

ICIAL RECORD OF PROCEEDINGS

Thursday, 24 February 1994

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 MRS ANSON CHAN, C.B.E., J.P.

THE FINANCIAL SECRETARY

THE HONOURABLE SIR NATHANIEL WILLIAM HAMISH MACLEOD, K.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 HUI YIN-FAT, O.B.E., J.P.

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

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

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

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

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

THE HONOURABLE MOSES CHENG MO-CHI

THE HONOURABLE MARVIN CHEUNG KIN-TUNG, O.B.E., J.P.

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

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 ERIC LI KA-CHEUNG, J.P.

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE STEVEN POON KWOK-LIM

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

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

DR THE HONOURABLE PHILIP WONG YU-HONG

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.

THE HONOURABLE ALFRED TSO SHIU-WAI

ABSENT

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

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

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

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

DR THE HONOURABLE YEUNG SUM

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 address the Council on his recent visit to Australia and on latest developments on constitutional issues.

GOVERNOR: Mr President, I would like to begin by reporting to Members on my recent visit to Australia.

I paid an official visit to Australia, at the invitation of the Australian Government, from 13 to 19 February. I am very grateful to the Australian Government for the invitation and for arranging the visit so well and so generously.

Australia is an important trading partner for Hong Kong. Three hundred Australian companies operate here, employing 70 000 Hong Kong people. Total trade between us rose 12% last year. Hong Kong is Australia's 7th largest export market and 10th largest trading partner overall. There are growing human contacts between our communities. Almost 10 000 Hong Kong students are studying in Australia, with a large number of Australians teaching at our own universities. Twenty thousand Australians live and work in Hong Kong and some 80 000 people from Hong Kong now live and work in Australia. Over 300 000 Australians visited Hong Kong last year; and over 120 000 Hong Kong people visited Australia.

My visit took in Sydney, Canberra and Melbourne. I had good meetings with Prime Minister KEATING in Sydney and the Minister for Foreign Affairs, Senator EVANS, in Canberra. I also had meetings with the Governor-General, Mr HAYDEN, the Governors of the States of New South Wales and Victoria, as well as with the Premier of New South Wales and the Deputy Premier of Victoria. I made four public speeches and I visited a number of companies doing considerable business with us here in Hong Kong. I encouraged firms not already active here to consider using Hong Kong as a regional base. Equally I was able to provide reassurances to those firms that are here that Hong Kong would continue to be an excellent place to do business. Everywhere I went I found enormous warmth and understanding among Australians — in Government and outside it — for Hong Kong and I found as well a great deal of goodwill for Hong Kong's future. Australia is a good friend to Hong Kong. We warmly appreciate and value the ties of friendship and trade that link our communities. I hope those ties will grow in the months and years ahead.

Turning now to developments closer to home, I was very pleased to see that this Council last night passed the legislation dealing with the less controversial elements relating to the arrangements for the elections in 1994 and

1995. This was the second Bill relating to the 1994 and 1995 elections which the Legislative Council has now passed. After we first put forward proposals in October 1992, we made it clear that we were keen to discuss them with the Chinese side. Unfortunately talks did not begin before we had to legislate on the Boundary and Election Commission. That body is now established and doing very good work. Talks did begin in April 1993, but regrettably it was not possible to reach agreement before time pressures meant we had to press on with the next stage of legislation, which the Council has just passed. The voting age and voting method for all three tiers of election are now agreed. So too the abolition of appointed membership of district boards and municipal councils. This means that we now have a proportion of the necessary legislation in place, and we are ready to move on to the next stage.

The fact that this legislation — the less controversial part — has taken some two and a half months to pass through this Council underlines how fine we have been cutting things. We now have only four months left in which to pass the remaining legislation. We need to have that through by the time this Council rises in July; it is our firm aim to do so.

We had hoped that it would be possible for the talks with China to resume. We have since last November repeatedly asked the Chinese to continue talks on the outstanding issues. There have been innumerable such requests on diplomatic channels, including a message from the British Prime Minister to the Chinese Premier. As you know, China was only willing to do so on condition that the first-stage Bill was withdrawn. That was not possible. Time is now pressing if we are to have the legislation through in time to enable us to hold elections in good order and on schedule.

We therefore need now to proceed with the third Bill without delay. We intend to gazette the remaining legislation — that dealing with the arrangements for the Election Committee and functional constituencies — tomorrow, 25 February, and to introduce it into this Council on 9 March. This decision has been taken following full consultation with the Executive Council and with Ministers, who agree with this approach.

The legislation which we will publish tomorrow will contain in legislative form the proposals which I put forward in October 1992 for the functional constituencies and the Election Committee. It will propose an Election Committee composed of members of district boards. It will propose that the nine new functional constituencies, envisaged under the Basic Law, should be made up of members of the entire workforce, and it will propose the abolition of corporate voting in existing functional constituencies.

