THE REPUBLIC OF CHINA LEGISLATIVE YUAN: A STUDY OF INSTITUTIONAL EVOLUTION

Thomas J. Bellows

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Subscription is US $35.00 per year for 4 issues (regardless of the price of individual
issues) in the United States and $40.00 for Canada or overseas. Checks should be
addressed to MSCAS.

Tel.: (410) 706-3870
Fax: (410) 706-1516

Price for single copy of this issue: US $7.00

ISSN 0730-0107
ISBN 1-932330-05-4

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* Professor of Political Science, The University of Texas at San Antonio.
The author gratefully acknowledges a research grant from the Chiang Ching-Kuo
Foundation for International Scholarly Exchange, which supported the research and
writing of this monograph.
INTRODUCTION

I am guided in the study of political institutions and processes by two practical orientations. The first is Karl Popper’s critical rationalism. Popper advocates an incremental approach to political policy making. The essence of critical rationalism is a theory of knowledge, a method for eliminating serious errors. Popper supports a democratic arena where ideas compete with one another. In a society that stresses education, which is economically developing, sees virtue in many aspects of modernization, and possesses a sense of nationhood, pragmatic and reasonable reforms should be possible. Popper believes we cannot predict all or even most of the consequences of our actions. There is no way to predict when new knowledge will be forthcoming tomorrow, next year, or the next decade. Political action in relatively stable, functioning political systems, is most often piecemeal, where criticism (whether self or by political supporters or opponents) leads to adjustment or correction. Grand undertakings based on a mega-theory seldom, if ever, have succeeded. Popper makes us realize that progress and adaptation are gradual, certainly not linear, and often subject to adjustment, readjustment, and refinement. Popper undoubtedly would agree with the epigram: “The best often is the enemy of the good.”

The second approach is more heuristic and provocative. This is Richard A. Posner’s Concept 2 of Democracy, influenced significantly by Joseph A. Schumpeter’s notion of elite democracy. For Schumpeter, the critical variable for a country to be democratic was the right of citizens to choose electorally between competing elites on a regular basis. It also was assumed that elites should be permeable, and that individuals so endowed and so inclined could become a member of the competing elite. Though Schumpeter did not develop a list of necessary conditions for democracy to exist, many of


2. The description of such a political system is mine. Popper’s focus was Western Europe where the attributes I listed were present in the democratic states. Popper was especially concerned with the tragedies resulting from the grand theories of Marxism.

the requisites advanced by others\textsuperscript{4} were implicit in Schumpeter if free, frequent, and fair elections were present in a political system identified as democratic.

Richard Posner’s Concept 2 category\textsuperscript{5} views competitive democratic politics as a struggle between elites (those specializing in elective office) and the masses (voters) who generally remain poorly informed about most issues except in times of crisis. Posner believes members of both groups are generally actuated by motives of self-interest.

\ldots Concept 2 democrats reject the “dewy-eyed idealization of endless conversation” along with the public-interest conception of the state. They see politics as a competition among self-interested politicians, constituting a ruling class, for the support of the people, also assumed to be self-interested, and to be none too interested in or well informed about politics. Democracy as pictured by Concept 2 democrats is not self-rule. It is rule by officials who are, however, chosen by the people at the end of a short fixed or limited term of office.\textsuperscript{6}

Posner’s observations may describe what often, though not necessarily always, actually occurs in political systems. These behavioral orientations frequently guide decision-making in a political system and a legislative sub-system to the point of minimalizing other considerations. The value of Posner’s delineation of these traits alerts us to the fact that such behavior sometimes is present in most pluralistic legislatures that are selected through hard-fought electoral contests.\textsuperscript{7} I believe that this orientation should not overlook the fact that voters will become aware, study, and vote on those issues that seem especially important to them. Moreover, many elected officials are motivated predominantly by a commitment to the national good and often are guided by moral values,

\begin{itemize}
\item \textsuperscript{4} See for example Robert A. Dahl’s seven institutions of Polyarchy: 1) Elected officials; 2) Free and fair elections; 3) Inclusive suffrage; 4) Right to run for office; 5) Freedom of expression; 6) Alternative sources of information; and 7) Associational autonomy. \textit{Democracy and Its Critics}, New Haven, Conn., Yale University, 1989, p. 221. Dahl uses this term polyarchy to identify modern representative democracy.
\item \textsuperscript{5} Posner uses the term model, but I believe this suggests a structured, complex artifice that does not characterize Concept 2.
\item \textsuperscript{6} \textit{Ibid.}, p. 144.
\item \textsuperscript{7} Posner believes Concept 2 describes most competitive political systems. I believe such traits often are present, but not to the exclusion of other higher order, altruistic motives.
\end{itemize}
including the centrality of the public interest complemented by a practical civic-mindedness. Both national good and self-interested orientations can be present in the same legislature among most representatives, and come into play on different occasions. Self-interest motivations are not inherently bad. Many issues which legislators embrace with a calculated eye on winning votes can be national good appeals: e.g. reduce crime, adequate pensions, safe working conditions, environmental issues, infrastructure expenditures, etc.

It can be argued that the lifting of martial law in the Republic of China on Taiwan (often called simply Taiwan, ROC), the election of all members to the Legislative Yuan beginning in 1992, abolishing the Provincial Assembly and increasing the size of the Legislative Yuan to 225 members, and various constitutional changes (the last in April 2000), resulted in the legislature being the political institution in Taiwan which has experienced the greatest amount of change. For a period in the 1980s and the 1990s, the Legislative Yuan became a brawling room as many (not all) legislators sought publicity, identity, and an image of personal strength and power.

Much of the physical combat has subsided, though politics often remains intensely partisan and conflictual, especially as the 2004 presidential race approaches. Divided government began with the election of the Democratic Progressive Party (DPP) candidate CHEN Shui-bian as President in 2000 and the Legislative Yuan elections in December 2001 when the Kuomintang (KMT), for the first time, no longer controlled a majority of legislative seats. The DPP holds a plurality, but an effective voting majority is composed of the KMT and its split-off, the People First Party (PFP).

Is this democracy without development, as one official expressed to the author? Not entirely, because a civil society has emerged in Taiwan. Politics is frustrating, combative, with decisions delayed, and often partisan. It sometimes seems to be war without violence. There is conflict but also compromise. Budgets are passed, committee conveners selected, and inter-party caucus meetings sometimes produce results.

**HISTORY**

The Legislative Yuan is one of the five government branches of the Republic of China. In 1906, before the Republic of China was founded, Dr. SUN Yat-Sen proposed the establishment of five branches in his speech “Three Principles of the People and The Future of the Chinese Nation,” although he did not name the Yuan in
the speech. In 1914, he drafted a “General Program” for the Chinese Revolution and proposed the name Legislative Yuan. In 1924, at the First National Assembly of the Kuomintang, Dr. Sun emphasized the significance of organization for the Nationalist Government and suggested that the five Yuan should be set up for purposes of effective governance. The proposed five Yuan were the Executive Yuan, Legislative Yuan, Judicial Yuan, Examination Yuan, and Control Yuan, which symbolizes the Five-Yuan Administrative System.

In June 1927, CHIANG Kai-shek led the Kuomintang Army on the Northern Expedition and established the capital in Nanjing on April 18, 1927. Based on the principle of a five-power constitution, the Kuomintang drafted the Organization Rules of the Nationalist Government of the Republic of China and published it on October 4, 1928. Article 5 of Chapter 1 stipulated that the Nationalist Government be composed of the Executive Yuan, the Legislative Yuan, the Judicial Yuan, the Examination Yuan, and the Control Yuan. In Article 25 of Chapter 3, it stipulated that the Legislative Yuan should be the highest legislative organization entitled to undertake budget examinations, war declaration, peacemaking, treaties, and other foreign affairs. It also provided that the Legislative Yuan should have one president, one vice president, and 44 to 49 committee members, whose term in office would be limited to two years. On October 8 of the same year, the Central Committee of the Kuomintang elected HU Hanmin as President of the Legislative Yuan and LIN Sen was elected Vice President. On November 7, 1928, the Nationalist Government issued the list of the 49 committee members of the Legislative Yuan. On December 5, President HU Hanmin, Vice President Lin Sen and all the committee members took an oath of office, which symbolized the establishment of the Legislative Yuan.

