**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.

(No hands raised)

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, I move that Schedules 1, 1A, 1B, 1C, 1D and 1E in clause 42 and para (m) of clause 43 be amended, as set out in the paper circularized to Members.

*Proposed amendment*

**Clause 42 (see Annex III)**

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment 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.

(No hands raised)

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

**MRS MIRIAM LAU** (in Cantonese): Madam Chairman, I move the addition of item 5A to Schedule 1A in clause 42 as set out in the paper circularized to Members. In other words, I would like to add "The Association of Owners & Drivers Concerned in the Parking Spaces in Hong Kong Island". Later on, I will move six similar amendments to the effect that a total of seven associations will be added to the Transport Functional Constituency.

Madam Chairman, having proposed these seven amendments, I was told by a Member that he could not support my amendments because he considered my amendments to be in contravention of Article 74 of the Basic Law concerning political structure and government operation. Another Member also told me that he could not support my amendment because my proposal would expand the corporate electorate by introducing more corporate members into the FC. Madam Chairman, I hope my speech can bring Members round and change their position from opposition to support.

Firstly, my amendments do not in any way contravene Article 74 of Basic Law and the Government has neither made such a comment. Mr LEE Wing-tat has earlier said that the Constitution Affairs Bureau CAB was of the opinion that Mrs Selina CHOW's amendment concerning poultry dealers and workers would have an impact on government operation and be in contravention of Article 74 of the Basic Law. Later, I will move an amendment related to the fresh fruit transportation sector. But the Government did not say that it would have such an impact. I have no idea about the poultry industry. Perhaps the Secretary should clarify this later. In its reply later, the Government should make it clear whether my amendment concerning the fresh fruit transportation or Mrs Selina CHOW's amendment concerning the poultry industry is in contravention of Article 74 of the Basic Law. If it is not, colleagues who oppose my amendment on that ground should abandon their original position and support my amendment instead.

I would like to explain the reasons why the Government opposes my amendment in an explicit manner. Later I will explain the reason why the Government opposes the introduction of each of these associations. However, the reasons for its objection can be summarized in three aspects. Firstly, the Government may say that the organizations proposed by me do not have broad representativeness. Secondly, if these organizations should prove to have broad representativeness, the Government will then cite a second reason and say that the existing organizations in the sector can represent all members and it is not necessary to add more electors. If the organizations are representative enough and the number of electors in this FC is not too large, the Government will then cite a third reason that there are several large and well-established organizations in the constituency and it is not necessary to add smaller ones into it.



To be fair, do Members think the Government's reasons for opposing the inclusion of these bodies in the Transport Functional Constituency justifiable? I have asked the CAB: On what criteria were these associations considered not representative enough? Is it necessary for them to have broad representativeness? I do agree that they should have broad representativeness. However, if the Government considers that broad representativeness is very important, should it lay down some clear criteria to define the meaning of "broad representativeness"? As regards the other two reasons, I have also asked the Government this question: Do you think my interpretation of your reasons for opposing my proposal is correct? They could not say a word. I asked the government officials of the CAB if they could rebut me. But they did not rebut my argument. Did they make any response? No, they did not. They just told me to move my amendments.

Moreover, an official of the CAB advised me that to take no action was better than to take any. Today Mr CHAN Wing-chan has also given me a similar sort of advice that a drastic change is less desirable than little change and little change is less desirable than no change. I think that any amendment should be proposed on basis of justification rather than the need for changes or otherwise. As the Liberal Party said earlier, in moving these amendments, we have insisted on preserving the rules of the game of FCs. Now we are not trying to alter the rules of the game at all. The electorate of a FC comprises corporate bodies and we have not tried to change this. What we are doing is to try to include some eligible electors into the electorate under the well-established rules of the game. What harm does it do by enlarging the electorate? Why do colleagues not support it?

Besides, I would like to respond to some Members' views. They do not support my amendment on the ground that my proposal is to increase the number of corporate electors rather than the number of individual electors. I would like to take this opportunity to point out that it is not the fault of the electors of the Transport Functional Constituency. I would like to explain why the electors of the Transport FC ultimately became corporate bodies. In fact, the electorate of the Transport FC is rather pluralistic. For land transport, it includes taxis, public light buses, school service light buses, franchised and non-franchised buses, lorries, articulated vehicles, railway corporations, tunnel corporations, road management companies, car park operators and driving instructors societies. For sea transport, it includes marine excursion

association, ferries, tug boats, traders' associations of passenger vessels and owners' association of big cargo-vessels, shipping agents, ship repairs, pilot services, salvage associations, container terminals, warehouses and wharfs, mid-stream operators and public cargo working areas trade associations. Altogether there are 20 to 30 different trades.