Members will recall that I have promised on many occasions that if it became necessary for us to proceed with the remaining legislation without Chinese agreement, Hong Kong people would be entitled to expect an explanation of why that was necessary and why we believed it to be in the best interests of Hong Kong. The British Government will therefore today be

publishing a White Paper setting out the background to the present position; the approach which the British side took in the negotiations with China; and the modifications which we were prepared to make to the Hong Kong Government's 1992 proposals as part of an overall agreement including on the through train. It is a thorough, factual account. The White Paper will be published at 5 pm this afternoon. Its publication is essential to inform debate in Parliament, in this Legislative Council and in the community.

Let me say a word about why we have chosen to recommend to this Council the Government's original 1992 proposals. We believed then, and we still believe, that these proposals are the best ones on the table. They have been debated at length and already endorsed, in general terms, on three occasions by this Council. These proposals have enjoyed widespread and consistent support amongst most sections of the community. We continue to regard them as the best way to secure our objective of open and fair elections.

We were prepared to offer, during the negotiations, modifications to our 1992 proposals to secure an overall agreement with China, including on the through train. Although it has not proved possible to reach such an agreement, we obviously stand by those modified proposals as a way to produce open and fair elections, albeit a less attractive way in our view than our original proposals. Plainly the judgement on these matters now lies with the Legislative Council. That has always been the constitutional position. For our part, we shall argue strongly for the legislation we are now putting forward. The proposals it contains were deliberately framed to be consistent with the Joint Declaration, the Basic Law and the relevant agreements and understandings between the two sides. We firmly believe that they are, and we are supported in that view by the overwhelming majority of independent legal opinion.

I want to say to this Council and to the community how much I regret that we have not managed to reach agreement with China on these very difficult electoral issues. I fervently wish we could have done so. But I equally fervently believe that it would have been wrong to abandon the principles we have set out for the sake of an agreement which would not have been in the best interests of Hong Kong. The White Paper sets out clearly the issues which were — and which are — at stake here. I regard it as my overriding responsibility faithfully to implement the terms of the Joint Declaration, on which the concept of "one country, two systems" is based. The Joint Declaration promises a legislature "constituted by elections" to which the executive shall be accountable. I take that to mean real elections, in which Hong Kong people have a genuine choice. As I have explained many times before, it is upon a credible Legislative Council, openly and fairly elected, that so many of our other freedoms and institutions depend.

So we differ with China on this important point about the elections. But it does not follow that we have to argue with China about everything. Let us try to draw a line under this dispute, and co-operate together in other areas in the interests of the people of Hong Kong. We now have less than three and a half

years left before the transition and there is a great deal of work to do. For our part — for Britain's and for Hong Kong's — we stand willing and able to work together with China in Hong Kong's interests on other matters, even if on this, admittedly important one, it has unfortunately not proved possible to do so.

PRESIDENT: Members may now put questions to the Governor. Mr Andrew WONG.

MR ANDREW WONG (in Cantonese): *Mr President, although yesterday I voted against Mrs Elsie TU's motion which sought to adjourn the Second Reading of the Bill containing the first part of the political reform package, that does not mean that I do not agree to the rationale behind her move. I firmly believe that the Chinese and British Governments should have sincere talks with the aim of reaching an agreement. Therefore, I hope that the Governor can reply the following questions today. (Perhaps the Governor has already answered my first question in his speech.) Both the Chinese and British sides have said that they are still prepared to talk. I do not intend to dwell on my own proposal, but I think that if both sides continue to talk in the present manner of insisting on their own ideas, there will not be any result, because even if the Hong Kong Government is willing to compromise by replacing the 1992 package with the 1993 package, the Chinese side will still not accept it. So will the Governor consider adopting another package (that is, not necessarily his original package nor the strict interpretation of the Basic Law as insisted upon by the Chinese Government) as the basis of negotiation? I also hope that the Governor can respond to the following: If the talks come to a successful conclusion, will the Hong Kong Government and the Governor be willing to withdraw the remaining part of the proposed legislation which is to be introduced to this Council and replace it with a new Bill which contains the Sino-British agreements? This may be technically feasible, because if there are parts which are inconsistent with the original Bill, the Bill may be amended accordingly. Moreover, in the Bill that was passed yesterday (and it is now an Ordinance), if there are parts which have been agreed on by the Chinese and British sides and if they are also agreed on by this Council, then these parts can be incorporated into the new Bill and we can amend some other parts of it. To be more clear, if the majority of the seats of the future legislature (that is the Legislative Council now) can be returned through a general election procedure which is in accordance with the principle of having a general and fair election, with some Members coming from the functional constituencies and some other from the geographical constituencies, then can consideration be given to fully adopting the proportional representation voting system in the Legislative Council election?*

GOVERNOR: The Honourable Member raised a number of issues, some of them are a little complicated, but let me try to respond as clearly as possible. First on willingness to talk. In, I hope, as factual and unprovocative a way as

possible let me remind the Council that we proposed talks in October 1992, that we went on saying that we wanted to talk for the next six or seven months while we were not frankly getting a very warm response from Chinese officials. We were pleased when talks eventually got underway in April 1993, only sorry that they had taken so long to get underway. We would have liked to go on talking even after time had pressed us to put in the second of the three Bills which the Legislative Council is going to have to consider, but, alas, Chinese officials insisted that we withdraw the second Bill, the partial legislation that was passed yesterday, before they were prepared to come back to the table.