From December 1928 when the Legislative Yuan was in the (Political/Military) Tutelary Stage Period to May 1948 when constitutional government was proclaimed for China, the number of appointed members grew to 149. The Legislative Yuan considered several important legal documents, including the foundation of the judicial system for the Republic of China. A Provisional Constitution was adopted in June 1931 by a national convention of approximately 500 delegates. This Constitution remained in force until it was replaced by the 1947 Constitution. Subsequently a Constitu-
tion Draft Committee was set up to work on the draft of the 1947 Constitution. 8

During the mainland period, the Legislative Yuan had minimal authority. Paul Linebarger, a noted Sinologist of this and the early Taiwan period, concluded:

In the scheme of tutelage, the highest policy making power of the National Government was retained by party organs. Hence any comparison between the Legislative Yuan (Li-fa-yuan) and a Congress or Parliament was inappropriate and even meaningless. 9

The Nationalist’s Politics Association founded during the war and the Political Consultative Conference held after 1945, which included most political parties, made suggestions on the revision of the constitution draft. The revised constitution draft was submitted to the National Assembly by the Nationalist government. It was passed on November 22, 1946. The Constitution of the Republic of China was adopted on December 25, 1946 by the National Assembly and was promulgated by the National Government on January 1, 1947. 10 Laws with regard to the election and recall of the Legislative Yuan members were published on March 31, 1947.

A period of nascent constitutional government began in 1948 when elections were held to select 760 members to the Legislative Yuan. The First Session formally convened on May 18, 1948. In 1949, the Legislative Yuan with the rest of the government moved to Taiwan. There are two legislative sessions each year. The 5th session, the first to be held in Taipei, convened on February 24, 1950. 11 Approximately 380 members attended this 5th Session. This, and other attendance information, suggests that about half of


9. Ibid., p. 163

10. For the full text of the original 1947 Constitution, see ibid., Appendix 5, pp. 557-74.

11. Much of the above is drawn from L. Yuan, “Record of Major Events in the Legislative Yuan,” MSS, published circa 1986 and Legislative Yuan: Republic of China, produced by the Legislative Yuan, ROC, December 1994. Interpretation No. 261 of the Council of Grand Justices, issued June 21, 1990, declared that all members elected to the Legislative Yuan (as well as the Control Yuan and the National Assembly) must resign their offices December 31, 1991, and “electors should be held for these bodies.” Hungdah CHIU, Constitutional Development and Reform in
the elected representatives came to Taiwan during and at the end of the war between the Nationalists and the Communists.

Depending on the date of the source being read, the numbering designation of the Legislative Yuan can be confusing. Table 1 summarizes the current situation. Also listed are the supplementary and the full elections to the Legislative Yuan. Supplementary elections, to better represent Taiwan residents, began modestly in 1969. The Legislative Yuan was elected, with no holdovers from the mainland or the 1969 supplementary election, in December 1992. All meetings of the Legislative Yuan prior to the 1992 elections are now considered the First Legislative Yuan.

**TABLE 1. THE EVOLUTION OF THE LEGISLATIVE YUAN**

<table>
<thead>
<tr>
<th>Year</th>
<th>Elections</th>
</tr>
</thead>
<tbody>
<tr>
<td>1969.....</td>
<td>11 newly elected, not subject to reelection</td>
</tr>
<tr>
<td>1972 and 1975.....</td>
<td>56 elected</td>
</tr>
<tr>
<td>1980.....</td>
<td>70 elected</td>
</tr>
<tr>
<td>1983.....</td>
<td>71 elected</td>
</tr>
<tr>
<td>1986.....</td>
<td>73 elected</td>
</tr>
<tr>
<td>1989.....</td>
<td>101 elected</td>
</tr>
</tbody>
</table>


From 1992 forward the entire Legislative Yuan was elected.

December 1992........161 elected..................Second Legislative Yuan
December 1995........164 elected..................Third Legislative Yuan
December 1998........228 elected..................Fourth Legislative Yuan
December 2001........225 elected..................Fifth Legislative Yuan

168 from Multimember Electoral Districts
8 from Plains and Mountain Aborigines
41 from Nationwide Constituency
8 from Overseas Chinese

* From 1972 through 1989, I have not included as elected those who were appointed to represent the Overseas Chinese. In 1972, 15 were appointed; 1980-1986, 27 were appointed; and in 1989, 29 were appointed.

The Nationwide Constituency and the Overseas Chinese in Table 1 are based on lists of candidates prepared by each political

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12. Interpretation No. 261 of the Council of Grand Justices, issued June 21, 1990, declared that all members elected to the Legislative Yuan (as well as the Control Yuan and the National Assembly) must resign their offices December 31, 1991, and “elections should be held for these bodies.” Hungdah Chiu, Constitutional Development and Reform in the Republic of China on Taiwan, Baltimore: University of Maryland School of Law, Occasional Papers/Reprints Series in Contemporary Asian Studies, No. 2, 1993, p. 22.
party. The number elected from each list is determined by the percentage of votes received by the party in the Legislative Yuan election. The higher you stand on the party list, the more likely you will be elected. For example, as it stands now with three major parties (KMT, DPP, and the PFP), if you hold position 15 on a party list, it is unlikely you will win a legislative seat.

There are several benchmarks on this road to representative government. Electoral politics at the national level began with the first supplementary elections, held in 1969. Elections at the local level had begun in 1950. A wholly elected Legislative Yuan was initiated with the December 1992 elections. Though gradual in the beginning, the process at the national level took less than a quarter century to complete.

As noted above, democratic development is clearly spelled out in SUN Yat-sen’s “Three Principles of the People” and has remained a core element in the Kuomintang’s political philosophy.\(^\text{13}\) The contentious divisions within the Kuomintang in Taiwan over political change often were over procedure, pace, and breadth, and not the ultimate objective.

Substantial voices of dissent and proposed alternatives did not become significant until the 1986 elections, when an organized opposition party, the Democratic People’s Party, elected representatives to the Legislative Yuan. In reality, legislative output, if not the behavior of members, was dominated by the Executive Yuan until at least the December 1992 elections.

The consensus of several interviews with prominent legislators suggests that before 1993 the Legislative Yuan principally approved laws sent to it by the Executive Yuan. The Executive Yuan and the top leadership of the KMT were an elite group, a majority having earned advanced degrees studying abroad. Before 1992, KMT legislators generally toed the line. With few exceptions, each wanted to be renominated. Policy was passed through the KMT Central Standing Committee. Party discipline was strong, and ruling party legislators followed the party directives. Before the 1992 elections, KMT legislators obeyed the Whip, chosen, or at least confirmed by the party’s Central Standing Committee. After 1992, the party whip was elected by the legislators themselves.

A rather strongly worded, semi-official analysis is found in an editorial entitled "The Moribund Rejuvenated."

From 1949 to 1991, the powers granted by the ROC Constitution were circumscribed by special provisions adopted by the National Assembly because of the civil war with the Chinese Communists. These provisions greatly enhanced the power of the President and the Executive Yuan. As a result the Legislature became a moribund rubberstamp, relegated for the most part, to giving its imprimatur to bills submitted by the Executive Yuan for ratification, not deliberation.14

CONSTITUTIONAL /LEGAL CHANGES

Article 62 of the Republic of China Constitution states that the Legislature Yuan is the highest legislative body in the country.

