

## OFFICIAL RECORD OF PROCEEDINGS

Thursday, 21 April 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 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.

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 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

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 TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

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

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

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

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.

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

THE HONOURABLE VINCENT CHENG HOI-CHUEN, O.B.E., J.P.

DR THE HONOURABLE HUANG CHEN-YA

THE HONOURABLE STEVEN POON KWOK-LIM

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

**IN ATTENDANCE**

THE CLERK TO THE LEGISLATIVE COUNCIL

MR RICKY FUNG CHOI-CHEUNG

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 remain standing for the Governor?

CLERK: His Excellency the Governor.

PRESIDENT: The Governor will address this Council on his recent visit to London and on Hong Kong aspect of the United Kingdom House of Commons Foreign Affairs Committee (FAC) *Report on Relations between the United Kingdom and China in the period up to and beyond 1997*.

GOVERNOR: Mr President, I am pleased to have this opportunity to take questions from Members of this Council. Just for the record, this is the 15th occasion on which I have now done so. Today I propose to report on my recent visit to London, and to say something about the newly published report by the Foreign Affairs Committee of the House of Commons.

I visited London from 30 March to 9 April. Before arriving in London, I went to Dublin to deliver the independent lecture on the important topic of freedom of speech. While in Dublin, I had meetings with the Irish Prime Minister, Mr Albert REYNOLDS and editors of the principal Irish newspapers.

As Honourable Members know, like my predecessor I believe it is valuable to make short, regular visits to the United Kingdom about four or five times a year. This visit fell into that pattern. I had a series of useful meetings. I had lunch with the Foreign Secretary, meetings with Mr GOODLAND and senior Foreign Office officials, plus meetings with a number of other Cabinet Ministers and Ministers. I had a lengthy telephone conversation with the Prime Minister, whom I did not see on this occasion because he was in his Huntington constituency. It was useful for me to be able to update him and others on how things are going in Hong Kong and to underline, for example, the importance to us of the unconditional renewal of MFN. The British Government have already emphasized this at the highest levels of the United States Administration. They — and we — will continue to do so as we approach the deadline for a decision. The Chief Secretary will be leaving for Washington tomorrow on an important visit, during which she expects to meet an influential cross-section of senior members in the Administration and Congress, and to cover a wide range of issues of interest to Hong Kong, including MFN. We all wish her well on her important mission.

While in London I also had a meeting with Lady THATCHER. As one of the signatories of the Joint Declaration, she continues to keep a close interest in Hong Kong affairs, and I have kept in regular touch with her over the last two years.

In London I found continuing interest and solid support for what we are trying to do in Hong Kong, and a growing understanding of why we must ensure — with our Chinese colleagues — the full implementation of the Joint Declaration. I also found considerable admiration for, and interest in, Hong Kong's continuing economic and social success story.

Shortly after my return to Hong Kong, the Foreign Affairs Committee of the House of Commons published their *Report on Relations between the United Kingdom and China in the period up to and beyond 1997*. It is an extremely thorough and impressive document, as many of you will have seen. They sought views from right across the board — from the Chinese and British Governments, as well as from a large number of other sources, including me and a good many Members of this Council.

Naturally I intend to comment in any detail only on the section on Hong Kong. I am glad that the committee gave unanimous backing to the approach we have taken on political development in Hong Kong over the last couple of years. Having heard and weighed up all the arguments, the committee confirmed that the proposals which the Hong Kong Government announced in 1992 are consistent with agreements reached with China. They made clear their support for the specific proposals and for the overall approach we have adopted. I naturally welcome that, particularly so because this report is unanimous and cross-party. It is certainly not a government report. Select committees do not speak for the British Government. They speak for themselves, independently and fearlessly, and they have done so in this case clearly and unambiguously and authoritatively.

The FAC make several specific recommendations in their report. The British Government — with the Hong Kong Government — will want to consider these carefully before giving a formal response. So what follows are by way of preliminary remarks.