Our door is never closed, and we want to talk on a whole range of issues, and talk constructively and creatively. We would like to see more constructive and creative talks in the Joint Liaison Group. We would like to see an early meeting of the Airport Committee to resolve an issue, which I think, the whole community thinks has dragged on for too long. So as far as we are concerned, co-operation remains something on which we are particularly keen.

But I do have to point out that we had 17 rounds of talks and I think when Honourable Members, including the distinguished Honourable Member who has just spoken, see the account of those 17 rounds of talks in the White Paper they will be surprised at how much time was spent discussing so little agreement. Unfortunately, the only thing we really agreed on was, first of all, the lowering of the voting age which should not be too big a problem because the voting age is 18 in China and 18 in the United Kingdom. And second the "single seat, single vote" voting method for district boards and municipal councils. But since most seats in district boards and municipal councils are already elected in that way, that did not represent a huge breakthrough either. So if we were to look for yet another basis for agreement I am not sure what it would be that we have not already managed to discover in 17 rounds of talks. If there was an easy solution to these matters I would like to know what it is and I guess that to be fair to them Chinese officials would like to know what it was as well. But I think the Honourable Member will see from the White Paper how far we were prepared to go and I think he will also see that, alas, our efforts were not reciprocated.

The Council has voted pretty decisively. Now on at least a couple of occasions, on the question of the voting method for geographical constituencies and I think the arguments for proportionality, if I may say so, are somewhat lessened when you seek to achieve proportionality or you seek to achieve balance by having three different sorts of electoral process. If every Member of this Legislative Council was to be elected directly as some Honourable Members would like and as I am sure some Honourable Members will press for during the debates that lie ahead, then I think the argument for a proportional voting system would be that much stronger. But since we try to achieve balance through the functional constituencies, through the Election Committee, I think the arguments for proportional representation are much less considerable and so, I notice, does the Legislative Council. If the Honourable Member was able with his powers of eloquence to persuade his colleagues differently, then it

would require of course overturning several votes which the Legislative Council have already taken. I hope I have responded in some detail to the Honourable Member's question.

PRESIDENT: Mr Timothy HA.

MR TIMOTHY HA (in Cantonese): *Mr Governor, after the publication of the White Paper, even if we see that the British side has scored a higher mark, that still cannot resolve the problem that the Legislative Council Members elected in 1995 will all have to get off the train in 1997. This will inevitably affect the stability of Hong Kong and how would you deal with the problem?*

GOVERNOR: I cannot solve, unilaterally, the question of how we secure a through train. I think that the Council will see from the White Paper that unfortunately, we were not able to secure Chinese agreement to a through train during 17 rounds of talks, though we tried, I think, imaginatively and sensibly to do so with the proposals we put about oaths and about other matters. But let me just deal briefly with the question of what happens in 1997. I choose my words carefully — they do not in any way reflect on Chinese sovereignty, they do not in any way change the historic fact of the 30 June and 1 July 1997. But I do not believe there is any *reason* — I stress that word — why China should seek to overturn arrangements in 1997 which are entirely in compliance with the Joint Declaration and the Basic Law. The assertion that they are not has been made on a number of occasions but the assertion has been made more frequently than any evidence has ever been adduced. It goes on being said but nobody ever demonstrates how it happens to be the case.

And I say one other thing as well, using — since I noticed that metaphors were, from the beginning of debate yesterday, in much evidence in the Chamber — a metaphor to make the point. If my next door neighbour says that in three and a half years he is going to come round to my house and break all the windows, that does not seem to me to be a very persuasive argument for me breaking all the windows this afternoon.

PRESIDENT: Mrs Elsie TU.

MRS ELSIE TU: *Mr President, may I ask the Governor through you something that has been puzzling me for a long time. The proposed political package is always referred to as being democratic. Can the Governor explain to me how it is democratic to give two votes to every person who works in the workplace but only one vote to those who work in other places, such as housewives, elderly persons retired and adult students? I find it very difficult to understand how it*

is democratic. It means that the ones who are not working in a workplace are only half a person.

GOVERNOR: Well, I am sure the honourable lady whose vigorous eloquence I salute as the Legislative Council has. I am sure that the honourable lady would not want me to take that argument to its conclusion. It is because the conclusion of the argument is that the proposals, which are being put forward in the Bill to be published tomorrow, are a great deal more democratic than the present system. And under the present system, perhaps the honourable lady wishes to argue the case against functional constituencies. Perhaps that is her argument that under the present system only a few people have two votes because of functional constituencies and geographical constituencies. Of course, some have a lot more than two votes; some because of corporate voting in constituencies have, oh, votes into double figures. And that is a situation we are anxious to eliminate with the introduction of individual rather than corporate voting. It is perfectly true that because not everybody is at work, the extension of votes as we have proposed in the nine new functional constituencies does not mean that everybody in the community has two votes. But that is because of the nature of functional constituencies and I would not want to challenge the Basic Law in having the number of functional constituencies of 30 which are proposed for 1995 through to 1999.