As originally planned in SUN Yat-sen's Fundamentals of National Reconstruction, China was to be under the political tutelage of the Kuomintang from 1928 to January 1, 1947. However, this possibility was destroyed by the Communist and Japanese aggressions, and limited constitutional progress was achieved. Political tutelage began only with the appointment of the Kuomintang Reform Committee in July 1950, when it was decided that the central, provincial, and local parties were to determine policy at their respective levels, and the elected and appointed officials would carry out these policies.15 Fifty years of Japanese rule on Taiwan had served to institutionalize authoritarian political patterns.

Popular familiarity with or an interest in constitutional government was practically limited before 1950. The historical memories from either Taiwan or the mainland directed one's concerns predominantly toward economic well-being, stability, and efficient administration rather than constitutional government. These priorities, which are representative of much of the Chinese traditional thought, dominated Taiwan's political culture for at least two or more post-war decades. A survey of political attitudes in an urban vocational high school revealed the greatest concern for government was capacity and honesty, strong leadership, equal opportunity, and living standards. Only about 15 percent of the students

listed political procedures such as elections, freedom of dissent, and majority rule as items considered “most important.”

National politics before 1969 connoted general political stagnation. Elections for the National Assembly, Legislative Yuan, and Control Yuan members were held in 1947 and 1948 in the Kuomintang controlled areas of the mainland. The terms of office were three years for the Legislative Yuan and six years for the other two bodies. The ROC government later reasoned that because the mainland was temporarily in the hands of “communist rebels,” elections could not be held until recovery. Thus, while there was some political progress, the most visible elective institutions, the national bodies, were lame ducks with minimal power, a holdover from earlier and grander ambitions, where only death or resignation affected the composition of these three bodies. These were the institutions often attacked outside of Taiwan as symbolizing the regressive gerontocracy dominating ROC officialdom. Admittedly, this sense of nonparticipation increasingly was felt by Taiwan residents. The result was an apparent diarchy in which popular participation was limited to the less significant provincial and local levels, and the national government was composed of long-standing, trusted associates of President CHIANG Kai-shek. Tutelage appeared to have a principal goal of maintaining the KMT in power.

One of the most important figures in the political development of Taiwan was CHIANG Ching-kuo, CHIANG Kai-shek’s eldest son, who became Premier in May 1972. His long involvement in ROC politics makes him a part of the Republic’s political heritage. His perceived autocratic political tendencies were widely superficially commented outside of Taiwan; rarely referred to was his penchant for administrative and social reforms.

An overview of the early 1950s suggests marginal interest in political reform. There was, however, some forward movement. In 1950 the ROC was empowered for the first time to introduce gradual political reforms. Throughout its entire previous history the Kuomintang had not had the physical security to innovate politically. It held this authority by 1950, particularly after the outbreak


17.

of the Korean War and the arrival of the U.S. Seventh Fleet in Asian waters. Incremental political development requires sovereignty, and this came to the ROC only on Taiwan.

Following the redistricting of cities and counties in August 1950, expanding the number of counties from 8 to 16 and reducing the number of urban areas classified as cities from 9 to 5, local elections were held. Between July 1950 and January 1951, county and city council elections were conducted. Mayors and magistrates (chief executive officers of a municipality and the county or hsien, respectively) were elected in three groups during 1951. The Provisional Provincial Assembly, instituted in November 1951, was indirectly elected by city and hsien councils. The second Provisional Provincial Assembly elected in April 1954 was popularly chosen, as was the 1st Taiwan Provincial Assembly elected in April 1957.19

Political events since 1950 have bit-by-bit diminished authoritarian tendencies in the political system. Two Americans who did field work in Taiwan concluded that land reform and local elections fundamentally modified the traditional, oligarchic authority patterns and led to far reaching pluralization at the grass-roots level. The expanded number of locally elected positions meant that there were not enough traditional leaders to fill these positions. The number of elective positions exceeded the number of traditional leaders.20 An anthropologist described hsien and municipality contests as freewheeling and competitive. There was a noticeable growth of factional politics, with factions based on friendship and shared interests rather than traditional lineage loyalties.21

The introduction of local self-government and partially competitive elections through the provincial level, land reform, the realignment of social and political power at the local level, and increased education among the ordinary people was the basis for new avenues of influence and new groups with input in the decision making process from the local to the national level. The scope and


20. Edgar Owens and Robert Shaw, Development Reconsidered, Lexington, Mass.: Lexington Books, 1972, pp. 26-28. To illustrate competition, for City and County Council Members, in July 1950 there were 1,827 candidates for 814 positions while in January 1982, there were 1,683 candidates for 799 positions. The respective percentages of eligible voting were 80.73 and 75.83 percent. See Annual Review of Government Administration, p. 35.

energy of these new groups and points of view have contributed to opening up the political system. The ROC government restrained the pace of political liberalization, but it did not reject it. On the contrary, the process was begun with government reform policies introduced in the 1950s. The emergence of local organizations, which local people can dominate or organize and which in turn are linked to national political institutions, is the soundest environment nurturing political pluralism.

An oft-forgotten premise for nurturing or sustaining democracy is that political groups must compete within a setting where there exists general agreement on fundamentals and competing programs that are incrementally rather than comprehensively different.22 The ROC government imposed its versions of these fundamentals by restricting the range of alternatives that could be publicly articulated during and between elections. It may be inevitable in the early and middle stages of political development that some constraints are imposed, sometimes so that political pluralism can evolve in a reasonably stable environment. This generally has been the Western experience. The important factor is that liberalization of the political rules of the game occurs, even if it is a gradual political process. Successful democracies and developing democracies have a history of minor or marginal but sustained policy adjustments. Over a long period of time democratic development cannot survive the disruptions and intensification of cleavages and distrust caused by sharp policy turns and reverses or by intense conflict over systemic issues such as representative government versus authoritarianism or independence versus unification. Restraints at certain stages do not inevitably signal unyielding authoritarianism, but can actually facilitate the evolutionary process.

One of the less obvious points that should be made here that supports the contention of increased political pluralism is that the non-KMT members of the national governmental organs had a voice vis-à-vis the older members with indefinite terms. The original Legislative Yuan had 760 elected members, but because only 50 percent came to Taiwan and due to the attrition rate (the death and disability of older members), the number by the mid-1970s was under 300, of whom 36 were elected to three-year terms in 1972 and 1975. During the mid-1970s, fewer than 200 members regularly attended sessions, but those attending generally included the

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younger, more dynamic, elected members. This obviously meant that the elected non-KMT members, as well as the elected KMT members, had a greater voice than might first be attributed to them because of their small number.

"Temporary Provisions Effective during the Period of Communist Rebellion" adopted by the ROC National Assembly in April 1948, and promulgated on May 10, 1948, placed the ROC under a rule of martial law. The provisions were to remain in effect only during the period of "communist rebellion." Whatever formal constitutional changes occurred was initiated by the Kuomintang leadership. Representatives at the national level elected in 1947 were to continue in office until communist areas were liberated and elections could be held. Interpretation No. 31, issued on January 29, 1954, the Council of Grand Justices declared that until new elections, members of the Legislative Yuan elected on the mainland would continue to serve.23

A 1966 amendment to the Temporary Provisions authorized the President of the ROC to hold "elections to fill the elective offices" which had become vacant or due to population increases in those areas under ROC government control. As a result, 11 new members were elected on December 20, 1969. All were elected from constituencies in the ROC. Pursuant to a 1972 amendment, new members were selected in February 1972. Thirty-five were elected directly from constituencies, from the aborigines, and from occupational groups. Sixteen were appointed by the executive for overseas areas. In December 1975 the number elected rose by 1, with 36 of 52 directly elected. In December 1978, as legislative elections were preparing to be held, President Jimmy Carter announced the United States would formally recognize the People's Republic of China on January 1, 1979. Legislative Yuan elections were postponed until 1980.

In June 1980, 70 members were directly elected; in 1983 71 legislators were directly elected; in 1986, 73 members were directly elected; and in 1989, 101 members of the Legislative Yuan were directly elected by districts, aborigines, or occupational groups.24

By the last date, elected members were effectively a majority of those attending Legislative Yuan sessions.