In terms of operation and scale, these business sectors are all very different. If members of those organizations and associations under this FC can cast their votes either individually or in the name of their associations, the result will be quite unbalanced. Taxi service is an individual business and owner of an individually-run taxi is entitled to cast one vote while a shipping company holding over a dozen ocean-going vessels with each having a draught of over several million tons is also entitled to only one vote. Secondly, if owners of taxis and public light buses are all qualified to cast one vote as electors, there will be over 10 000 votes from only the taxi and public light bus sector alone. But other sectors within the whole constituency can hardly add up to reach 1 000 votes. The representation of the whole FC is very much distorted.

The Government has attached great importance to this point and is of the view that a balance must be struck between the land and sea transport operators. The problem has been under its consideration for a long time. In fact, the Transport Functional Constituency has been the biggest headache for the Government. Among the 30 FCs, there is no other FC which has posed such a headache to the Government. Nor is there any one which is as complicated as this one. Eventually, the Government is unable to think of a better way to deal with it and has to allow corporate electors to be the voting units. Under such an arrangement, the proportion of land and sea transport operators would be more balanced. I am not at all satisfied with such an arrangement and hope that the Government can strike a balance between the two while thinking of a way to expand the electorate. If the transport sector can continue to be a FC in 2004, and I believe it will, I really hope that there will be a fairer election method for this sector.

I would like to say that hundreds of thousands of operators are actually involved in this sector which comprises 20 to 30 different trades. But under the current legislation, the representatives of this constituency have got only 149 votes. Even though the Government has indicated that it would increase their number of votes, it will be increased to 161 only. This is rather ironic. So I hope that the Government will take this matter seriously. Although we cannot come up with a fairer arrangement for this constituency in this election, I hope the Government can try to widen this electorate so as to enhance its

representativeness.

Madam Chairman, the amendment is concerned about the Association of Owners & Drivers Concerned in the Parking Spaces in Hong Kong Island. The Government opposes my amendment as it cannot accept such an association on the ground that it is an association formed by lorry owners and drivers whose main concern is parking spaces in the Western District of Hong Kong Island. Thus, the Government does not accept that this is a transport association with wide representativeness. But the association has in fact been established for quite a number of years since 1994. It now comprises over 430 members, most of whom are lorry operators. When the association was formed in 1994, there was a great shortage of parking spaces in the whole territory. So during the initial period, their main concern was parking spaces in Hong Kong Island. But a few years later, the problem has been ameliorated. As a result, the association is now concerned with other transport issues such as oil prices — a major factor affecting the transport industry, traffic safety, transport management and so on.

The association has also participated in transport-related activities organized by various political parties. In fact, as an inter-party association, it will participate in activities organized by any political parties since their main concern is to show support and actively express their views on transport issues. So, I think the association can play the role of adviser and monitor on land transport.

It is most unfortunate that the association has got a wrong name since the words "concerned in the parking spaces" are still used in its name. I hope the Government will not be so superficial and conclude by referring to its name that its concern is only about parking spaces. As it has been formed for so many years, the association has switched its attention to other transport issues in recent years. They are also very active. They have been writing to Members and persuading them that they can change the association's name so as to dispel any misunderstanding that their concern is so narrow if Members think that their name is not appropriate.

I think the Government and colleagues should bear in mind the association's year of formation, history, number of members and scope of activities in the past in deciding whether my amendment should be supported. I hope Members will support my amendment and allow the inclusion of the Association of Owners & Drivers Concerned in the Parking Spaces in Hong

Kong Island into the Transport Functional Constituency.

Thank you, Madam Chairman.

*Proposed amendment*

**Clause 42 (see Annex III)**

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

**MRS SELINA CHOW** (in Cantonese): Madam Chairman, I rise to urge Members to support Mrs Miriam LAU's amendment.

As I said on a number of public occasions, we really find it hard to understand why the Government seems to be so resistant to the amendments proposed by Mrs Miriam LAU and me. The purpose of our amendments is to add those electors which have been omitted by the Government into the voter register.

