

OFFICIAL RECORD OF PROCEEDINGS

Thursday, 15 July 1993

The Council met at half-past Two o'clock

PRESENT

THE PRESIDENT

THE HONOURABLE JOHN JOSEPH SWAINE, C.B.E., LL.D., Q.C., J.P.

THE CHIEF SECRETARY

THE HONOURABLE SIR DAVID ROBERT FORD, K.B.E., L.V.O., J.P.

THE FINANCIAL SECRETARY

THE HONOURABLE NATHANIEL WILLIAM HAMISH MACLEOD, C.B.E., J.P.

THE ATTORNEY GENERAL

THE HONOURABLE JEREMY FELL MATHEWS, C.M.G., J.P.

THE HONOURABLE ALLEN LEE PENG-FEI, C.B.E., J.P.

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

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

THE HONOURABLE PANG CHUN-HOI, M.B.E.

THE HONOURABLE SZETO WAH

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

THE HONOURABLE RONALD JOSEPH ARCULLI, O.B.E., J.P.

THE HONOURABLE MARTIN GILBERT BARROW, O.B.E., J.P.

THE HONOURABLE MRS PEGGY LAM, O.B.E., J.P.

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

THE HONOURABLE JAMES DAVID McGREGOR, O.B.E., I.S.O., J.P.

THE HONOURABLE MRS ELSIE TU, C.B.E.

THE HONOURABLE PETER WONG HONG-YUEN, O.B.E., J.P.

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE VINCENT CHENG HOI-CHUEN, J.P.

THE HONOURABLE MOSES CHENG MO-CHI

THE HONOURABLE MARVIN CHEUNG KIN-TUNG, J.P.

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE TIMOTHY HA WING-HO, M.B.E., J.P.

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

THE HONOURABLE SIMON IP SIK-ON, O.B.E., J.P.

DR THE HONOURABLE LAM KUI-CHUN

DR THE HONOURABLE CONRAD LAM KUI-SHING, J.P.

THE HONOURABLE LAU CHIN-SHEK

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE HENRY TANG YING-YEN, J.P.

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

DR THE HONOURABLE SAMUEL WONG PING-WAI, M.B.E., J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

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

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE ROGER LUK KOON-HOO

THE HONOURABLE ANNA WU HUNG-YUK

THE HONOURABLE JAMES TIEN PEI-CHUN, O.B.E., J.P.

ABSENT

THE HONOURABLE HUI YIN-FAT, O.B.E., J.P.

THE HONOURABLE DAVID LI KWOK-PO, O.B.E., J.P.

THE HONOURABLE NGAI SHIU-KIT, O.B.E., J.P.

THE HONOURABLE TAM YIU-CHUNG

THE HONOURABLE ANDREW WONG WANG-FAT, O.B.E., J.P.

THE HONOURABLE LAU WONG-FAT, O.B.E., J.P.

THE HONOURABLE LAU WAH-SUM, O.B.E., J.P.

DR THE HONOURABLE LEONG CHE-HUNG, O.B.E., J.P.

THE HONOURABLE FREDERICK FUNG KIN-KEE

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

THE HONOURABLE STEVEN POON KWOK-LIM

DR THE HONOURABLE PHILIP WONG YU-HONG

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR CLETUS LAU KWOK-HONG

PURSUANT TO STANDING ORDER 4AA, HIS EXCELLENCY THE GOVERNOR,
THE RIGHT HONOURABLE CHRISTOPHER FRANCIS PATTEN, ATTENDED TO
ADDRESS THE COUNCIL AND TO RECEIVE QUESTIONS.

PRESIDENT: Would Members please remain standing for the Governor?

CLERK: His Excellency the Governor.

PRESIDENT: The Governor will first address the Council on his recent trip to the United Kingdom. Thereafter, Members may put questions to the Governor on matters arising therefrom.

GOVERNOR: I am delighted to have this opportunity to make a brief statement on my visit to London from 30 June to 2 July. With Members' agreement, I would also like to say a few words about the Foreign Secretary's visit on 8 and 9 July to Peking. I had a good 48 hours in London. Ministers confirmed their support for the principles which underpin our position in the talks; first that the arrangements for the 1994 and 1995 elections should be open, fair and acceptable to the people of Hong Kong, a familiar principle but one that bears repetition; and second, that there should be a genuine "through train" with clear objective criteria for those legislators who are elected in 1995. On that point, despite the flurry of press speculation at the time of my visit to London, there has been absolutely no change in our position. I also saw in London the chairman of the Foreign Affairs Select Committee of the House of Commons and the Labour spokesman on foreign affairs. It was a useful opportunity to bring them up to date and a useful reminder as well of the strong cross party support that exists at Westminster for the approach we have taken. Ministers also endorsed our recommendation that the Foreign Secretary should visit Peking. As you know, he did so on 8 and 9 July, accompanied by the Secretary for Constitutional Affairs. In Peking, he had useful talks with Vice Premier and Foreign Minister QIAN Qichen, he also saw President and General Secretary JIANG Zemin. The Foreign Secretary went to Peking, as you know, not to negotiate but to focus attention on what we regard as essential in these talks. The Foreign Secretary did not mention deadlines during his visit, just as I have avoided ringing dates in the calendar, but everyone knows that time marches on and that there are practical arrangements which have to be made in good time; so we cannot go on talking indefinitely.