PROVISIONS AND AMENDMENTS

There have been seven major provisions, revisions, or amendments to the 1947 ROC Constitution. The first, in 1948, were the "Temporary Provisions Effective during the period of the Communist Rebellion." These Provisions "which suspended the Constitution were designed to enhance presidential power during the emergency period of the communist uprising."\(^{25}\) The three broadest limitations in these provisions were control of the press, a ban on new opposition parties, and martial law. There was an ebb and flow in the rigor of authoritarian rule and inevitable contradictions within any trend. Over a period of 25 years, I spoke with various persons having different socioeconomic characteristics and different political perspectives. It would seem reasonable to believe that authoritarianism gradually moderated and by the 1970s signs of pluralization began to appear, though at best the Legislative Yuan was then an institution where different opinions began to be voiced.

Martial law was lifted in July 1987. Formal pluralization of the Constitution began with revisions in April/May 1991.\(^{26}\) These revisions provided for regular elections to the Legislative Yuan. Additionally, Article 2 provided that 6 members were elected by overseas Chinese and 30 to represent a nationwide constituency. These two categories were lists prepared by each party. Those elected from these respective lists were in proportion to the total votes received by each party. The one limitation required that a political party receive at least 5 percent of the popular vote before any candidate was elected from a list. Occupational groups no longer elected representatives, effective with the 1992 elections.\(^{27}\)

The May 1991 Revisions were followed by July/August 1994 Revisions, which included the direct popular election of the president and vice-president. The next, or what is called the Fourth Revision, occurred in July 1997. The president (frequently called premier) of the Executive Yuan (cabinet) was to be appointed by


\(^{26}\) Revisions were a two-step process. The National Assembly adopted and the President promulgated the revisions. Sometimes these steps occurred within a single month, sometimes each step occurred in a different but consecutive month.

the ROC President. This appointment does not require the approval of the Legislative Yuan. A functioning, elected provincial government was abolished and the Legislative Yuan was increased to 225 members, in part to accommodate (provide an opportunity) for elected members of the Provincial Assembly, now about to be out of office. The Council of Grand Justices, in Constitutional Interpretation No. 499, announced that the Fourth Revisions of September 1999 were void. This is considered the Fifth Revision. The Sixth and last Revision, April 2000, was composed of Articles 1 through 11. These 11 articles are in effect today. The April 2000 Revision of 11 articles replaced the 11 additional articles adopted in the Fourth Revisions, 1997.28

The role of the National Assembly is much attenuated by the Sixth Revision. Its basic responsibilities, now elected by proportional party vote, is to meet for no more than one month to consider Legislative Yuan recommendations to amend the Constitution, to impeach the President or Vice-President, or to alter the national territory.

Until the Sixth Revision, the elected National Assembly had responsibility for amending the Constitution. Among the compromises reached in the last two revisions which would have far-reaching implications was the KMT agreeing to plurality election of the president and the DPP agreeing to a presidentially appointed premier who was not subject to confirmation by the Legislative Yuan. Potential political advantage was apparent in these compromises. A majority requirement for direct election of the President, with a clear possibility of a runoff, was believed to favor the expected KMT LIEN Chan candidacy in 2001. Instead, only a plurality, or "first past the post," is required to be elected President. The significance of the 1997 revision not to require legislative approval of the premier soon became apparent. This revision was strongly favored by KMT President LEE Teng-hui, which became apparent in August 1997. By that time the KMT had lost its party majority status in the Legislative Yuan when a KMT legislator died and another withdrew from the party. Then Vice-President and simultaneously Premier LIEN Chan was about to step down as premier. His successor, Vincent Siew of the KMT, became the first premier not confirmed by the Legislative Yuan.

28. The 1947 ROC Constitution, summaries of the five revisions, and the full text of all Revisions can be found at <http://www.taiwandomuments.org/constitution04.htm>.
LEGISLATIVE PROCEDURES AND POWERS

The Legislative Yuan holds two sessions each year. The first session begins in February and ends in May. The second session begins in September and ends in December. Member registration begins on February 1 and on September 1, respectively. The opening date of each session is determined by negotiations among the caucuses of each political party. If necessary, a session may be extended to complete law making responsibilities. A special session may be held at the request of one-fourth of the total membership.

The latest 11 article revision of the ROC Constitution was passed by the National Assembly and promulgated by President LEE Teng-hui on April 25, 2000. This revision defines in some detail the authority and procedures of the Legislative Yuan. Under Article 2, the President, with the support of the Executive Yuan, can issue emergency decrees to avert imminent threats to state security or to deal with serious economic or financial crises. Within 10 days, the decree(s) must be submitted to the Legislative Yuan. If not ratified, the decree(s) become invalid.

Should the legislature pass a no-confidence vote against the Premier, the Premier may dissolve the legislature after consulting with the president. New legislative elections will be held within 60 days of the dissolution. The new legislature must convene within 10 days after the election results are confirmed. The Legislative Yuan has never passed a no-confidence motion. Uncertain outcomes and heavy campaign expenditures do not usually encourage legislators to seek an early return to the ballot box. If a no-confidence motion fails, another such motion cannot be initiated for one year.

Recall of the president or vice-president can be initiated by one quarter of the total legislative membership and then passed by two-thirds of the 225 members. This was once attempted against President CHEN Shui-ban in 2000 during the dispute over whether the president and premier could stop the construction of the 4th nuclear power plant. The effort did not succeed, in part because of an underlying concern for popular reaction. Should the legislature pass a recall, it must be approved by an absolute majority of valid votes cast by the voters, and at least 50 percent of the electorate must participate in the recall vote. Impeachment of the president or vice-president requires that the initiation proposal have the support of 50 percent of the total legislature and be passed by two-thirds of the Legislative Yuan membership. Three hundred delegates elected by national party proportion to a one-month session of a National Assembly, can convict only by a two-thirds vote of all
National Assembly delegates.29 If convicted, the president or vice-president must step down from office immediately. It would be the most unusual of circumstances were impeachment to occur.

The difference between impeachment and recall is substantial. However, the terms are sometimes used interchangeably in Taiwan, confusing what might actually be occurring. For example, the motion to recall President Chen in January 2001 failed by 5 votes because a two-thirds majority is required in the Legislative Yuan.

After the opening of a legislative session, new members as well as conveners and schedulers are chosen for the Legislative Yuan's 12 specialized Standing Committees.

<table>
<thead>
<tr>
<th>STANDING LEGISLATIVE COMMITTEES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Budgets and Final Accounts Committee</td>
</tr>
<tr>
<td>Economics and Energy Committee</td>
</tr>
<tr>
<td>Education and Cultural Affairs Committee</td>
</tr>
<tr>
<td>Finance Committee</td>
</tr>
<tr>
<td>Foreign and Overseas Chinese Affairs Committee</td>
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<tr>
<td>Health, Environment, and Social Welfare Committee</td>
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<tr>
<td>Home and Border Affairs Committee</td>
</tr>
<tr>
<td>Judiciary Committee</td>
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<tr>
<td>National Defense Committee</td>
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<tr>
<td>Organic Laws Committee</td>
</tr>
<tr>
<td>Technology and Information Committee</td>
</tr>
<tr>
<td>Transportation and Communications Committee</td>
</tr>
</tbody>
</table>

Each of the 12 committees has 21 or fewer members and 3 Conveners. The schedulers from each standing committee determine which specialized committee should receive the bill. Each Convener decides the committee's agenda while he or she is chairing the committee.

There are three formal stages in the legislative process. The First Reading is the initial proposal of the draft by the Executive Yuan or individual legislators and its assignment, by the Scheduling Committee, to one or more of the standing committees. The re-

29. This authority and stipulated requirements are in Article 2 of the Additional Articles, effective April 25, 2000.
spective committees then review the draft. Legislators who are not members of a committee can take part in the discussions but do not have a vote. The Second Reading takes place in plenary meetings, which are held on Tuesdays and Fridays (Mondays, Wednesdays, and Thursdays are reserved for committee work). The final Third Reading, also on the floor of the Legislative Yuan, involves only non-substantive changes in the text of a draft — adding a comma for example.