The committee rightly emphasized the need for the United Kingdom and China to work closely together in the interests of Hong Kong in the time remaining before the transfer of sovereignty. British Ministers and I have often said that we strongly favour such co-operation. I was therefore pleased to note that the Chinese Foreign Minister had expressed similar sentiments supporting such co-operation in a recent interview with *Ta Kung Pao*.

On nationality issues, the FAC recommend, as this Council has done, that the British Government grant full British citizenship to the wives and widows of ex-servicemen in Hong Kong. As the Council will know, I support that view and have pressed the British Government to grant full British citizenship to this exceptional group. Unfortunately, the British Government would not be able to grant full citizenship without primary legislation in Parliament, and they are not persuaded of the case for initiating this. Instead, the Home Secretary has written personally to each of the ladies concerned and has agreed that they may have a special stamp in their passports guaranteeing that they are free to come

and go from the United Kingdom whenever they wish, and to settle there. These are special steps which I hope will go some way towards meeting the ladies' concerns.

The FAC also recommend — as its predecessor did in 1989 — that Britain should give full British citizenship to the non-Chinese ethnic minorities residents in Hong Kong. If that is not possible, then they recommend that the British Government go further than its existing pledge and state publicly that if this group encounter discrimination in the new SAR, whether or not they face explicit pressure to leave, they will be given every help to enter Britain and acquire British citizenship. Again, I have consistently pressed upon the British Government — as has this Council — the case for full British citizenship for the ethnic minorities. Our efforts have not yet borne fruit. But we shall continue to argue the case, and this recommendation by the FAC will be an extra string to our bow.

The FAC report makes thoughtful and detailed recommendations about reinforcing human rights in Hong Kong. It contains four specific recommendations. Again, we will want to think about these carefully. My starting point is that we must indeed do all we can to ensure that Hong Kong's way of life — which includes respect for human rights — continues beyond 1997, as the Joint Declaration pledges it will. Above all, that means ensuring that Hong Kong's institutional framework — the framework which protects the rights and freedoms of this open society — is in as strong and as healthy a state as possible when it is inherited by the SAR.

The FAC's key recommendation is the establishment of a Human Rights Commission. We will want to look again at all the arguments for and against this. The FAC also strongly support positive action to end sex discrimination in Hong Kong. As Honourable Members know, we published a green paper last year on equal opportunities for women and men and sought the public's views. We shall be seeking Executive Council's views shortly on a strategy to promote equality between the sexes in Hong Kong. The possibilities include the extension of CEDAW to Hong Kong; the enactment of sex discrimination legislation; and the improved measures to promote education on gender equality.

Human rights issues have risen to the top of the public agenda in recent weeks. The proper protection of human rights is fundamental to a free society. I want to say a word in this context about the ICAC which has found itself thrust into this debate on human rights in recent weeks. I want to repeat three points, in view of the unfounded allegations which were made — under the shield of immunity — in this Council a week ago.

First, there has never been nor will there be any politicization of the ICAC. That would be against the laws within which it operates. Its job is to fight corruption — no more, no less.

Secondly, there has — perfectly legitimately — been a public debate for some time as to whether the powers of the ICAC are right for today's Hong Kong. It is because of that debate and because of the anxieties which some people have that the powers and functions of the ICAC are being examined at the moment by a distinguished and independent committee. It will report at the end of the year. And its report will be made public. But the ICAC does not operate in a vacuum. Every ICAC investigation is monitored by the ICAC Operations Review Committee, The majority of whose members come from outside the Administration. So checks and balances already exist. The independent review committee will consider whether further changes need to be made to meet today's circumstances.

Thirdly, the bottom line is this : do we want an ICAC that is capable of beating corruption in Hong Kong or not? If we do — and I believe the vast majority do want to keep Hong Kong corruption free — then while we must certainly review the ICAC's powers and functions from time to time, and while we must take care to keep it independent, we must also give it our staunch support and understanding in its very difficult task. The unfounded allegations made last week will not help in that. If they succeeded in undermining public confidence in the long-term work of the ICAC, then it would be a very sad day for Hong Kong.