In addition to the constitutional talks, the Foreign Secretary also covered the talks in the Airport Committee and in the Joint Liaison Group. On the airport, he emphasized to the Chinese side that delay is expensive and damaging to Hong Kong and to China. He raised the Central and Wan Chai Reclamation Scheme and I am pleased to say that the Chinese said they had no objection to the first phase of that scheme. It will now go to Finance Committee for consideration. So that is progress, although plainly there is a great deal still to do. We must work more quickly if Chek Lap Kok is to be completed on time. Similarly, the Foreign Secretary underlined the seriousness of the pile-up of work that we now see in the Joint Liaison Group. Much of it very technical, much of it not intrinsically political, but all of it essential if there is not to be a

gaping void in the laws of Hong Kong when sovereignty changes. I cannot emphasize strongly enough the need to get cracking. So a good visit, conducted in a congenial atmosphere, as the Foreign Secretary emphasized, the proof of its success or otherwise will come in the next few weeks. Meanwhile, our negotiators work on. There will be a further round of talks next week, and, we hope, a further round in August, though the details remain to be agreed.

PRESIDENT: Members may now put questions to the Governor on matters arising from his address. A Member who has asked a question may, for the purpose of elucidation only, ask a short follow-up question. Show of hands, please. Mr CHEUNG Man-kwong.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr Governor, could you tell this Council explicitly whether the British Foreign Secretary Douglas HURD, had reached, in principle or in detail, any secret deal or understanding with the Chinese Government on the 1994-95 electoral arrangements during his visit to Peking last week? Have you given up the democratic political system you put forward last year in order to secure the "through train" arrangement that you emphasize now?*

GOVERNOR: Well, of course, the Foreign Secretary talked about the 1994-95 elections. I think the Legislative Council would have been surprised if he had gone to Peking and not done so. And one of the main purposes of his visit — a reason why we advised him to go and indeed urged him to go — was to try to provide a greater political impulse for the talks which have been going on for the last few weeks and months. But he did not reach a secret deal or any sort of deal during his talks. He was not negotiating, he was trying to focus the talks on what we regard as the principal issues and to ensure that the talks make the sort of progress which everybody, I am sure, in this Legislative Council would like to see. Our intention in these talks, as I said earlier, is to secure arrangements for the 1994-95 elections which are fair, open and acceptable to the people of Hong Kong, and that, in my judgement, means that we really do have to resolve the differences that plainly exist on, in particular, the role of the Election Committee, its composition and the way it is arrived at, and the new functional constituencies. And I think there are views which many Members have on the way the existing functional constituencies operate as well. So we need to make progress on those matters. But I do not think it would make very much sense for us to reach some sort of agreement on the arrangements for elections in 1994-95 but not reach agreement on how legislators could travel through the transfer of sovereignty in 1997, provided that they were prepared to meet the same sort of objective tests which exist today. So I would not regard securing some sort of agreement on electoral arrangements but no agreement on the "through train" as acceptable. And equally, improbable though it would be, I guess, I would not regard it as acceptable to reach an agreement on the "through train" but not about the electoral arrangements for 1994-95. If we are talking

about a smooth transition, if we are talking about convergence, then that must mean not just convergence of institutional arrangements but convergence which involves the role of legislators as well. Otherwise, I do not think it would make very much sense. No secret deal, and anything which emerges from these talks — and we hope that we will have, in due course, good news, difficult though the job is — will of course be widely debated in the community and, I guess, extensively, lengthily and always intelligently debated by this Legislative Council.

PRESIDENT: A short follow-up, Mr CHEUNG.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr Governor, you said last year that the democratic political system proposed by you was compatible with the Basic Law. Since it is compatible with the Basic Law, it must be able to ride the "through train". Will you stick to the proposed political system and ensure that it can ride the "through train"?*

GOVERNOR: I do not know that I can repeat any more firmly my strong view that a "through train" is essential, if we are to have any sort of meaningful convergence. Frankly, it seems to me that the practical problems associated with not securing a "through train" also need to be addressed. What are candidates to say, without some agreement on a "through train", when they are campaigning in 1995? Are they to say, "Vote for me and I will either be there for two years or I will be there for four, but maybe you had better ask the NCNA in 1996-97 whether it is to be two years or four."? It does not seem to me that it is exactly a rallying cry as one goes from door to door or goes canvassing round the functional constituency. Equally, I have never believed that, as its first act of sovereignty, China would actually want to throw legislators out of the Legislative Council after they have been directly elected. So I think that some of the practical problems and factors associated with this need to be looked at. I think we need to apply a bit of common sense to the issue and ask ourselves whether, if we were concerned about the prosperity and stability of Hong Kong, there should really be any argument about this issue at all.

