

**立法會 CB(2)2251/10-11(01)號文件**  
**LC Paper No. CB(2)2251/10-11(01)**

Hong Kong

28 June 2011

Hon Tam Yiu-chung, GBS JP  
Chairman,  
Bills Committee on Legislative Council (Amendment) Bill 2011,  
Legislative Council.

Dear Mr. Tam,

**Re. Legislative Council (Amendment) Bill 2011**

The Legislative Council will be doing the Hong Kong public a disservice if it passes the Legislative Council (Amendment) Bill 2011 without prior public consultation.

In proposing to do away with by-elections for geographically-elected seats, the bill deprives voters of one of the limited opportunities they have to choose their own representatives in Hong Kong's underdeveloped democratic system, at a time when the community is expecting to see greater efforts being made to increase democratic representation. This should not be accepted.

The fact that the bill has been introduced without any prior public consultation with those who will lose their right to vote should cause the Legislative Council to have grave doubts about these proposals. Until such time as it can be shown that these proposals have broad public support, they should not proceed. I believe that the public would reject the proposals were the full implications to be explained clearly to them. The numerous letters and articles published in the newspapers, calls and emails to radio phone-in programmes and the response from a number of commentators and legislators support this view.

The government is advocating the proposals as a response to a single, probably one-off, incident, namely last year's by-elections, forced by the resignation of five legislators, supposedly so that they could treat the resulting by-elections as a "de facto referendum" on the timetable for a democratically-elected chief executive and legislature. The secretary for constitutional and mainland affairs has referred to this as a "loop-hole" in the electoral arrangements. However, the implications of the proposals clearly go far beyond that one incident. The government is citing as public support for the scrapping of by-elections, and the justification for not conducting a proper public consultation exercise, the low turnout rate for last year's by-elections. However, as result of the decision by other major political parties not to contest the elections, the result became almost a foregone conclusion. So why bother to vote, particularly given that, however it was portrayed by those who stood for election, it was just a poorly contested by-election and not a referendum on anything. Therefore, to use the turnout in those by-elections as an argument for public support for proposals to do away with all by-elections in geographically-elected seats for the Legislative Council is simply untenable.

No doubt, some members of the public were not supportive of the resignation of the five legislators in order to force by-elections. However, even if it is assumed that the same people feel that this should be prevented from happening in the future by changing the law, which is already stretching the interpretation of events to its limits, this certainly cannot be used as a valid argument to show public support for depriving voters of the right to choose their own replacement in other circumstances where a legislator has to leave office. It could be that, for example, a legislator has to resign

due to ill-health or for a variety of other reasons, that he or she dies while in office, or is imprisoned or disqualified for other reasons. Would the public agree to give up their right to decide who should replace that person, in favour of accepting as a replacement representative someone who was unable to win a seat in the original elections; someone who, in the intervening time, which might be two or more years, might have fallen completely out of favour or disappeared from sight? What if that person is no longer willing or able to take up the vacant seat? Would the public willingly accept an electoral system which prescribes that the right to take up the vacant seat should then fall to someone even further down the list of popularity, based on the previous election results? I think the answer to those questions is clearly "no". Yet this is what will happen if the bill is passed.

Another reason used to justify the proposals is the alleged waste of \$150 million of taxpayers' money spent on last year's by-elections. No-one wants to see taxpayers' money wasted, but there are other options for addressing this issue that are much less controversial and do not involve scrapping all by-elections, as many have pointed out. It seems ironic, moreover, that concern about the poor use of taxpayers' money was raised in a year when the government recorded a budget surplus of over \$70 billion and came under fire from all parties in the legislature for intending to add much of this surplus to the already-huge fiscal reserves, rather than providing more help to those in need. It is ironic also that the proposals to scrap by-elections have been put to the Legislative Council during an ongoing voter registration drive.

If, in the final analysis, it is felt that there is a need to prevent future by-elections being precipitated as a protest or to make a political point, then other means of dealing directly with this issue, and which are proportionate to the circumstances, should be explored. The present proposals, on the other hand, are likely to succeed only in increasing discord within the community. The lack of any public consultation makes this unfortunate outcome even more probable. The refusal to consult the public on this vital issue stands in stark contrast to the readiness to consult on many other issues of lesser importance, such as extending the environmental levy on plastic bags, to quote a current example.

As a voter, and someone who regards exercising the right to vote as a civic duty and responsibility, I urge legislators to accord the people of Hong Kong the respect due to them and to insist that a full public consultation be conducted on these proposals. If the government does not agree, the bill should be rejected altogether.

Yours sincerely,



(P. Tisman)