Partly in order to accommodate various points of view as well as not to exclude members, an alternating convener or chair system is in place. The three conveners per committee often are not from the same party. Therefore, in a 16-week session, each convener has a total of just over 5 weeks in which to serve as chair. In one three-year term of the Legislative Yuan a convener can be reelected only once. The conveners decide on the rotation schedule, or as one legislator put it, “it is locally decided.” The rotation schedule might be, for example, daily, weekly, every 2 weeks, for 5 weeks, etc. Each convener sets his or her agenda. The end result is limited continuity of chairmanship and subject matter.

While the Legislative Yuan is in session, representatives shall have the right to interpellate (question) the premier and minister ministries. These interpellations occur on Tuesday and Friday. Thus, interpellation comprises one-half of each legislative session. Though politics is an important part of interpellation, oversight with the widest possible audience occurs here. The reason — television cameras and photographers are admitted to all legislative sessions.

In past times the sitting of the whole cabinet in the legislature throughout the entire day could seem an interminable period of just waiting, especially for many cabinet officers not interpellated. Temporarily removed from their executive responsibilities, administrative work was delayed. Meetings were known to last until 10:00 PM and even later as some ministries were put through intense and occasionally insulting questions, often to make political points rather than to solicit information or debate policy choices. The DPP during its opposition period skillfully used interpellation to enhance its public political standing.

In previous terms all cabinet members had to be present. In the Fifth Legislature, cabinet ministries organize themselves in functional cohorts, so not all ministries attend every Tuesday/ Friday interpellation. In early legislatures, each legislator could ask questions for 20 minutes and answer for 20 minutes. In the current
legislature, the time allotted has been cut in half, to ten minutes per legislator to ask and 10 minutes to respond, or as one legislator said, “to rebut.” Consequently legislators today often organize into groups and coordinate or “orchestrate” their questions. A principal goal of opposition members over the years has often been to embarrass the Premier and ministers or to make them look unprepared.

The DPP in this legislature through the Premier’s office has sought as much as possible to persuade its supporters not to participate in interpellation. As a legislator explained, if a representative was willing to accommodate by not interpellating, his or her kindness subsequently could be “rewarded in one form or another.”

Interpellation has facilitated and strengthened openness and transparency, important to a functioning democracy. It is also a constant irritant to whoever controls the Executive Yuan. The jab and thrust of politics is part of a competitive democratic system, however frustrating it seems to appear to one side or the other.

The current system is neither presidential nor cabinet government. The president and vice president are elected independently of the legislature. The legislature has a three-year term, while the president and vice president are elected for four-year terms. The possibility of removal by impeachment or recall is slight as shown during the nuclear power confrontation discussed below. Even with divided government, since President CHEN Shui-bian was inaugurated for his first term in May 2000, it is unlikely an opposition-controlled legislature will seek a no-confidence vote in the premier. Most legislators avoid dissolution and new elections.

The Executive Yuan, including the premier, reports to the legislature but is not selected by the legislature. The decision on who should be the premier and who ministers will be determined by the top leadership of the party that won the presidency. At present, as under President LEE Teng-hui, it appears that President Chen makes the final decision — who comes, who goes, and who stays.

The Legislature Yuan has the power to reduce the budget proposals of the Executive Yuan, but not to increase funding or delete budget items. If a budgetary bill, a statute, or a treaty is opposed by the executive, the premier, with the approval of the president, can ask that the bill be reconsidered. If the bill is passed again (resolved) within 15 days of its being returned to the legislature by an absolute majority of the total Legislature Yuan membership, the bill is upheld. The executive then must accept and implement the bill. If a majority vote is not forthcoming, in effect a veto is upheld.
The veto power of the premier with the support of the president is limited and most likely would succeed only if the opposition is unable to secure a near full complement of its members to vote a second time. Thus far since CHEN Shui-bian became president, on crucial votes, all parties generally are able to secure the voting attendance of most members and original bills are therefore upheld.

**SCHEDULING COMMITTEE**

The Procedural or Scheduling Committee has an important role. Its responsibilities are two-fold. When a bill is introduced, the committee decides to which one of the 12 standing committee it should be assigned. The Scheduling Committee also decides in what order committee approved bills will be placed on the legislative agenda for consideration at a plenary session of the Legislature Yuan. There are 36 members on the Scheduling Committee, membership is proportional to party representation, with at least one member from each caucus group. This is a much sought after assignment by legislators. A party or coalition of parties who can form a majority on the Scheduling Committee will always be in a position to maintain the initiative on legislative matters.

**COMMITTEE SYSTEM**

Party caucuses decide who serves on various committees. Popular committees are oversubscribed. The Party Whip speaks for the party and induces some members to switch to another committee. If all else fails, members draw lots. Who decides which conveners serve on which committee and how many members from each caucus group per committee? The Inter-Party Caucus decides. This requires much bargaining and compromise, but usually is determined within a fortnight of the session opening. An obvious consequence of this system is that committees rarely have a coherent and sustained agenda, and members seldom develop a subject expertise.

The role of the convenors has already been noted. As the system evolved and the number of political parties and caucus groups expanded (for example a six member Alliance of Independent Lawmakers) a troika convenor system (analogous to a committee chair) allowed more participation, status, and input to many individuals and to all the political parties.

Events in the fourth session of the Fifth Legislative Yuan illustrate the bargaining and negotiation that often occurs in the legislature. Also we must recognize that some issues are settled, and every issue does not become a zero/sum game.
On Wednesday, September 24, 2003, 36 convenors were finally to be chosen after talks and agreement between all political parties. The agreement fell apart at the last minute. DPP lawmaker TUAN Yi-kang observed after the agreement collapsed:

It is a booty-sharing system with big and small parties alike fighting for three chief positions at each committee. I suggest a single convenor system with the position filled by major parties to help enhance political stability.\(^{30}\) Legislator Tuan also urged that newly-elected lawmakers be barred from serving as convenors because of their lack of familiarity with the legislative process.

The pre-Wednesday understandings failed because the Taiwan Solidarity Union and the Independent Lawmakers Alliance withdrew their consent in the final moments, "accusing the big players of sticking them with less important committees."\(^{31}\)

The Legislative Speaker, WANG Jin-pyng, tried hard to restrain his frustration at the last minute collapse of cross-party negotiations. He noted that the agreements reached are legally binding. Speaker Wang continued:

A [party] whip should deal with different voices and expectations in his or her party with determination, responsibility, and patience. Negotiations mean concessions and compromise, gains or losses, in order to come to results.\(^{32}\)

After a week of intense negotiations, some committee assignments were shifted. The Taiwan Solidarity Union and the Independent Lawmakers Alliance accepted the arrangements. The Alliance also secured an agreement that three bills relating to the welfare of the aborigines would be passed. Ultimately, the DPP received 13 convenor seats, 10 went to the KMT, 8 to the PFP, 3 to the TSU, and 2 to the Alliance.\(^ {33}\) More than occasionally, the legislative system does work.

Prior to December 31, 1991, when members elected to the First Legislative Yuan and those elected in 1969 retired, legislative decision-making was centered in KMT headquarters, with limited legislative input. In addition, the senior legislators generally stayed with the same committee. Committees were more professional, more

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31. Ibid.
32. Ibid. Speaker Wang, a member of the KMT, is known for his unflappable manner and his negotiating skills. The Speaker is now in his third term as a legislator.
specialized, and in some ways more significant under the Kuomintang. With each committee having three different convenors or chairs in one session, members often changing committees, and non-committee members wandering in and out of committee meetings — often determined by the publicity opportunity available, systematic focus on a few issues and legislative expertise has diminished. Committee hearings have too often devolved into confrontations and publicity-achieving opportunities with subject focus and persons testifying dependent on the convenor of the moment.

