



Workshop for the Committee on Governance and Political Development  
of the Commission on Strategic Development

28 February 2006

Remarks by **the Hon Sir David Akers-Jones**, President of BPF

**“The Key to the Dead Lock”**

1. The Business and Professionals Federation take the view that our effort for 2012 should concentrate on what is possible. We should deal in realities and put forward practical proposals to develop a road map of reform. What are these realities?
2. Firstly, half of our legislature consists of functional constituency representatives. To change this in any way requires a two-thirds majority of all the members of Legislative Council. To get rid of the functional constituencies altogether requires a two-thirds majority of all the members. This is a very difficult hurdle to overcome.
3. Secondly, to increase the number of directly elected members a similar number of functional representatives has to be added in order to maintain the check and balance and to try to keep intact the voting system.
4. Thirdly, Legislative Council has to represent “all sectors of society and all interests”. This description of its composition has been emphasised time and again by the Central People's Government. Unless LegCo is demonstrably representative of all sectors and all interests particularly those relating to the economy, changes which interfere with its representative nature will be vetoed by the Central People's Government.

These are the facts.

5. However, if the legislature is divided into two chambers, one directly elected and the



other basically functional, it opens opportunities for the progressive development of the legislature. The present voting system requiring a majority in both chambers is then replaced by a different system of control or check and balance.

6. If we separate the two halves of the legislature into a two-chamber assembly, it will be necessary because of the amount of work to be done to increase the size of the First Chamber of directly elected members possibly to 50 or 60 and for the First Chamber to vote on bills and motions separately from the second chamber. With a First Chamber of 50 or 60, we would suggest either the introduction of say 25 or 30 two-member constituencies, using the alternative vote method of selection, so that consensus candidates are elected, or a mixed system whereby half of the candidates will be elected using the party list system and half by direct election.
7. Debates would take place in both chambers separated in space and time. There would be interaction with the public at both stages of this procedure. This would be a distinct bonus to democratic development or as I prefer to call it representative government.
8. The Second Chamber would consist of the functional representatives with the addition of some members representing the District Councils. Appointed members would be abolished.
9. Some changes would be desirable in the membership of the Second Chamber for example, representatives of the District Councils might be included and there should be some tidying up of the functional constituencies.
10. After business had passed to the Second Chamber from the first, there would be a further opportunity to consult widely on matters before it, and, if necessary, to propose



amendments before returning the item to the First Chamber. At that stage, discussion might be needed between the two chambers and to reach a compromise. Some matters will then be put to a final vote of the First Chamber. Others such as change to the constitution and security would need a two-thirds majority.

11. The way the system would work would allow deep consideration to be given to the many serious problems facing Hong Kong.
12. Some critics have said it would slow the process of government down but could it be the slower than the present? In any case, very many countries and all the states of America, except Nebraska, find that the system works admirably and without complaint. This is a spurious criticism. Indeed the process, compared with the present long drawn out proceedings of the Legislative Council today, might conceivably be quicker.
13. Would there be gridlock? Experience elsewhere seems to suggest that this rarely ever happens. Differences are ironed out and compromises reached. If there is no compromise the Chief Executive may call for a dissolution and for fresh elections to be held. However, as I have said, experience elsewhere indicates that this rarely happens.
14. Improvements to the representative nature of the Second Chamber could be introduced gradually at succeeding electoral terms. For example, the functional groups in each of the four sectors could cast their votes as a group, the membership of separate functionals could be vastly improved and so forth.
15. It is arguable that the two chambers together constitute "the Legislature (立法會)", just as the two chambers of Japan are collectively called the Legislature, the two chambers in the USA are known as the Congress, and in the UK the two houses are called the



Parliament . After all the two halves of the Council today are now called the Legislature. The first and second chambers could also be similarly called the Legislature of the SAR. By adopting this interpretation avoids the need to change the Basic Law and would not require the consent of the Central People's Government.

16. What then would the creation of a two-chamber legislature achieve?

- (i) It would allow an enlarged First Chamber to be fully directly elected.
- (ii) It would replace the present clumsy and unpredictable voting system in the present legislature.
- (iii) It recognizes that the abolition of the functional constituencies at present is an impractical proposition and out of touch with political reality and to leave the political future in the control of a single directly elected chamber not possible to imagine or predict.

17. I should add that the BPF will be making proposals in due course covering all aspects of the 2012 situation with the possible inclusion of a conditional timetable for future change. Functional, that is, on the situation and circumstances as they subsequently develop.

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