I saw the Secretary shaking his head when Mrs Miriam LAU mentioned Article 74 of the Basic Law in her speech. He seemed to be telling us that it had nothing to do with Article 74. I hope he can clarify whether Mrs Miriam LAU's amendment relates to political structure in his response later. As for me, I do not think this is the case.

If the Government says that her amendment is related to government policies, that will be very important. As regards these associations, I think the most important factor is consistency. We should not allow a situation where "only the prefecture officials can start a fire". Though the Government is not starting a fire and the metaphor is not very appropriate, I cannot think of any other. Perhaps I should need the help of the literati. In fact, we should consider the nature of associations which the Government has included in the FC, their history and their representativeness. We should also consider whether the associations proposed by Mrs Miriam LAU fall foul of the original criteria. Are these associations unable to meet the series of criteria which were initially laid down? If the answer is yes, I would feel rather strange because I query why the Government did not include them in the FC in the first place. Failing

that, the Government told us to make the proposal. But after we have done so, the Government lobbied Members to oppose our amendments.

I do agree that the Government's lobbying effort against our amendments seems not very intensive. But this makes me feel somehow inferior because the Government probably well understands that our amendments stand little chances. In view of this, the Government did not make an offer to us to take over our amendments. They do not do so. So I think we should reflect on ourselves. Perhaps our amendments are not powerful enough and we are not exerting enough pressure on the Government. So the Government did not make a similar proposal to us. Earlier on, the Government offered to take over an amendment because it felt that the amendment would stand a good chance of being passed. So the Government suggested that it would amend it and move it by itself. But no such offer was made to our two amendments. So I told Mrs Miriam LAU that perhaps we should resign to fate.

We hope Members will pay attention to our lobbying. We have been working very hard in lobbying all political parties and colleagues with different political background that our amendments have nothing to do with political orientation. This is purely a matter of whether these associations are eligible. Since these amendments have not altered the rules of the game, the Government cannot say that we try to change its policies.

Do Members trust Mrs Miriam LAU? She has enjoyed a good reputation among us. Frankly speaking, she would not have moved these amendments if she did not believe that those associations were eligible. On the contrary, if some associations ask for her nomination, she will refuse them outright if she considers them ineligible. We always make fun of her by saying that she will certainly be appointed the minister if the ministerial system is practiced in Hong Kong because she always gives careful consideration to issues that pass her hands. As we all know, she is the chairman of the Panel on Transport. I am sure everybody, including the Government, admires her because she has been very responsible in carrying out her duties. She has given in-depth consideration to this issue and has weighed all factors in deciding whether these associations meet the criteria. On the other hand, the Government has not really looked into the matter before it came to a careless advice that "to take no

action was better than to take any". I think it is totally unacceptable if the Government opposes Mrs Miriam LAU's amendment simply because of this reason. I think this is a great insult to Members.

I do not agree with the Government that to move an amendment to the legislation will violate Article 74 of the Basic Law. In fact, many colleagues do not think that this has violated Article 74. Under the existing circumstances, even the Government does not think that the amendment is related to Article 74 of the Basic Law. Therefore Members can rest assured that there is no need to worry about this point. I hope Members will support Mrs Miriam LAU's amendment.

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, the two Members have basically given an account of the situation, except one point. These are not the only amendments that they have proposed. They have proposed other amendments as well. We have already accepted some of their suggestions and hence there are some newly added bodies in the Bill. We do have set down some criteria within the Government. After vetting, we opine that these bodies in question do not meet the criteria, so we have not listed them in the voter register. In explaining why we oppose these amendments, we have already given a clear account of the reasons. In her speech regarding the Association of Owner & Driver Concerned in the Parking Spaces in Hong Kong Island just now, Mrs Miriam LAU also talked about the Government's reasons. As she has given a very clear account about them, I do not intend to repeat them here.

The two Members have also questioned whether the amendment has anything to do with Article 74 of the Basic Law. The answer is of course no. The President has also received our letter explaining our reasons, in which nothing about Article 74 was mentioned. I have talked about our reasons just now, that is, those bodies do not meet the criteria. And I have also explained in detail how each of the bodies in each of the FCs does not meet our criteria.