MRS ELSIE TU: *Mr President, is it possible for me to clarify something?*

PRESIDENT: Yes, Mrs TU.

MRS ELSIE TU: *I think the present system does give two votes to some people and I disagree with that; I think people should have a choice. But to make it worse does not seem any more democratic. Is it not less democratic to give more people two votes?*

GOVERNOR: I think that it is an argument which few would accept that extending the ability to vote is less democratic than limiting the ability to vote. I really cannot follow the argument that by ensuring that more people are able to vote in functional constituencies, one is going down a less democratic path; that seems to me to be a considerable contradiction in terms. But, if the honourable lady is arguing the case in principle against functional constituencies, which she may well be, all I can say is that we are committed to trying to introduce arrangements which are in compliance with the Basic Law, and the Basic Law proposes 30 functional constituencies.

The question is whether those functional constituencies, for example, in line with the 1988 White Paper, represent economic and professional sectors of substantial importance. And the question, secondly, is whether following, I think, Basic Law 68 and pursuing matters in an orderly way, and whether we try to deal with some of the real problems which have arisen in functional constituencies in the last few years. Honourable Members are well aware of some of the problems that have arisen in those functional constituencies. They may disagree with the proposals that we have brought forward for trying to deal with them. In which case, they will be able to debate the matter in this Council. It is very, very difficult to devise nine new functional constituencies and I think that some of the inherent difficulties will be demonstrated to all those Honourable Members who read the White Paper and the account of our negotiations with our Chinese colleagues on this point.

PRESIDENT: Rev FUNG Chi-wood.

REV FUNG CHI-WOOD (in Cantonese): *Mr President, part one of the Governor's political package was passed smoothly yesterday. Before that, it appeared to us that the Governor had not done anything to lobby Members of this Council. Maybe he thought that it would very likely be passed. However, it is believed that part two of the political package would not be passed so smoothly. I wonder whether the Governor would make an effort to lobby Members of this Council to accept his political package so that it could be passed smoothly. What would he do in this respect?*

GOVERNOR: We would do what we did in the run-up to yesterday's debate: argue our case with all that gentle eloquence for which members of the Hong Kong Government are renowned. *(Laughter)* We do not have any of the instruments which are perhaps available elsewhere in other communities. We recognize that this Council has to make decisions and that this Council has 60 independent-minded Members who are not going to be pushed around by a Government and, I hope, are not going to be pushed around by anybody else in Hong Kong or outside Hong Kong. So, we will argue our case. But if by lobbying you mean making threats, if by lobbying the Honourable Member means seeking, of course metaphorically, to break arms and legs, that is not our way. But we put these proposals forward in good faith. We will argue the case for them and hope that they provide an acceptable basis for the electoral arrangements in Hong Kong. I have to say, if I look back to yesterday, we were told at the beginning of the week that we would just scrape through with our bill yesterday. Well it proved to be, I am pleased to say, rather better than that. And I would like to add one point about it. I think it was an extremely important day for Hong Kong. I think it was an extremely important mature moment in Hong Kong's history. Nobody can wipe it out; nobody can pretend it did not happen; nobody can turn the clock back on what happened. Not just the particular decisions about electoral arrangements that were made, but the whole

process — what was actually happening in this Chamber, happening with considerable maturity and with, of course, a lot of polite vigour in the case of every Honourable Member and happening in a way in which Honourable Members hoped would secure the best interests of the people of Hong Kong. And it is entirely right that this Council should be involved in the process in the way it was yesterday.

PRESIDENT: Mr Eric LI.

MR ERIC LI: *Thank you, Mr President. Governor, I think you did say that you are going to stand by the 1993 modified proposals as fair, open and acceptable and that it is your firm aim to, perhaps, push this Council to reach a conclusion by July, that is to say, in four months' time. I would assume then that the Administration will fully co-operate with this Council. And, in particular, in view of the fact that we have limited information on some of the ways to choose functional constituencies and also, for example, on legal drafting, I think you should help this Council, first of all, by setting out the 1993 modified proposals in full legislative terms, having regard to the interest that, I think, is likely to come; and secondly, by allowing us to have a genuine choice between the two sets of proposals. In that event, would you be directing the three official Members to vote in favour of the 1993 modified proposals? And if public opinion or if this Council's opinion is evidently divided, then would you at least direct them to abstain?*

GOVERNOR: Well, I have said before — in response to questions from the Honourable Ronald ARCULLI — that I think we get into the greatest difficulties if we start making distinctions between different Members of this Council. Am I to make distinctions between those who are elected and those who are appointed? Am I to make distinctions between those who are appointed because they are members of the Government and those who are appointed in some other way? I think that is an extremely dangerous road to go down and I think that any proposals which the Government puts to the Council the Government has to stand by and argue for and vote for.