Showboating remains a problem. Legislators who are not members of a committee may speak at any committee hearing. Committee members have priority, but after that it is first come first served. Simply put, there is a sign-up list. Speakers are limited to five minutes. If you are a “legislative gypsy,” you sign up early (beginning at 7:00 AM) for those committees where you wish to speak. When your turn comes, your name is called three times. All legislators are provided free cell phones. One of your office assistants calls you so you race to the appropriate committee to speak, whether because of a specific interest in the topic, in response to some constituency request, or because the media is likely to be present at that committee meeting and this may be the chance to enhance your public persona. Consequently, committee hearings often become a “media event,” though this certainly is not unique to legislative committees in Taiwan.

Committees in recent years have not facilitated law-making concessions, or compromise to the degree desired. Despite the decline of the committee system, certain committees remain attractive to legislators because they can secure funds for their constituency. The committees most often mentioned to me are: Budget, Economics, Finance, and Transportation.

It should be noted that committees do take their oversight functions seriously. Oversight and quizzing government officials can have a very partisan ring, but growing political transparency is one result.

INTER-PARTY CAUCUS

An important procedural modification to some of the problems noted above was the Powers and Functions Law of the Legislative Yuan: Rules of the Agenda Process, promulgated on January 25, 1999. This provided for a formal system of negotiation between parties or caucuses (the Legislative Yuan now recognizes organized caucuses or parties with a minimum of 5 members). This is a formal
system of negotiations that meets each Wednesday, with up to three representatives from each caucus or party. If there is a party consensus, the bill is cleared. A bill may have failed in the committee, but it now can be resurrected in some form and sent forward. This was a mechanism in part to stop the protests, fights, and disruptions that previously had too frequently erupted in the legislature. The 1999 change formalized what had been an informal procedure and was intended to make the legislative process more civil and efficient. Since negotiations are not public, some have charged that the decline of transparency is an important negative by-product. The reality of political disagreement limits the amount of legislation passed, but the Inter-Party Caucus system has facilitated reaching agreements.

THE NUCLEAR POWER PLANT ISSUE

The 4th nuclear power plant issue illustrates the sharp divisions that emerge in a divided government. It also shows that compromise occurs despite crucial policy differences. President CHEN Shui-bian and the DPP have long opposed the building of a 4th nuclear power plant at Kungliao in Taipei County. They aver the disposal of nuclear waste remains unsolved, and a fourth plant would be more environmentally dangerous than other alternatives.

The KMT and business leaders supported a fourth nuclear plant on the grounds future high tech industry needed the assurance of power that an additional plant would provide. At the time President Chen was inaugurated in May 2000, nuclear power already provided 25 percent of Taiwan’s power. Contracts had been let for the 4th nuclear power plant during the previous five years, and one-third of the construction was completed.

After his 2000 inauguration, President Chen appointed a number of non-DPP personnel to ministerial positions, though no coalition agreement was made with any party. The most visible appointment was retired Air Force general and former Minister of National Defense, TANG Fei, who was appointed premier. Premier Tang was a member of the KMT and both he and his political party supported the 4th nuclear power plant. Although there were several reasons the appointment of Premier Tang did not work out, it was during the final session of the Fourth Legislative Yuan that the tension arising from the impossibility of Premier Tang support-
ing the president’s nuclear position that led to Tang’s resignation on October 3, 2000.\textsuperscript{34}

The Fourth Legislative Yuan had 14 months to go. Legislative elections were to be held in early December 2001, and the new legislature would begin its sitting in late February 2002. In the Fourth Legislature, the DPP held 65 seats, the KMT 110 seats, the KMT break-away PFP held 20 seats, the New Party (later to be part of the pan-blue anti-DPP alliance) held 8 seats, the Taiwan Solidarity Union (TSU) had 1 seat, and there were 14 independents.\textsuperscript{35}

Despite the lack of a legislative majority, President Chen and the DPP ultimately went ahead with their commitment to halt further nuclear construction. The 4th plant is located in a rural area of Taipei County, with an estimated total construction cost of $6 billion. By the time of President Chen’s inauguration, approximately $3 billion was expended or contracted. If construction had continued on schedule, the plant was expected to be on-line at the end of 2004. Taiwan Power warned of a serious electricity shortage if construction was discontinued. Shortly after his inauguration, President Chen was quoted as saying it is “not a simple issue of yes or no.”\textsuperscript{36} The issues appeared to be partly clarified early in the fourth session\textsuperscript{37} of the Fourth Legislature (elected in 1998). When the Executive Yuan Secretary General met with legislators in September 2000, there was a consensus with legislators that the 2001 budget must include provisions for construction of the 4th Nuclear Power Plant.\textsuperscript{38} However, Premier Tang’s resignation on October 7 was followed by an announcement by Premier CHANG Chun-hsiung on October 27, 2000, that his government was halting construction of the 4th nuclear power plant. To say there was a political disagreement of the most fundamental nature between the legislature and the political executive is an understatement.

\textsuperscript{34} At one point early in the dispute, CHANG Chun-hung, a founding member of the DPP proposed dissolving the legislative and holding new elections to solve the continuous legislative/executive conflicts. <http://Chinapost.com.tw/a>, September 25, 2000.

\textsuperscript{35} These numbers for the sixth session of the Fourth Legislature are taken from “The Voters Speak,” \textit{Taipei Review}, February 2002, p. 31.

\textsuperscript{36} For an excellent and succinct summary of the situation as it was in June 2001 see Julian Baum, “Nuclear Test,” \textit{Far Eastern Economic Review}, June 8, 2000, p. 20.

\textsuperscript{37} The legislative session which begins in September is the “budget” session. This is when the budget and items related to the budget are discussed, debated, and passed.

\textsuperscript{38} “Lawmakers reach agreement on budget,” \textit{China Times}, September 22, 2000 from \textit{Taiwan Headlines} <http://th.gio.gov.tw/show.cfm?news_id=5342> hereafter referred to as \textit{Taiwan Headlines}. 
Within a few days, the KMT led majority began to consider a recall of the president. Legislative/executive relations were at a nadir, with the eventual solution appearing to fall on the KMT side. The Executive Yuan asked the Council of Grand Justices, responsible for interpreting the constitution, to decide if the halt in construction, which had begun five years, was previously constitutional.

Pursuant to the final round of constitutional amendments in 2000, the legislature passed a bill giving it the power to initiate a recall of President Chen and Vice-President Annette Lu as long as one-quarter of the legislature supported the bill. To be promulgated, the recall subsequently must receive a two-thirds vote of the entire legislature. The legislative opposition was so determined to move forward that the legislature altered the agenda and placed the empowerment bill at the top of the list, the first bill to be considered. Ultimately the recall bill passed, 201 to 131. One DPP legislator did not attend the legislative meeting and four independents abstained.39 The subsequent vote to recall President Chen lost by 5 votes. There appeared to be an undercurrent of support for the President on the recall issue. The December 2001 elections did not strengthen the opposition’s position. The DPP won 87 seats and its ally, the Taiwan Solidarity Union (TSU), won 13 seats. The New Party elected only one member, while the KMT/PFP together dropped from 130 to 114 seats. Unless there was to be permanent stalemate, which many people seemed to blame on legislative negativism, a compromise began to seem beneficial to both sides.

On January 14, 2001, the 15 members of Council of Grand Justices ruled that Premier Chang should appear in the legislature to explain his October decision to cancel construction. The Grand Justices proposed that the Legislative Yuan pass a special bill to resume construction of the nuclear plant. The Council also ruled that the Executive Yuan was not obliged to carry through on policies inherited from its predecessor but “must secure legislative approved before making important shifts.”40 A constitutional crisis was avoided, and the issue was sent back to the Legislative Yuan for resolution.