PRESIDENT: Mr Michael HO.

MR MICHAEL HO (in Cantonese): *Just now the Governor repeatedly emphasized the importance of the "through train" arrangements, and he also said earlier in public that Article 104 of the Basic Law had laid down objective criteria for the "through train", namely, Members of the Legislative Council need only to swear allegiance to the Hong Kong Special Administrative Region and uphold the Basic Law. May I ask the Governor how he will ensure that the*

negotiation team will continue to adhere to the views mentioned above in the talks in future? Furthermore, will the British side reach an agreement on the criteria of the "through train" with the Chinese side; and will opinions previously expressed by Members of this Council be taken into consideration?

GOVERNOR: I do not think one could regard a test of previous opinion as an objective criteria. I am not sure how one could conceivably weigh that factor. Let us be absolutely clear what I have argued for and what, I think, the overwhelming majority of Members of this Council have argued for in the past. Nobody — and I hope that when this sentence is reported, the following sentences in the paragraph will be reported also — is arguing that there should be an absolute guarantee that everyone who is elected in a given election appears in the legislature after 1997. I said — hold on, I saw the words "why not" on the Honourable Member's lips — there is not that guarantee at the moment. You could stand for election, meeting all the qualifications of candidature, you could be elected and then you could come to this Honourable House and refuse to take either the Oath of Allegiance or the Legislative Council Oath. And in those circumstances you would not be allowed to take your place in this Chamber and you would not either be allowed to draw your allowances or other entitlements as a Member of the Legislative Council. So there is an objective test for those who win the election before they take up their position as Legislative Councillors. I am not arguing — I do not think anybody in this Chamber is arguing — that the situation should be different after 1997. But I am absolutely certain that it should be, given the change of sovereignty, pretty much the same. We know from Article 104 that those who drafted the Basic Law, in their wisdom, posited an objective set of criteria after 1997 for the Chief Executive, for judges, for senior civil servants and for legislators. All I have argued is that it should be perfectly possible to apply a similar objective set of criteria for 1995 and 1997. I do not think that that should actually take more than five minutes thought to both agree and turn into some sensible yardstick. So I repeat: what we are looking for is a similar criterion to that which exists at the moment, a criterion at the moment which would, I guess, be justiciable, if Honourable Members wish to take it that far. We need something which is clear, we need something which is explicit and we need something which will give the community the sort of confidence that it will need in the elections in 1995. That is what we are arguing for, that is what, in my judgment, the "through train" means, and I cannot, for the life of me, see why anybody should be opposed to it. If there are any arguments against it, I would love to know what they are.

PRESIDENT: Mr LEE Wing-tat.

MR LEE WING-TAT (in Cantonese): *Mr Governor, you said earlier on that your position, as well as the British Government's position, was that the 1995 election should be "open, fair and acceptable to the people of Hong Kong". I*

hope that you can continue to uphold this principle. But you are well aware that you are facing a choice between insisting on the principle that the 1995 election should be "open, fair and acceptable to the people of Hong Kong" and making a significant compromise in exchange for an agreement that is acceptable to the Chinese side. Mr Governor, how can you prove with actions (I mean real actions and not just words) that you are still upholding that the 1995 election should be open, fair and acceptable to the people of Hong Kong? Have you considered consulting this Council when your Government or you yourself have reached an preliminary agreement with the Chinese side prior to the signing of this agreement?