I would, though, like to come to the Honourable Member's important questions and do so in a way which I hope — though it may be a triumph of hope over experience even to express the aspiration — will prevent any allegations of behind-the-curtain deals over the next few months.

We have put forward, or we will put forward in legislative form tomorrow, the 1992 proposals because we think they are the best available. We went through 17 rounds of talks and during the whole of that period Chinese officials certainly did not put forward what we thought were better proposals. We went through the compendium of proposals put by members of the community and we are not persuaded that any alternatives are better than those

that we put forward. The proposals are familiar to the Legislative Council, not only because it has voted on them a number of times but because some of those proposals actually come from Members of the Legislative Council. They were not imposed on the Council by the executive; many of them were home-grown in this Chamber. We are going to argue the case for the 1992 proposals, but it is true that during the negotiations, the 1993 proposals seemed to us to be acceptable, though acceptable principally if we could secure an overall agreement with China. We did not think they were as good as the 1992 proposals. I said, when I spoke to the Legislative Council in October last year, they are proposals that we would be prepared to recommend to this Council if — I said "if" — they formed part of a satisfactory overall agreement which must of course include acceptable arrangements for the through train. Nevertheless, we do not think that they are at all bad proposals and we think that they would produce clean election arrangements.

Now, if during the process of legislation, if during the debates that are going to take place in the coming months, this Council wishes to have more help from the Administration in considering both the proposals we put to the Council and alternatives, it is incumbent upon us to provide that assistance. That I hope we would do whatever was happening. I would like to think that we could see at the end of the day as broad a body of support in this Council for the arrangements put in place as possible. I think the community would like to see that. I think it would be good for the future of the electoral process in Hong Kong. None of that is to resile from the argument that I have already put, which is that I think 1992 is better than 1993, but it is to say that we will help as best we can the Council come to the most sensible conclusions over the next three or four months. And I repeat that if that means providing more information, if that means help with legal drafting, we will provide it, whether it is about the Election Committee or corporate and individual voting, or whether it is about the nine new functional constituencies.

I would only add this: First of all, we are not making up the July deadline. Nobody, in all conscience, should wish to come to crunches before it is absolutely necessary. The July deadline is real and if one looks at the amount of subordinate legislation that needs to be dealt with, at the arrangements like the preparations for voter registration, all that is going to take time. So we really cannot go beyond July. Much of March will be taken up by the Financial Secretary's doubtless excellent Budget which I am looking forward to hearing about just as the Council is. We do not have very much time after that.

Secondly — and it is a point on which I am sure the Council will come to appropriate conclusions — we, all of us, I assume, want the arrangements which are agreed to be fair and open and I think if they are acceptable to this Council they will be acceptable to the community.

PRESIDENT: Dr Conrad LAM.

DR CONRAD LAM (in Cantonese): *Mr President, many Members who spoke in the debate last night had expressed concern, as much as the Hong Kong public does, about why an agreement has not been reached after many rounds of Sino-British talks. They are also concerned about the reasons for the breakdown of the talks. We know the Hong Kong Government will soon release the details of the talks, and we also hear that the Chinese side has a similar response up its sleeve. But the question remains: On what basis can Members and Hong Kong people judge the rights and wrongs if the version published by Britain disagrees with that of the Chinese Government? I therefore would like to raise two questions. Firstly, how will the Governor help the public understand clearly which side should be held responsible for the breakdown of the talks? Secondly, I have consulted a branch secretary in this Council whether the Governor would be willing to answer questions from the public in the mass media, together with a representative from the Chinese side, so that the public may judge who is in the right? If the representative from the Chinese side is not willing to or dare not appear in such programmes, will the Governor go through with it alone?*

GOVERNOR: First of all, it is of course the case that Chinese officials have already published their version of events — a very long article in *People's Daily* on 7 January 1994 — which sets out what Chinese officials say happened in the talks. So perhaps the Council may think that we are a little slow in putting out our view, as objectively as possible, of what happened. But I am, as the Council will know, responding to — to use what I think is the word — a "challenge" by Chinese officials on this subject.

Secondly, I think that we can all rest on the opinion and judgment of the people of Hong Kong. I think that judgment and opinion should be as well informed as possible. So we are producing 200 000 copies of the White Paper, published and available at 5 pm today. Today, there will be 10 000 Chinese copies and 10 000 English copies available at the Government Publications Centre at the GPO building in Connaught Place from 5 pm until 9 pm, and they will also be available from a special desk set up in the lobby of the Government Information Service at Beaconsfield House, Queen's Road Central. From tomorrow morning, copies will be available from CNTA enquiry centres, from post offices, from housing estate offices, as well as the Government Publications Centre. So we are doing our best to inform debate as widely as possible. I repeat, 200 000 copies — 140 000 in Chinese and 60 000 in English.