I feel that the two Members also understand our reasons. Mrs Miriam LAU has also added some points concerning the Association of Owner & Driver Concerned in the Parking Spaces in Hong Kong Island. I have nothing to add in this respect. All I can say is that we did consult the relevant Policy Bureau internally and make the decision after hearing their opinion.

**CHAIRMAN** (in Cantonese): Mrs Miriam LAU, do you wish to reply?

**MRS MIRIAM LAU** (in Cantonese): Madam Chairman, it is true that I did not just propose seven associations. There are a few more. Some of them, which have already been accepted by the Government, include the Airport Authority Hong Kong, the Hong Kong Air Cargo Terminals Limited, Hong Kong Container Freight Station Association Limited, Hong Kong Sea Transport Association Ltd., and Hong Kong Tunnels and Highways Management Company Limited.

The first four associations or companies are incorporated into the FC simply because they belong to this sector and they have not yet been incorporated into it. So there is no reason for the Government to bar them from being incorporated into the constituency. As regards the Hong Kong Tunnels and Highways Management Limited, it has actually stepped into the shoes of Cross Harbour Tunnel Company Limited and there is basically no increase in the number of electors.

But I would like to point out one thing. I hope the Government will not claim that the incorporation of these five associations into the Transport Functional Constituency has already bestowed a great deal of graciousness on the constituency. I hope the Government can think over whether the criteria for opposing my other proposals are fair and reasonable. However, the Government has refrained from making any response to this. To date, the Government has not made any response. If the Government says that there are

sufficient electors in the constituency already and these associations are not accepted even though they are eligible, does it mean that the Government has set a quota for the constituency? Does it mean that no more association is accepted once the quota is full? What kind of an electoral system is this? The Government also said that since big companies have been incorporated into the constituency, it is not necessary to have the small companies because the big ones can represent the small ones. What kind of an electoral system is this?

Nevertheless, the positive effect of the Government's response is that the Secretary has at least confirmed that my amendment does not contravene Article 74 of the Basic Law. These colleagues who are concerned that my amendment might contravene Article 74 of the Basic Law and those who are reluctant to support me because of this reason can now set their mind at ease. They can make an about turn and support my amendment.

Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That Mrs Miriam LAU's amendment 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)

Mrs Miriam LAU rose to claim a division.

**CHAIRMAN** (in Cantonese): Mrs Miriam LAU has claimed a division. The division bell will ring for one minute.



**CHAIRMAN** (in Cantonese): For Members who have just entered this Chamber, I would like to tell them that we are now voting on Mrs Miriam LAU's amendment. But it is related to one association only, the Association of Owner & Driver Concerned in the Parking Spaces in Hong Kong Island. Mrs Miriam LAU's amendment seeks to add this association into the Transport Functional Constituency as an elector. Will Members please proceed to vote. Are Members clear about the question?

**CHAIRMAN** (in Cantonese): Will Members please check their votes. Are there any queries? If not, the result will now be displayed.

Functional Constituencies:

Mr James TIEN, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat and Mrs Miriam LAU voted for the motion.

Mr Michael HO, Dr LUI Ming-wah, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Wing-chan, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr LAW Chi-kwong, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the motion.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr LEE Wing-tat, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss Christine LOH, Miss CHAN Yuen-han, Mr Gary CHENG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Mr David CHU, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok, Mr CHAN Kam-lam, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Miss CHOY So-yuk voted against the motion.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 23 were present, 13 were in favour of the motion and 10 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 23 were present and 22 were against the motion. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

**MRS MIRIAM LAU** (in Cantonese): Madam Chairman, although my foregoing amendment is negatived, I will keep up my efforts. I hope that colleagues will still listen carefully to my speech.

I move the addition of item 26A, concerning the incorporation of the Golden Link Taxi Owners and Drivers Association into the Transport Functional Constituency, to Schedule 1A in clause 42 as set out in the paper circularized to Members.

The Government does not support my amendment that the Golden Link Taxi Owners and Drivers Association be added to the Transport Functional Constituency. The reason is that the existing arrangement for the definition of electorate of the Transport Functional Constituency can fully represent the taxi trade as a whole. So, the Government opposes this amendment. In other words, the Government thinks that those taxi associations which have already been included in this constituency can fully represent all other taxi associations. So, the Government refuses the inclusion of any other taxi associations into the Transport Functional Constituency even though they are eligible and can represent the interests of the whole sector.