39. “Legislature legally empowered to recall president,” The China Post, November 8, 2001, <http://www.chinapost.com.tw/archive> (Hereafter chinapost.com.tw). Historically, the KMT is the political party that has had the most trouble rounding up its members to attend crucial votes. Crucial votes usually involve approximately 200 legislators.

Led by the Kuomintang, a special legislative session was called in January to resolve the issue. The KMT agreed “to avoid looking arrogant... to change its previous stance that the Cabinet resumes building the power plant before setting foot in the legislative chamber.”

After the Council Grand Justices Interpretation 520, the opposition agreed that Premier Chang should address the Legislative Yuan. Premier Chang did not commit his government to renewing construction, but noted that he would “honor the results of the negotiation between the ruling and opposition parties.” Comromise was in the air. There were 147 legislators at the discussion on January 29. Not one voiced objection to Premier Chang explaining his position on the nuclear power plant to the legislature, though 40 legislators indicated they wanted to interpellate Premier Chang on his October 2000 decision.

Party discipline has become the rule rather than the exception since divided government began with the election of CHEN Shui-bian to the presidency in March 2000 and his inauguration in May. Constituency or personal interests only occasionally now rule against support of party. The budgetary bill vote to fund the 4th Nuclear Power Plant came at the end of January. Because this had become the most important political issue of the Fourth Legislature, all parties mobilized their members under party discipline on voting day. According to the Official Gazette, which records votes, attendance at the second or final vote was 210.

The final vote revealed that 134 legislators supported the bill funding the nuclear plant, 70 opposed it, and 6 abstained. Among the 70 that opposed the bill, all were from the DPP except for one KMT member and one independent legislator. Of the six abstentions, three members were from the KMT, two were New Party members, and one was an independent member. The KMT member who opposed the bill was from Taipei County, where the last plant was located. Only a few failed to support party orders because of constituency concerns, but as in most post-May 2000 votes, party discipline held. The intensity and duration of this conflict

41. Ibid.
42. Premier offers to report to Legislative on power plant,” ibid.
44. This, as well as considerable other information in this monograph, was obtained through interviews in Taiwan. My commitment to persons interviewed is to never quote them directly by name. Any errors or omissions are the responsibility of the author.
over nuclear power led party leaders to emphasize further the mechanism of the Inter-Party Caucus discussed previously to increase legislative harmony and to reduce political crises within the legislature.

Subsequently, the opposition coalition authorized Speaker WANG Jin-pyng to work out an agreement with Premier Chang. The accord that was signed on February 12 reflected a final compromise between the Legislative and Executive Yuan. The agreement stated that construction should commence immediately, and that the nuclear budget would be determined through appropriate procedures.

One factor influencing compromise and resolution is when each side sees ultimate political disadvantages to unblinking confrontation. The KMT might suffer a political defeat in the December 2001 Legislative Yuan elections because the electorate appeared closely divided over the issue. Acquiring an obstructionist label weakened the political image and the KMT's political support. The DPP could not afford permanent legislative/executive stalemate. Moreover, there were other issues that might be developed and refined to provide the DPP greater political appeal in the upcoming 2001 legislative elections and the 2004 presidential election. The nuclear power plant tested both constitutional and political issues. But at a certain point, political exhaustion set in, and it was time to move away from a lose/lose situation.

**LEGISLATIVE AUTHORITY: AN OVERVIEW**

The first function political scientists generally assign to legislatures is that of rule making or law-making. The immediate second proviso is that this function is diminishing or barely exists in many political systems. In the case of the Republic of China on Taiwan, the Legislative Yuan’s rule-making authority is substantial today, to the point where the President and the Executive Yuan often are frustrated. What the Constitution says is what in fact occurs. If the Executive Yuan (Premier and Cabinet) opposes a law, treaty or budget bill passed by the Legislative Yuan it can request that the Legislative Yuan reconsider.\(^45\) The Legislative Yuan is to reach a decision on the returned bill within 15 days of the bills receipt. If no decision can be reached in the legislature, the bill in effect has been vetoed. However, should one-half of the total Legislative

\(^{45}\) Article 3 of the Additional Articles of the Constitution of the Republic of China.
Yuan membership vote in support of the original bill, the Premier must accept it. The veto power of the executive branch is thus quite limited, especially since May 2000 when the DPP and its allies cannot muster an absolute majority in the legislature.

The President appoints the Premier, who confers with or defers to the President as he appoints the Cabinet. The Premier is not confirmed by the legislature and is in effect the President’s choice. This is not a parliamentary form of government given the manner in which the cabinet is appointed. It can be described as a government of separation of powers. This checks and balances system is accentuated when the party controlling the presidency does not hold a legislative majority, as is the case in Taipei today. Partisanship has intensified, especially with the impending 2004 presidential election. Frequently, though not always, the parties have become “associations of war and strategy, of skirmishes and battles, of final victory and defeat.” 46 The alternative for passing at least some legislation, as we have noted previously, is the Inter-Party Caucus.

Since the Great Depression, governments have become much more active; an era of the positive state has occurred in the more developed political systems. The number and weight of issues requiring attention at times appears overwhelming, and it is commonplace that policy development has shifted to the executive branch. Nevertheless, the input of the Legislative Yuan at this moment is central to policy making in the ROC.

A parliamentary characteristic is stipulated in Article 3, when it is declared that within 10 days of a no-confidence vote the Premier, after consulting with the Speaker (referred to as President of the LY in the ROC Constitution) can dissolve the legislature and call for new elections. Since the legislative term is only three years, few if any legislators will support a no-confidence vote. Who wants to run for re-election so soon, in many cases without an assured result?

Similarly, a presidential recall initiative by the Legislative Yuan provides no assurance of the outcome, at least in Taiwan today. The Legislative Yuan conceivably could appear largely obstreperous. Allegations of executive inefficiency and limited problem-solving capacity might have less voter appeal than some anticipated. The Legislative Yuan did attempt a recall early in President Chen’s term, but the effort failed. The Constitution requires

46. Kurt Steiner, Politics in Austria, Boston: Little, Brown and Company, 1972, p. 120.
that one-quarter of all LY members initiate a proposal recalling either the president or vice president; such a proposal must then pass by a two-thirds vote of the entire legislative membership. Finally, if the recall is to succeed, an absolute majority of voters must approve the recall. Moreover, to succeed, 50 percent of the voters must participate in the recall vote. Unless there has been a rapid and fundamental political shift among voters, successful recalls are unlikely. A failed recall could well reflect negatively on the initiating legislature.

The current debate over a new Constitution undoubtedly will consider how this semi-presidential, semi-parliamentary system might be modified.

**THE 2001 ELECTIONS**

The December 1, 2001 elections were the first time since 1992 that there was no change in the number of seats, nor were any electoral districts modified. The single adjustment due to population shift was one member who was shifted to Taoyuan County from Taiwan County.

The Legislative Yuan has two principal types of selected members — 168 constituency seats and 8 seats reserved for the aborigines. The non-constituency seats (8 overseas Chinese and the balance at-large seats) are allocated according to the percentage of votes a political party receives, with the threshold being 5 percent of the total vote. Consequently, just over 78 percent of the legislators are chosen directly by the voters, for constituency or aboriginal seats.

The determinative electoral contests occur in the multimember districts. The ROC has a Single Non-Transferable Vote (SNTV) system. Each district returns representatives based on its population, with each legislator theoretically representing about 106,000 persons. Each district is either a part of or a county or a major city. A district with less than 106,000 persons has one representative. A voter has only one vote. Districts vary in size from 1 to 10 legislators. For example, Taipei County has 27 seats and is divided into 3 districts with 10, 9, and 8 members respectively. Since each voter casts only one vote, the party must try to calculate accurately how

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many candidates it can reasonably expect to win per district. Too many nominees will scatter the votes and reduce the "wins". Suffice it to say, the DPP was the more successful party in nominating the optimum number of candidates per district as well as allocating votes among candidates.