Thirdly, the Honourable Member will have noticed that it is sometimes taken as a criticism of me that I have not been shy about answering questions from the public. I have held, after both of my Legislative Council speeches, open meetings around the territory. These are sometimes described by critics as "a show", but in my view they are an important part of accountable government. And as an accountable Governor, I am happy to take part in any

such similar discussions. I have actually taken part, I recall, in a discussion with the distinguished editor of *Wen Wei Po* on the television. I have taken part in discussions on television with one or two members of the PWC and I hope that those occasions, though late at night, have informed all those insomniacs who watched them.

PRESIDENT: Mr Howard YOUNG.

MR HOWARD YOUNG: *Governor, the gazetting and tabling of the 1992 version of the second stage reforms, as you have described, is being done in the absence of an agreement with China. However, on the other hand, the British Government says that it is willing to continue negotiations. Slim though the chance of resumption of negotiations may appear to be, have things gone beyond the stage where during the legislative process the Government could yet introduce amendments to what is being gazetted tomorrow to conform with an agreement in one form or another — not necessarily reached by way of negotiations but perhaps by way of diplomatic letters or exchanges — that might be reached before the legislative process has ended?*

GOVERNOR: I repeat, in a way, what I said earlier that our door has never been closed and will never be closed. And if in the course of the next few months we thought there was the chance of an agreed way forward with China which was also acceptable and which secured the objectives which I think the community has, then we would of course have to present that to the Council, even if it meant amending what was already being considered by the Council. That is, I hope, an earnest of our sincerity. But again I say that time does close in. It is not because we wish it would be that way, it is part of the ineluctable movement of the calendar. And the elections that we have got are, for reasons which the whole Council knows, extremely complicated and do involve complicated arrangements. But, I repeat, it has never been our position that we would decline to have talks.

PRESIDENT: Miss Christine LOH.

MISS CHRISTINE LOH: *Thank you, Mr President. Governor, I welcome the release of details on the 17 rounds of talks by both the British and the Chinese Governments. It will at least give the people of Hong Kong a chance to protest against compromises made in their name. What I would like to ask is this: Traditionally the British Government's position has always been that these are diplomatic issues and they should be kept confidential, but now that both governments are going to release the information, is that really not a signal of the end of Sino-British negotiations over electoral reform? And, also, my second question is: If we were to pass this legislation — and I certainly hope*

that we will pass it before July — there would be no opportunity ever to return to discuss these issues with China; is that correct?

GOVERNOR: Well, it is perfectly correct that we would not have taken this step which, as the Honourable Member says, has already been taken, in a way, by Chinese officials if we thought there was a rosy prospect of keeping negotiations going. But I am an experienced enough politician never to say never, and there may be a prospect down the road of reviving, within time, some sort of dialogue on electoral matters. The whole community, I am sure, hopes that that is possible. At the same time, my reading of the community is that they would like to get this debate over and done with and out of the way and get on with other matters. I happen to believe that that is rather a sensible point of view. It is certainly a point of view which I share myself.

Once the legislation is passed by this Council, once the arrangements start to be put in place, it is obviously extremely difficult to imagine circumstances in which anybody would want to disrupt that process. Maybe if one has not had experience of the sort of elections we are talking about, it is easy to misunderstand or simply not to comprehend the complexity of what needs to be done. But running an election in Hong Kong, particularly as complicated a one as we are going to have, is not a very straightforward business and involves a good deal of legislation and administration if it is to be fair.

PRESIDENT: Mr TAM Yiu-chung.

MR TAM YIU-CHUNG (in Cantonese): *Mr President, just now the Governor repeatedly mentioned that the door to the room of negotiations would not be closed or would never be closed. However, the present situation is that the negotiating table has been overturned and even the chairs have been removed although the door is not closed. Under such circumstances, is it not hypocritical for one to reiterate that the door is not closed?*

GOVERNOR: I hope not, though I dare say there are one or two agencies in Hong Kong which may make that charge from time to time. I think there will be — to follow the Honourable Member's metaphor — a good deal of speculation about who overturned the table and who made off with the furniture. And that will obviously be a question on which there will be more than one view in the community. But I hope the community will be helped to come to a sensible decision on that matter by the publication of the facts. I myself believe in seeking truth from facts and so we are publishing the facts.

PRESIDENT: Mr Jimmy McGREGOR.

MR JIMMY McGREGOR: *Governor, it is my impression that the two proposals yet to come before us in the form of a Bill are the two critical proposals in your package of seven or eight proposals which you started with. It is also my impression that one of these proposals may undergo very considerable change in discussion in this Council. If that proves to be the case — and remembering that the British Government has already compromised both of these proposals to some extent by entering into negotiations and modifying the proposals to become somewhat less democratic, as far as we can make out — will you be able to accept, in good faith, the modification of at least one of these two major proposals and the possible modification of the other to some extent? And will you be able to accept, in good faith, that this Council will reach that conclusion? And will you be able to bring legislation in to give effect to these changes which this Council, in its wisdom, requests?*