I have asked the Government a question but no reply is given. My question is concerned about whether the Government has already set a quota and when the quota is full, no other new association will be accepted until an existing one has withdrawn. Has the Government adopted such an approach? If not,

why did the Government say that the existing taxi associations in the Transport Functional Constituency can fully represent the overall interests of the taxi trade? As a matter of fact, there are many other taxi associations. The Golden Link Taxi Owners and Drivers Association, for instance, with over a decade of history, was founded in 1988. It now comprises 300 members, all of them are taxi operators. It has been very active in participating in the activities of the trade in order to fight for the interests of the sector. It also actively voices its views on matters which will affect the sector.

In fact, the number of associations within a sector, whether they are taxi associations or mini-bus associations, should be a natural phenomenon. It should not be limited by the Government by saying that the existing associations have sufficient representativeness and it is not necessary to consider other associations. The Government should not artificially restrict the number of electors of a FC. Nor should it deprive those associations which are keen on political participation of such a right.

On the basis of these reasons, I hope colleagues will support my amendment that the Golden Link Taxi Owners and Drivers Association be incorporated into the Transport Functional Constituency.

Thank you, Madam Chairman.

*Proposed amendment*

**Clause 42 (see Annex III)**

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

**MR EDWARD HO** (in Cantonese): Madam Chairman, I believe Members have decided to support or not to support the amendment for different reasons. I think the majority of Members do not support the amendment. Many Members oppose it because it will lead to an increase in corporate votes. The Democratic Party opposes even Mr SIN Chung-kai's amendment on the ground that it will boost the number of corporate votes. There are also some Members

who oppose it because of the Government's objection.

But I think the Secretary for Constitutional Affairs does owe us an explanation. He cannot just sit there and shake his head to indicate he does not want to speak, particularly for this amendment, as some other associations will be proposed later. As Mrs Miriam LAU has just told us, this 300-member association was founded more than 10 years ago. What is the difference between this association and other associations representing the taxi trade? Can the Secretary tell us the difference? We stand to be convinced. I think he cannot just shake his head, telling us that they consider it infeasible after deliberation.

I hope the Secretary can stand up and give us an explanation.

**MR MARTIN LEE** (in Cantonese): Madam Chairman, the Democratic Party opposes the amendment and everybody knows the reasons. But I think the Secretary owes us an explanation.

**MR JAMES TO** (in Cantonese): Madam Chairman, I support the Honourable Edward HO's views. Let me hit the nail on the head. The Government is in fact being high-handed in dealing with many issues. Earlier in the debate, Mr CHEUNG Man-Kwong alluded to the integrity of the Secretary, but this has nothing to do with integrity. In fact, the Government is rather high-handed.

Insofar as FCs are concerned, we hope that the Government could lay a more rational foundation, or elaborate on the reasons why reconciliation is difficult. But the Government is incapable of doing it today. If we demand the Government to do so, it is like climbing a tree to catch fish. The impression that the Government has given us is that it simply needs no explanation and "not allowed" is the answer. This may increase the "united front" value of some associations and the authority of the Government. This may also show that the Government is able to win them over on the Government's side. However, the Government does not even actually possess

the most basic rationality.

I think the Government should reply to these questions. Otherwise, the nature of the Government will be clearly seen by us. "Arbitrary" should be translated as "random". But some articles said it was "blind guess", "careless" or even "subjective assertion". In fact, we can therefore clearly see through the nature of the Government.

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam Chairman, I cannot but carry on.

Everyone knows that we repeatedly talked about these reasons in the Bills Committee. Mrs Miriam LAU has also said earlier that we gave her some reasons but she just does not accept them and hopes that I can explain it one more time.

This particular FC, as Mrs Miriam LAU said just now, is composed of many different groups, some related to land transport, and some sea transport. We have studied it very thoroughly and consulted many people before setting this down. In fact, to a very large extent, colleagues of the Constitutional Affairs Bureau are not able to know whether a certain group is qualified to join a FC or not. It is mainly through the everyday contact of colleagues of the relevant Policy Bureaux and their close communication with Members that we can accept their views. We have neither the ability nor the manpower to have a clear picture of all the 30 different FCs.

As regards a newly proposed organization, if there is already an organization representing that particular trade in the constituency, such as the taxi trade, we may think of a possible situation like several taxi drivers or taxi

owners would feel that their views are not fully reflected, so form a new association, or some other people form some other associations. How then are we to decide whether to accept it? This is one problem that we need to consider.