Particularly in Taipei, the DPP effectively convinced voters to distribute votes as equally as possible among DPP candidates. One method was to request DPP supporters to support a candidate based on the month the voter was born. For example, if there were five DPP candidates in a district, voters born in months 10-12 might be encouraged to vote for DPP candidate 5. Consequently, the most popular DPP candidates would not draw too many votes, to the detriment of other DPP candidates. When, for example, there are 8 candidates in an electoral district, the individuals elected are those 8 who received the highest number of votes, perhaps ranging from 120,000 to 25,000 votes.

The two largest parties benefit from the current electoral system. The threshold requirement to receive a proportion of the national and overseas Chinese vote requires a party to win 5 percent of the valid popular vote. With reference to the constituency candidate and aborigines lists, the party that nominates an optimum number of candidates (not dispensing the vote among too many nominees) and is able to divide votes as equitably as possible among party nominees secures the largest representation. In the 2001 Legislative Yuan election, the DPP operationalized the most successful strategy, as shown in Table 2.

<table>
<thead>
<tr>
<th></th>
<th>Nominated</th>
<th>% of Popular Vote</th>
<th>Number Elected</th>
<th>Proportional Lists</th>
<th>Total Seats</th>
<th>% of Legislative Seats</th>
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<tbody>
<tr>
<td>DPP</td>
<td>83</td>
<td>33.38</td>
<td>69</td>
<td>18</td>
<td>87</td>
<td>38.67</td>
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<tr>
<td>KMT</td>
<td>97</td>
<td>28.56</td>
<td>53</td>
<td>15</td>
<td>68</td>
<td>30.22</td>
</tr>
<tr>
<td>PFP</td>
<td>60</td>
<td>18.57</td>
<td>35</td>
<td>11</td>
<td>46</td>
<td>20.44</td>
</tr>
<tr>
<td>TSU</td>
<td>32</td>
<td>7.76</td>
<td>8</td>
<td>5</td>
<td>13</td>
<td>5.78</td>
</tr>
<tr>
<td>NP, Others</td>
<td>40</td>
<td>2.61</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>.44</td>
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</table>

Source: Election Information Databank, Central Election Commission of the ROC and the Election Study Center, National Chengchi University. Data provided by Professor CHENG Chung-i.

One astute observer of Taiwan politics noted that in an ironic way the KMT might have benefited in the 2001 elections because
several of its least desirable characters lost. With some notable exceptions, the more corrupt and/or disinterested candidates lost.

The data in the following Tables present a profile of the Fifth Legislative Yuan legislators. These are some interesting data that speaks to the overall quality of the Legislative Yuan. Nearly 50 percent hold Master's degrees, educational doctorates, or professional degrees. Another 40 percent plus hold bachelor's degrees, while 48 percent hold overseas degrees or certificates. Just over 21 percent of the legislature is female. Fifty percent of the legislators are serving their first term, and just under 31 percent are serving their second term.

The number of turnovers — measured by first and second term members — is rather high by historic comparative legislature standards.48 It reflects in part the emergence of new parties, beginning with the DPP in 1986 and major constitutional changes. High turnover can change the way a legislature does business. It also means corporate memory and legislature expertise are in short supply. For those who chose not to run for reelection, it may mean the potential career ladder and prestige were less than anticipated.

The Legislative Yuan membership is well educated, relatively new to national political office, and has substantial international experience. Legislators I spoke with from the three major parties were well informed on national and international issues and sensitive to globalization issues affecting Taiwan's future.

<table>
<thead>
<tr>
<th>TABLE 3: PERCENT AND THE NUMBER OF TERMS SERVED</th>
</tr>
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<tbody>
<tr>
<td>Percent</td>
</tr>
<tr>
<td>60   50  31  8  8  8  8  8  8  9-1</td>
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</table>

Sources: Data for Tables 3-6 has been tabulated and adopted from the American Chamber of Commerce in Taipei, Who's Who in the Fifth Legislative Yuan, Taipei: Richard Vuylsteke, Publisher, 2002.

TABLE 4: EDUCATION: YEARS COMPLETED

TABLE 5: OVERSEAS EDUCATION

TABLE 6: GENDER OF LEGISLATOR

REFORM: MICRO OR MACRO

In order to amend the ROC Constitution as of the end of 2003, an amendment must receive three-quarters of the vote of those at-
tending the Legislative Yuan and three-fourths of the vote of a specially elected National Assembly, which can remain in session only one month. To reduce the size of the Legislative Yuan from 225 to another number requires a constitutional amendment. A reduction in legislative size frequently has been urged by the DPP and the Taiwan Solidarity Union (TSU).

Several KMT and PFP legislators also have publicly supported cutting the number of legislators. In fact, while many legislators publicly pledged their support for such a change, few personally favor downsizing. As one member of the legislature told the author, although he and many of his colleagues express a public willingness to reduce the size of the Legislative Yuan, in private, they oppose any decrease. "You do not intend to eliminate your own job."

In practical political terms, whose seat might be eliminated or threatened in an upcoming election, is a dissuader of immediate change, at least in 2003. As the United States experience demonstrates, redrawing Congressional districts in those states that gain or lose House seats every ten years is a very conflictual process, not only between political parties but within political parties. Building on research in the 1960s and early 1970s concerned with the behavior of individual members of the U.S. Congress, David Mayhew suggested that congressional behavior is best explained by the desire to be reelected.\textsuperscript{49} Other motivations are at work, but the dominating motivation in most cases is reelection. We might infer this as also a principal motivation for members of the Legislative Yuan.

Related to this is the discussion eliminating the Single Non-Transferable Vote (SNTV) in multi-member districts system in Taiwan. The most discussed reform would result in a bloc of Single Member Districts (SMD) combined with members chosen from a party list. Election would be determined by a percentage of the total party vote received in the Legislative Yuan election. This change might have a greater possibility of passing since it does not require a constitutional amendment nor does it reduce the number of total seats. Reform of this magnitude does not, however, appear imminent, at least until after the 2004 presidential election and the 2005 Legislative Yuan elections. Based on the American experience, single member districts offer no assurance that corrupt practices are eliminated simply because there is an SMD in place.

Other procedural reforms discussed but which are not imminent involve interpellation as discussed before. Interpellations can run on for hours, with executive officials present in the legislature for excessive amounts of time. Few representatives, including many DPP members, wish to give up the right to question. Democratic transparency means the TV cameras are recording every minute and a member may strike publicity gold. One DPP member explained, “how else would they [legislators] receive publicity and be reelected?”

Legislative procedure is evolving in a competitive, pluralistic system, and incremental change can be expected.

CONCLUSION

The ongoing institutionalization of the Legislative Yuan in Taiwan’s pluralistic political system resulted from the transformation of a quasi-authoritarian regime to a democratic regime. Competitive, honest elections have necessarily meant a different type of legislature in a much less hierarchical political system. Taiwan’s concern for maintaining order, as well as efficient and planned change, includes a legislature where competition, conflict, and compromise are part of the policy process.

In participating political systems, governments devote a good deal of their time to negotiating and balancing claims and counter-claims of diverse ideas and groups demanding official responses or opposing proposals. In the present world, the volume and complexity of political issues and interests continues to expand. The Legislative Yuan contributes to this volume and complexity as well as being at the center of policymaking — whether for good or bad.

An elected legislature is directly and frequently accountable to the voters. Legislatures, other than in dictatorships, are unique, because they are the political institutions providing both broad avenues of access and regular popular accountability. Legislatures also are the political bodies whose members maintain the closest contact with the general population. Legislatures provide a breadth of representation and normally include persons articulating a wide range of viewpoints. Depending on the moment and perspective, legislatures are both dysfunctional and eufunctional, but remain a pillar in any democratic political system. This is true today of the Legislative Yuan in the Republic of China on Taiwan.
GLOSSARY

Selected Chinese Names

Chang, Chun-hsiung 張俊雄
Chen, Shui-bian 陳水扁
Chiang, Ching-kuo 蔣經國
Chiang, Kai-shek 蔣介石
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