GOVERNOR: Let me, once again, preface an answer to that perfectly fair question by saying that we are not putting these proposals forward hoping, in doing so, that this Council is going to throw them out or substantially change them. That would be an eccentric way of behaving and a dishonourable way of behaving and that is not what we are about. We put these proposals forward because we think they are the best proposals and they are the best way, in our judgment, of dealing with an extremely difficult issue. Devising nine new functional constituencies, as Honourable Members will see when they look at the White Paper, is not a very easy business though we tried to devise a new set of nine functional constituencies during the negotiations, taking at face value the Chinese argument that their objection to our original proposals was that the functional constituencies were not organization-based. We then tried to devise nine organization-based functional constituencies but that still did not, alas, satisfy Chinese officials. So I preface my remarks by making that point that we are not simply going to come down to the Legislative Council, put the Bill on the table and then scarp. That is not our intention and it would not be honourable for us to behave in that way.

But the Legislative Council has an important function. The Legislative Council has to consider legislation and, if necessary, the Legislative Council has the power to amend legislation. That is true today and it will be true, according to the Basic Law, after 1997. So if the Legislative Council changes the proposals which are put to them, then at the end of the day that is a reality which we have to accept.

I just add this one point and that is that I would be put in a difficult position, the Government would be put in a difficult position, the British Government would be put in a difficult position if the Legislative Council appeared to have agreed arrangements which were not fair and which were not open and which did not seem to be acceptable to the community. But I do not

think that that is a remotely likely possibility, since I think the community's views are extremely well represented in this Council. So, in good faith, if the Legislative Council changed the proposals, the Government would accept them.

MR JIMMY MCGREGOR: *Governor, can I ask for elucidation? In regard to the 21 modified functional constituencies which you have actually proposed in your package, do you consider that the make-up and characteristics of these functional constituencies are acceptable in terms of the broad intention to increasingly democratize the Hong Kong system? In other words what I am really getting at is that the nine functional constituencies, should they meet the same characteristics, would not be unacceptable if this Council came to that conclusion.*

GOVERNOR: Well, it is always rather dangerous — and we are starting to stray in that direction — to accept, in principle, outcomes without actually knowing what the detail of them is. But let me make the point about functional constituencies as clear as I can. Our legislation has two purposes. The first is to change the system in some, though not all, of the existing functional constituencies so that in all functional constituencies there is individual rather than corporate voting. And we are trying to do that because we think that the existing system is a good deal less than desirable, for reasons which many Honourable Members have themselves put. So that is the first principle: that we think the existing 21 should have individual voting.

The second thing we have tried to do is to devise nine new functional constituencies which meet the requirements which were, for example, referred to in the 1988 White Paper, which represent substantial sectors of the economic and professional life of the community and which ensure clean elections. And I would guess that there will be argument on both those points and it would be possible to conclude that the Government, in one's judgment, was right about the first but had not got the second entirely correct.

But I say again, first of all, that having put these proposals to the Legislative Council the Government intends to argue for them and argue for them vigorously — but no broken legs; secondly, if the Council, in its wisdom, amends those proposals in a way which plainly does not go against the reasonable objectives that I think we have all shared and which the Council has broadly endorsed on three occasions, then there would be no question that the Government would have to accept the outcome of the Council's opinion.

This is a point we have discussed again and again in relation to the Council's views. It is the tension between an executive and a legislature. But I must say that I accept that this Council is unlikely to do things which are against the interests of Hong Kong.

PRESIDENT: Mr Fred LI.

MR FRED LI (in Cantonese): *Mr Governor, first of all, I welcome your tabling of the original constitutional reform package to this Council because this is what Meeting Point has been aspiring to. Concerning the White Paper to be released at 5 pm today, I hope that there will not be two different versions. If so, the Chinese side may make an accusation against the Government that the version released is one having been tailored and glossed over. To forestall any further disputes, it is hoped that the Government will make public all the detailed records of the 17 rounds of talks. Of course, there may be nothing much going round at the first 14 rounds. But in fairness, the Government should give a full account of the talks rather than an edited version.*

GOVERNOR: Just before coming to the honourable gentleman's question, can I add a manuscript footnote to the reply I was giving to the Honourable Jimmy McGREGOR a moment or two ago? It has been a consistent argument — indeed it is, I think, both the moral and the political basis of the approach that we have taken — that we neither wish to go further than people in Hong Kong want to go, nor do we wish to go less far than people in Hong Kong wish to go. And though I know that there are some Honourable Members who think that it is insufficient for that judgment to be made by the Legislative Council, my own view is that it is only the Legislative Council which can actually reflect that principle in legislative reality.