GOVERNOR: Let me stress once again at the outset that we are taking part in these negotiations in good faith. I would like to see a satisfactory outcome, just as the community would like to see a satisfactory outcome. I happen to think that it would be worse for Hong Kong to have an outcome, an agreement in the talks, which produced electoral arrangements which were not open and fair and acceptable than to have no agreement at all. I think it will be sad if we cannot reach an agreement. But Hong Kong will survive and we will do our best in the next four years to ensure that there are decent and reasonable arrangements in place, which I do not believe a sensible incoming sovereign power would wish to change. But I repeat, I repeat very clearly, I would like above all to see an agreement. Now the Honourable Member asks me, perfectly reasonably, what do I mean by open, fair and acceptable. Are there ways of arranging things in 1994-95 other than the proposals I put forward which would be open, fair and acceptable? And I have to say, hand on heart, that there are other ways in which you can secure that objective. What we are not prepared to do is to throw away the principles even if we are prepared in a generous, spirited way to look at ways of accomplishing those principles. I think that, at the end of the day, if we reach an agreement, it will be perfectly clear whether our arrangements meet the criteria which I have set. You cannot tell, when there is a lot of rustling in the shrubbery, whether there is a panda or a big bear behind the bushes, but you sure enough know when they emerge into the daylight which is which. And I think at the end of these negotiations people will know whether the arrangements that we are proposing, which will be widely debated here, which will be widely debated in the community, meet the criteria for which this Council has voted on, I think, a number of occasions. We will have to put proposals to this Council because this Council will have to vote through the legislation. And I do not wish to be in the same position that we found ourselves in a year or so ago, pre-Patten, on the Court of Final Appeal. I do not want to find ourselves in a position in which this Council is at odds with us on whatever comes out of negotiations. So I would not wish to recommend to this Council proposals which I did not think this Council would find acceptable.

PRESIDENT: Mr LEE, a follow-up?

MR LEE WING-TAT (in Cantonese): *I will be brief. Mr Governor, you emphasized that the best way to reflect the views of the community was to let the Legislative Council examine the Sino-British agreement. But I hope that the Governor will understand that not all Members of this Council are directly elected. Besides the Legislative Council, what other means do you have for judging whether the public really accept the agreement that you and your Government have reached with China?*

GOVERNOR: I dare say there will be many different interpretations of public opinion. I have been interested over the last months in how — despite the fact that virtually every opinion poll there has been has shown substantial support for the sort of proposals that we put last autumn — some people have still managed to argue that the public is not actually in favour of them. So there is plenty of scope for being liberal in one's interpretations of public opinion. But I think that this Council is the best reflection of public opinion though I recognize that the Honourable Member thinks it is an imperfect reflection because it is not entirely elected as it will be in 1995. We will have to reach a judgement which will be based both on what we can gauge from the community outside this Council and from what we can learn from our contacts with Members of this Council and from debates that take place within this Council. But I repeat that I do not think that it would be conducive to political stability for the Governor and the Government of Hong Kong to be faced for the next four years of British sovereignty — and for many years after that of Chinese sovereignty — with a public which is hostile to the governing arrangements which we have proposed for the good of this community. Political stability must involve not just the ability of a government to exercise authority but its ability as well to command the loyalty and the hearts and minds of the public. That is not a "three-legged stool" or any other piece of furniture; what that is is a sensible approach to government in the 1990s.

PRESIDENT: Mr Fred LI.

MR FRED LI (in Cantonese): *Mr Governor, although the British Government has all along emphasized its support for the constitutional proposals that you made last year, it has recently been reported that the arrangements on the nine new functional constituencies have been discussed over the negotiation table. The Chinese side has made some proposals in this regard and the British side has also discussed them. The matter is that these arrangements have clearly ruled out your proposal of expanding the franchise in the functional constituencies. Could you confirm to us whether your proposals on the functional constituency elections have now been removed and will no longer be discussed over the negotiation table?*

GOVERNOR: I have said from the outset — though it would be tempting for me to go beyond it — that I do not think it would help the successful conclusion of the talks to set out in detail exactly what is happening at every stage of the negotiations. I have not abandoned the principles which I enunciated earlier, nor has the British Government, nor, of course, have those who are negotiating in the name of the British Government. There have been a number of rumours about what may or may not be happening, most of which bear little relationship to the truth. I guess that is an inevitable consequence of having to negotiate in confidence. But we were told before these talks that talks could only take place if we abandoned, buried, incinerated our proposals. We have not done so; talks are taking place. All sorts of other things have been said in the last year about what may or may not happen unless we did whatever the NCNA wanted, or whatever senior Chinese officials wanted. And life has turned out, happily, to be rather different from those dire and catastrophic predictions. So I think that I can best respond to the Honourable Member by saying that we are prepared, in good faith, to look at alternative ways of securing the principles and objectives which I mentioned earlier. We are prepared to regard what I said last autumn as proposals, rather than arguments fixed in concrete. But at the end of the day, we will be judged by this clear test. Have you put forward proposals which make the limited democratic step which Hong Kong is taking in 1995 credible or not? A lot of Honourable Members in this Chamber would like the argument to be about an extension of democracy for Hong Kong. I understand that. It is not about an extension of democracy for Hong Kong. It is about whether agreed progress towards greater democracy is to be credible or is to be incredible. That is what it is about. And I am determined that it should be credible, because, if it is not credible, there is no point in taking that step.

PRESIDENT: Mr SZETO Wah.