Of course, we also note that, as Mrs Miriam LAU has said, the Golden Link Taxi Owners and Drivers Association was established in 1988. But that does not tally with the information that we have. That may be because our information is wrong. I am not saying that the Member must be misinformed. However, we still feel that the taxi industry has already had enough representatives. If the Association was established in 1988, we have to ask why it was not included in the constituency last time. Therefore, we have considered all these factors. Concerning the request for the addition of a new organization, we must deal with it very carefully.

**MRS SELINA CHOW** (in Cantonese): Madam Chairman, I hope colleagues have listened carefully to the Secretary's remarks. His argument is actually invalid. He queried whether the association was founded in 1988. I do not know if our information is wrong or theirs is wrong. Has the Secretary looked into the matter? How can he say that if the association has been set up for so many years, it would have been incorporated in the FC long time ago?

First, the Government is not omnipotent, it is not surprising that there is omission on the part of the Government. In fact, as there are so many associations in a sector, some may have been omitted. Secondly, since there are many different associations within the taxi trade, it is inappropriate to include only one of them into the FC and think that it is enough. If that is the case, how can the FC be representative?

I hope Members could listen carefully to the Secretary's speech. He even said that the Government could not be error-free. Despite that, the Government opposes the amendment. Those who opposes Mrs Miriam LAU's amendment simply because they support the Government should reconsider

whether they should blindly support the Government's position.

**CHAIRMAN** (in Cantonese): Mrs Miriam LAU, you may reply. But before you reply, I have to see if other Members wish to speak. Does any other Member wish to speak? No one. I now invite Mrs Miriam LAU to reply.

**MRS MIRIAM LAU** (in Cantonese): Madam Chairman, I am really shocked to learn that the Secretary has dealt with those associations keen on joining the FC in a lightly manner. As mentioned by Mrs Selina CHOW, the Secretary queried in his speech whether the Golden Link Taxi Owners and Drivers Association was set up in 1988, which I pointed out earlier in my speech. The Secretary said that the date of its incorporation might be wrong and according to their information, it seems not on that date. Now I have in hand a certificate of incorporation of the Golden Link Taxi Owners and Drivers Association. Unless the Secretary says that this certificate is a fake fabricated by me, otherwise, this can prove that the association was founded in 1988. Since this association has operated for a long time, it can represent some people's views within the trade.

The Secretary has actually admitted in his speech just now that there is an implicit quota for the constituency. In his opinion, as quite a number of taxi associations have already joined the FC, other taxi associations are barred from joining it. I think such a criterion is indeed ridiculous and no electoral system would adopt it. By this logic, the Government could allow 100 000 people to vote in the election of a geographical constituency and deprive the others of the right to vote on the ground that these 100 000 people can represent the whole area. Such an argument is basically invalid.

On the basis of this reason, I hope Members can support my amendment. Thank you.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That Mrs Miriam LAU's amendment 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)

Mrs Miriam LAU rose to claim a division.

**CHAIRMAN** (in Cantonese): Mrs Miriam LAU has claimed a division. The division bell will ring for one minute.

**CHAIRMAN** (in Cantonese): The voting now begins. Members are asked to vote on Mrs Miriam LAU's amendment that the Golden Link Taxi Owners and Drivers Association be added into the Transport Functional Constituency as an elector. Members please proceed to vote.

**CHAIRMAN** (in Cantonese): If there are no queries, I declare that voting shall now stop and the result will be displayed.



Functional Constituencies:

Mr James TIEN, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat and Mrs Miriam LAU voted for the motion.

Mr Michael HO, Dr LUI Ming-wah, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Wing-chan, Mr SIN Chung-kai, Mr LAW Chi-kwong, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the motion.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr LEE Wing-tat, Mr Martin LEE, Mr James TO, Dr YEUNG Sum, Mr SZETO Wah, Mr TAM Yiu-chung, Mr David CHU, Mr NG Leung-sing, Mr CHAN Kam-lam, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted against the motion.

Mr Gary CHENG, Mr Jasper TSANG, Prof NG Ching-fai and Mr MA Fung-  
kwok abstained.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 22 were present, 13 were in favour of the motion and nine against it; while among the Members returned by geographical constituencies

through direct elections and by the Election Committee, 17 were present, 12 were against the motion and four abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.