Turning to the Honourable Member's question, I do think one needs to, if I may say so, strike a balance. I think there is a difference between, on the one hand, making available every single document that has been the basis for confidential diplomatic exchanges and, on the other hand, trying to give as clear and accurate an account of what has happened as possible. I do not think the first would make very much sense. I do think that the second is wholly desirable. As for the moment at which, in the Honourable Member's opinion, the talks suddenly hotted up and got interesting, I think he will find that the first 14 rounds were quite interesting, not least those rounds at which nothing much went round at all. That gives one some idea of what was happening. As to the 15th, 16th and 17th rounds, I repeat again — and it is a point which is spelt out in detail in the White Paper — that when I went back to London for a Cabinet committee meeting last October after the 15th round, I advised the Cabinet that in my view a first stage deal was probable and I advised them that the terms of it would be acceptable. I was therefore as disappointed as others when at the 16th round Chinese officials moved away from things that had been said in the 15th round, and I think that disappointment was shared more widely as well.

PRESIDENT: Just two more. Mr Martin BARROW followed by Miss Emily LAU.

MR MARTIN BARROW: *Governor, you mentioned earlier other issues on the agenda for discussion with China. Could you comment on the Government's strategy for discussing economic issues such as the airport?*

GOVERNOR: Yes, our strategy is to press as courteously and constructively for a dialogue on those matters as possible. There are discussions going on this week, as I think the Council knows, on the difficult but important issue of the future of defence lands. That has an economic aspect and other aspects as well. We would like to have the opportunity of discussing with Chinese officials, sooner rather than later, the fourth set of proposals that we have put on financing the airport. There are a lot of other proposals touching on Hong Kong's economic well-being that we would like to carry forward. I was encouraged by what the Chinese Premier said last December about Chinese officials being determined not to let any political argument affect the livelihood of Hong Kong but to continue to work for the interests of Hong Kong. So I hope that we can see a dialogue develop rather more constructively than perhaps has happened, not just for the last 18 months but for the last three years. In the meantime, we continue with the support of this Council from time to time when expenditure decisions are necessary; we continue to do what we believe is in the long-term interests of Hong Kong. That has been, so far I am pleased to say, a beneficial process and the latest round of those benefits will be made public when the Financial Secretary announces his Budget next week.

PRESIDENT: Miss Emily LAU.

MISS EMILY LAU: *Thank you, Mr President. I want to ask the Governor a question about electoral arrangements which may be in breach of the Basic Law, because earlier this afternoon he kept talking about putting in place arrangements which are in line with the Basic Law. But of course when we met the Foreign Secretary last year, he said the importance is that they are in line with Britain's international obligations. As the Governor rightly pointed out just then, certain Members, including myself, will be moving an amendment for 60 seats in this Council to be directly elected in 1995. And I guess the Governor will say that that is not in line with the provisions of the Basic Law. Mr President, I want to ask the Governor what he and the British Government will do then if it is blatantly in breach of the Basic Law. Will the British Administration move to block it or will the Governor still say that it is in line with the Joint Declaration and also in line with Britain's international obligations and so the Governor will support it?*

GOVERNOR: Well, I am of course an unqualified and unabashed admirer of the honourable lady's political and rhetorical talents. But I think I would like to see a majority before I answer the question. I know that the honourable lady has an unshakable and wholly honourable commitment to a totally democratic

system in Hong Kong, well before 2007 and preferably next week, and I respect the honourable lady's courage in arguing for that and consistency in arguing for that. But I do not honestly think that the honourable lady is likely to — she may prove me wrong; she has proved British politicians wrong on occasions in the past and asked difficult questions of British politicians — secure the outcome in the next few months which she understandably and honourably has set. If she does, I will answer the question.

MISS EMILY LAU: *Mr President, the Governor has not answered my question. My question is whether he will block it. If he blocks it then it cannot even be introduced. If it is given a chance, maybe it will be defeated by my colleagues or maybe it will be carried. But if it is not even allowed to be introduced, how can I prove to the Governor?*

GOVERNOR: Nobody — I will keep my decibel count down — is actually saying the honourable lady cannot introduce her argument and her ideas. It would be an extremely brave woman, and even braver man (*laughter*), who ever tried to stop the honourable lady developing a political argument. The political argument she has got is one which many people in this community and outside the community would regard as wholly reasonable. But I do not think that it is ever sensible to answer very hypothetical questions in the way that the honourable lady is inviting me to. I answer, sometimes, partially hypothetical questions. But the more hypothetical they are, the less sensible I think it is to answer them. Just to add one point, I think that it is a strength of the Government's proposals that they are not only in line with the Joint Declaration but also wholly in line with the Basic Law. And I think that it is a matter of strength as well that, despite the rain forests that have been cut down over the last year and a half to try to demonstrate that we have violated the Basic Law and the Joint Declaration, no evidence which convinces anybody has ever been adduced for that. I do not think that we would be in a stronger position if we had put forward proposals, such as the honourable lady advances, which go against the Basic Law. What we are trying to do is to build as broad a base of support in the community as possible. But somebody with my background could not help but admire the objectives which the honourable lady has set herself and for which she has argued with, as I said, such consistency and passion, often to the embarrassment of politicians from Britain and from elsewhere.

Adjournment and next sitting

PRESIDENT: In accordance with Standing Orders, I now adjourn the sitting until Wednesday 2 March 1994.

Adjourned accordingly at twenty-one minutes to Four o'clock.