MR SZETO WAH (in Cantonese): *Mr Governor, a certain person from Hong Kong who was going to Beijing to attend a meeting of the Working Panel of the Special Administrative Region Preparatory Committee was reported in today's press to have named several serving Members of this Council and said that they would not be eligible to ride the "through train". He also set forth the reasons for their ineligibility. If the reasons he set forth were precisely the criteria in respect of the "through train" put forward by the Chinese side at the Sino-British talks, do you consider these criteria to be acceptable?*

GOVERNOR: Of course not. If that is the standard of the advice which that particular distinguished individual is giving to the government in China, then I do not think they will be as well informed as they deserve to be. The truth of the matter is that, without getting involved in the naming of individuals, objective means objective, and it does not mean asking whether you like what opinions people had four or five years ago, or how many buttons they have on their cuff, or what their astrological sign is. That cannot conceivably be a way

of making democratic arrangements credible for this community. I do not want the argument to be about individuals, though I am sure others will try to see it in that sense. I think that it is inconceivable that in a community which believes in the rule of law you can apply, subjectively, rules to some which do not apply to the others, and which have everything to do with opinion and similar tests rather than anything objective. So if we are concerned about the rule of law, we should be concerned about objective criteria for Members of this Legislative Council; and if we are not to apply those criteria, then Heaven help the rule of law in Hong Kong.

PRESIDENT: Mr Ronald ARCULLI.

MR RONALD ARCULLI: *Mr President, I wonder whether I could go away from constitutional development issues and, staying yet with the same theme as discussions with China, put a question to the Governor through you. That question is: In terms of the Western Harbour Crossing and in terms of the sort of interesting and heated debate that we have had over the past 10 days or two weeks, can the Government or the Governor see some way of taking soundings on economic issues affecting Hong Kong — particularly if they formed part of the JLG agenda — by consulting Members of this Council, either informally or formally, so that some sort of a steer or guidance or guidelines or whatever one chooses to call it can be obtained by the Government in its effort to arrive at a satisfactory transaction of a matter or issue, having regard to the views that might be expressed in this Council?*

GOVERNOR: There are obviously difficulties when one is dealing with a sensitive commercial negotiation. But I guess we have all in this Council and in the executive learnt one or two lessons in the last week or so. And it is in the interest of the executive if we take a lead in trying to learn from those lessons and avoid similar difficulties in the future. It will not surprise the Honourable Member to know that I believe very strongly that the decision on the Western Harbour Crossing is enormously important, not just for the infrastructure of Hong Kong but for Hong Kong's reputation in the international financial community. I think that this community manages better than almost any other in the world in using private sector investment for public good. It does it in an extremely competent, sophisticated way, and I know of nowhere else that can do it as well. For the Western Harbour Crossing to go wrong will, I think, raise substantial questions in the minds of potential investors about whether Hong Kong can continue to practise BOT projects and private sector investment in the infrastructure in the future as well as it has in the past. And I think for the decision to go wrong would also raise, perhaps unfairly, questions in some people's minds about the politicization of economic issues in Hong Kong. So I very much hope that the decision will go the right way next week. And I can assure the Honourable Member that we will try to learn some lessons from the discussions over the last week or so, though I have to say, as an ex-legislator

myself, that I did not regard it as necessarily a role of the Mother of Parliaments to get involved in every private commercial settlement between the government and the private sector. Looking after public funds I always thought was our job rather than policing private funds.

PRESIDENT: Miss Christine LOH.

MISS CHRISTINE LOH: *Thank you, Mr President. The Foreign Secretary said here last week that when he was in Peking he brought up the subject of human rights and the application of the two international human rights covenants. According to the Foreign Secretary, the Chinese reaffirmed their commitment to the promises in the Joint Declaration. But I believe there was no substantive discussion on how they would fulfill that obligation. Mr Governor, are you and is the British Government satisfied with that response with only less than four years left?*

GOVERNOR: Plainly, one of the reasons why the Foreign Secretary raised the question with his distinguished opposite number was because we are not wholly satisfied about arrangements for the future. Let us be clear the commitment to the terms of the international convention is written into not only the Joint Declaration but also into the Basic Law. We know that one of the terms of accession to the international convention is regular reporting by, in the present case, Britain which is the sovereign power. That regular reporting will, as I understand it, still be required of China, the future sovereign power, even though China is not herself a signatory to the convention. I do not wish, "one country, two systems" standing above me, to comment on what China should or should not do. But it is hardly surprising in these circumstances that the British Foreign Secretary should argue that the simplest way of resolving this matter would be for China — though it is a matter for the exercise of Chinese sovereignty — herself to sign up to the international covenants. That is plainly the easiest way of resolving the issue. And it seems to me that it would be a way of resolving the issue which would provide a great deal of confidence in Hong Kong and a great deal of confidence in the international community which looks towards a successful Hong Kong as an important ingredient in the further development of the region.

PRESIDENT: The Governor will now address the Council on the subject of law and order.

GOVERNOR: I am very pleased to be able to discuss this vital topic with Honourable Members this afternoon. Law and order is a subject after all about which the community is understandably and rightly concerned. The term embraces a wide range of responsibilities, the work of our policemen and

women on the beat, the effectiveness of our judicial system, illegal immigration, smuggling, human rights, corruption. A whole series of disparate subjects, but one foundation underpins them all — the rule of law. The rule of law forms the bedrock of our freedoms and our way of life in this territory. One of the most insidious threats to that rule of law is corruption. It is on the increase and we must fight it with all the means at our disposal. The ICAC will be in the vanguard but it will be up to all of us, business leaders, community leaders, Members of this Council to join together in stating in the plainest terms: Corruption in Hong Kong would destroy Hong Kong and we will not tolerate it. The same goes for organized crime and triad activities. There is nothing glamorous about triads; they extort money from shopkeepers and hawkers, from pubs and from clubs, from the drivers of buses and taxis. They mastermind pimping, they push drugs to our young people, they are involved in every kind of crime. We must confront this menace. The Organized and Serious Crimes Bill is now under consideration by this Council. It proposes much tougher investigative powers for the police in cracking down on criminal syndicates. It will not solve all the problems we face overnight, but it will help us to combat the triad scourge. I hope Honourable Members will give it speedy passage.

We must, of course, keep our crime problems in perspective. Hong Kong is one of the few communities in the world that actually has falling crime rates, some 2% down compared with the same time last year. This is a great tribute to our Police Force; I pay warm tribute to them today. Their professionalism, commitment and dedication to duty, not to mention their courage, are second to none. And it is a stronger police force too, with better equipment and more men and women on the beat, fighting crime around the clock. Since last October we have put a further 350 police officers on the beat and the numbers are rising every month. There are limits to what we can do to tackle crime in Hong Kong on our own. We have to work closely together with the Chinese authorities in stamping out cross-border crimes such as smuggling, car theft and the import of illegal weapons. Already we are doing so, and I warmly welcome the improved co-operation that we have seen over the last year. It is good for Hong Kong and it is good for China too. Finally, I would like to thank Honourable Members for all you do to speak out against crime and to exhort the Government to further measures to strengthen law and order in Hong Kong. And I would, of course, want also to commend the work undertaken in the community by the Fight Crime Committees.

PRESIDENT: Members may now put questions to the Governor on law and order. Show of hands, please.

PRESIDENT: Mr James TIEN.

MR JAMES TIEN: *Thank you, Mr President. Governor, this Council yesterday passed a resolution calling for the setting up of a Human Rights Commission. Do you think this matter requires to be discussed at the Joint Liaison Group, and if not, will you, as Governor, reconsider the Administration's position yesterday against establishing a Human Rights Commission?*

GOVERNOR: Perhaps I can, first of all, welcome the Honourable Member back to a Chamber with which he is familiar. I do not think I can add to what the Secretary for Constitutional Affairs said about a Human Rights Commission yesterday. I think the exchange that I had with the Honourable Member earlier about the international covenant and its implications for Hong Kong are of more relevance than setting up another statutory body. It is not an issue on which I have got an entirely closed mind, but I think it is more important to make progress in that area than to look at new institutional arrangements. After all, presumably one of the first questions that a Human Rights Commission would ask itself is how it could be sure that the sort of rights which it was policing and seeking to secure could be maintained after 1997 without the agreement mentioned earlier. The Honourable Member is entirely right in saying that, were we to change our mind — which is not impossible — and to make proposals in this sector, we would need to discuss the matter, if it was to have any long-term meaningful significance, in the Joint Liaison Group, or informally outside it. There would not be much point in setting up a Human Rights Commission which was not going to last very long into the future.

PRESIDENT: Mr James TO.

MR JAMES TO (in Cantonese): *Mr Governor, you said earlier that this Council was the best reflection of public opinion. This Council passed a resolution on 21 April calling on the Administration to set up a complaints body independent of the Police Force. What progress has been made? I am of the view that, generally speaking, the performance of the Force is commendable. But the establishment of an independent investigation and monitoring body to get rid of a handful of black sheep is obviously conducive to the co-operation between the public and the police and is also a boost to public confidence in the Force. How will the Administration follow up with this Council's resolution?*

GOVERNOR: I know this is a subject which Honourable Members feel quite strongly about. I have to say that I think the most sensible way to proceed is, first of all, to look at the specific and sensible proposals for change which have been made by the Police Complaints Committee, to implement those and to see how far the implementation of those proposed reforms meets some of the public

anxieties which presumably concern the Honourable Member. We all want to ensure that our police have the maximum support from the community, and we all recognize that that will involve, from time to time, taking tough measures when an individual police officer falls below the highest professional standards of his or her colleagues. We equally, I am sure, all recognize the importance to a good and effective police force of high police morale, and what we are faced with is a problem of balancing those two factors. But for the time being, the concern of the Administration is to ensure that the PCC's recommendations are carried into action and perhaps we can review whether we need to go further in the light of progress on that front.

PRESIDENT: A short follow-up, Mr TO.

MR JAMES TO (in Cantonese): *The Governor said just now that we needed to look at the PCC's recommendations before evaluating the progress. When the debate was held on 21 April, an amendment motion to include the reform recommendations was moved to replace the motion. But it was negated. Is the Administration obliged to respect the Legislative Council's resolutions if they are reflecting the opinion of the majority of the public? Or this Council's resolutions will be respected only when the Administration holds the same views and wants to see the motions passed, while anything that it does not wish to accept is negated on the grounds of morale, system, resources and so on?*

GOVERNOR: No, let me put a simple and rather obvious point to the Honourable Member. I guess it is fair to say that the best reflection of public opinion in the United States is the Congress of the United States. But both of us are aware of the fact that that does not mean that every President or every executive agrees with everything that Congress says; that is not even the case where the majority in the Congress comes from the same party as the President. The executive has to exercise its judgement and has to explain its judgement to a legislature. But we will not always find ourselves, I fear, in total harmony and amity. I hope over the years that we will have more harmony than disharmony, but we will not always find ourselves totally in agreement.

PRESIDENT: Mr WONG Wai-yin.

MR WONG WAI-YIN (in Cantonese): *Mr Governor, to maintain good law and order in Hong Kong, we need an outstanding police force, and as you said just now, morale is very important to the Police Force. Yet, would you think it very dangerous when the morale of the Police Force at present hinges merely upon the No. 1 licence plate? If yes, what measures do you have in mind that could replace the No. 1 licence plate as morale boosters to the Force?*

GOVERNOR: I approach answering this question with trepidation since I had not realized, before I came to Hong Kong, how much political passion could be engendered by a licence plate. (*Laughter*) I am also inclined to defer to my honourable friend, the Financial Secretary, who has views on these matters which he has acted on. I do not think that anybody is arguing seriously that the morale of the police is wholly dependent on the number on the Commissioner's car. But if there is a view in the police that this could have some impact, then I think all of us who want to give the police every support have to take that into account. I think that there are factors which are much more important in determining police morale. I think the police have to feel that they are getting the resources which they require and that is why we are spending \$7 billion more in recurrent expenditure on the police than we were last year. I think the police have to feel that they are getting the equipment which they need. I think they have to feel that they have the recruitment which gives them the numbers required to do the job the community expects of them. I think they have a right not to have their professional judgement endlessly questioned when they have to exercise it very often in harrowing circumstances with split second timing and have to show the sort of bravery that most of us are not required to display in our day to day lives. So, the police, I think, look to other matters to bolster their morale and, I suspect, above all the recognition that their mission and what they are doing is central to the quality of life of the community. When I speak about the police in those terms, I would like to refer as well to the other disciplined services. I spent an evening recently with some of the senior officers in the Fire Services Department. I doubt whether there is a better fire service anywhere in the world. So, morale, I think, goes beyond number plates. If number plates have a part in morale, so be it.

PRESIDENT: Mrs Selina CHOW.

MRS SELINA CHOW: *Thank you, Mr President. Governor, in the face of apparently rising corruption as reflected in the number of reports, particularly in the public sector, what specific measures are being taken or will be taken by the Government to strengthen prevention, particularly in the Civil Service?*

GOVERNOR: The Honourable Member is both right and not quite right. Right totally in the priority which she accords to this subject, right in saying that there has been a perceptible increase in the problem — a 30% increase in reports of corruption over the first half of this year, but not wholly right in the distinction which she draws between private and public sectors because, if you look at the increase in reporting, it has been pretty much the same for business as it has been for the public sector, though the absolute figures may be a little different. I think that, first of all, we have to ensure that the ICAC is properly resourced. That does not mean, any more than it does for the police, that one can throw out of the window any of the normal techniques and practices of good management and prudent financing that one would apply anywhere else; but it does mean that

the important functions of the ICAC should not be limited by lack of resourcing. Secondly, it means that we have to ensure that the preventive work undertaken by the ICAC and the educational role that it carries out in the community are both pursued diligently. Thirdly, we have to try to ensure that we are able not only to investigate but to prosecute as frequently as possible. We also, in my view, have to improve our communications with China. I am pleased that the ICAC have developed a good institutional relationship with the procurature in China. I think that is important both for China and for us. Fighting corruption is a joint challenge to China and Hong Kong, and I think we could both do ourselves some good by tackling it jointly. Finally, as I indicated earlier, it is important for the whole community, or for leaders of the whole community, to give a lead in underlining that corruption, wherever it comes from, is unacceptable. The home base of a company, the contacts which a company or individual may have, none of those things should make any difference when it comes to rigorously rooting out corruption, preventing it seeping into Hong Kong and doing the sort of damage which we all want to avoid if at all possible.

PRESIDENT: Mrs Peggy LAM.

MRS PEGGY LAM (in Cantonese): *I would like to put a question to the Governor on law and order. The number of cases of violent crime in Hong Kong has been on the increase recently. Will the Government look into the reasons for such an increase? Not long ago, there were two murder cases in which the culprits even attempted to destroy the bodies of the victims. Will the Government consider taking any actions or deterrent measures, such as restoration of capital punishment, so as to prevent such brutal incidents from happening again?*

GOVERNOR: Can I first of all, referring back to an answer I gave earlier, say that I may have said — so I am advised by one of my colleagues along the wires — that expenditure on the police this year was \$7 billion more than last year. If I did, I should not have said that. Recurrent expenditure on the police this year, leaving out capital, is \$7 billion which has, among other things, secured an increase of about 350 in the number of police officers on the beat. If I suggested other than that earlier, then I am happy to be corrected by nameless but blessed supporters. *(Laughter)* If, on the other hand, I got it right earlier and they are wrong, I will have a word with them afterwards. *(Laughter)*

Violent crime, any level of violent crime, is too high. Truth to tell, the figures for violent crime in Hong Kong, unusually, if you look around the world, are actually falling. The overall level of crime in the last quarter fell by 2% over a similar period last year; the figure for violent crime fell by 6%. Now that is not a matter which anybody can be complacent about. For anybody who suffers from violent crime, there is a 100% increase, and parading statistics

for the whole community does not have very much effect. Secondly, I recognize that individual callous brutal crimes, murders, rapes, greatly disturb the community, and I suspect that the pictures of some of those crimes which appear in the media from time to time also rather disturb the community. They certainly disturb me. I think that the best deterrent to violent crime is to catch those who commit it, which is why I am going to continue to give support for the police such a high priority. I also think that we have to make sure that the sentences passed on those who commit these crimes are adequate to the offence; and I think it is important that the Attorney General should have the power, as he does, to appeal against sentences when they seem inappropriate — inappropriate in either direction, of course, but certainly inappropriate if too lenient and if raising serious issues of principle and concern to the overall community. I realize that probably in Hong Kong, as was the case in the United Kingdom, my own personal moral objections to capital punishment are not shared by the majority. I think the majority of this Chamber probably shares my views on the subject, but I am not sure that that is necessarily true of the community at large. But there is not, in my judgment — whatever one's views about the moral argument for capital punishment — much evidence, when you look around the world, of any correlation between the availability of capital punishment and the level of violent crime. Were it otherwise, then the United States, I guess, could look at levels of violent crime substantially below those that exist in Hong Kong, where our overall level of crime is now probably less than in Tokyo, Singapore, or almost anywhere else in the world. So I do not think that there is a sort of mechanical, arithmetical relationship between the availability of capital punishment and a decline in violent crime. There are crimes, I repeat, which greatly affect the community. I think that some of the rapes which have affected one part of our community recently must have been particularly disturbing. We must all hope that the police are able to deal with those attacks as rapidly as possible. Rape is, of course, an especially disgusting and degrading crime and should have no part in any sort of civilized society.

PRESIDENT: Last question. Mr Martin BARROW.

MR MARTIN BARROW: *Sir, having been in Europe over the past week, it is clear that there remain international misconceptions about our state of law and order. As you have just said, we must not be complacent. But could you tell us what steps have been taken to put over the message internationally that Hong Kong is a safe city with lower total and violent crime rates than in many other similar cities?*

GOVERNOR: The Honourable Member is entirely right both about the need to put the case across and about its relationship to some of our proper attempts at self-promotion, not least an area which the Honourable Member knows more about than any of us, not least in relation to tourism. When one reads at this time of year some of the stories of attacks on and murders of tourists in other

parts of the world, not least, of course, in the United States, it does make one realize how much we have to offer tourists. All of us, I guess, who have had the experience of bringing up teenage children in Hong Kong and outside Hong Kong will know how much safer we feel they are in Hong Kong than most other places that we have ever lived. So it is an important message to get across. I think we should look at ways in which we can spread that message through our information effort abroad, and perhaps should work more closely with the tourist authority in getting across the good news about Hong Kong which, I repeat, is one of the very few places anywhere in the world which can actually point, without any complacency at all, to a falling level of crime.

Adjournment and next sitting

PRESIDENT: In accordance with Standing Orders I now adjourn the sitting until Wednesday, 21 July 1993.

Adjourned accordingly at twenty-three minutes to Four o'clock