We will, as I say, be considering, with the British Government, very carefully the recommendations contained in the FAC report. We will do so without delay. The issues are urgent ones, and we must press ahead with them. I hope we will be able to announce, in detail, our response and a proposed plan of action by the end of June.

PRESIDENT: Members may now put questions to the Governor. Mr SZETO Wah.

MR SZETO WAH (in Cantonese): *Mr Governor, I have four questions, and if only one is to be allowed, you may choose any one of them to answer and provide a written reply on the remaining three later.*

*Firstly, four whole years have lapsed since the Basic Law was passed and promulgated in April 1990. However, the Foreign Affairs Committee of the United Kingdom did not point out until now that two of the articles in the Basic Law are contrary to the Sino-British Joint Declaration. Is this like "shedding crocodile tears"?*

*Secondly, from the seven diplomatic exchanges already made public, we see that there were bargainings between the Chinese and British Governments during the enactment of the Basic Law. Did the British side raise any objection in respect of these two articles with the Chinese side at that time?*

*Thirdly, are these two articles the only ones which are contrary to the Joint Declaration? Are other articles, say Article 17 which provides that the Standing Committee of the National People's Congress may invalidate any law enacted by the legislature of the future Special Administrative Region, in conformity with the Joint Declaration?*

*Fourthly, do you consider the agreement on the Court of Final Appeal made by the Joint Liaison Group in contradiction to the Sino-British Joint Declaration?*

GOVERNOR: Perhaps briefly I can try to persuade the Honourable Member that Christmas has come early and answer all four of his questions rather than just one of them.

Perhaps I can remind Honourable Members what Articles 18 and 158 of the Basic Law actually say because those are the two articles in question and they are the two on which the Foreign Affairs Committee have focused.

Article 18 of the Basic Law is about interventions in Hong Kong in the case of turmoil in Hong Kong. I think that Honourable Members are probably familiar with the article in question. The other article concerns the power of interpretation of the NPC Standing Committee.

The position which the British Government has taken up from the outset is that there is a very fundamental difference between the Joint Declaration and the Basic Law. The Joint Declaration is an international and binding treaty between two sovereign powers. The Basic Law is a law passed by the NPC of one of those sovereign powers and was not the subject of negotiation between Britain and China, though Britain did at various points make known the sort of outcome it would like to see in the Basic Law and made it clear that there were some pieces of drafting which it would have preferred to have been different. I think that touched both Article 18 and Article 158 among others.

Our position is that if Articles 18 and 158 of the Basic Law were used to undermine the autonomy of the Hong Kong Special Administrative Region, that would be in contravention of the Joint Declaration. but I am sure that as the Chinese authorities have said again and again they intend to comply with the terms of the Joint Declaration and therefore would not use the Basic Law in a way which contradicted the terms of the Joint Declaration. I think those are arguments which are probably familiar to the honourable gentleman. I am sorry that the anxieties still exist and I hope that Chinese officials as well as British officials will be able to put the Honourable Member's mind at rest and those minds of other Members of the community.

As for the agreement on the Court of Final Appeal (CFA), the Government does take the view that it is in line with the Joint Declaration. I dare say that we shall have opportunities of debating the CFA in the coming



months and this Council will in due course have to make in effect a crucial decision as to whether we get a Court of Final Appeal up and running before 1997 or not.

PRESIDENT: Mr Simon IP.

MR SIMON IP: *Thank you, Mr President. Mr Governor, are you able to confirm as accurate recent press reports that the independent review committee will look at the ICAC's powers to tap telephones under the Telecommunication Ordinance and if so, whether that committee will be asked to consider the setting up of some authority, other than yourself, to monitor and report on telephone tapping under the ordinance?*

GOVERNOR: I am sure the Honourable Member knows that the question of interceptions is in fact already being looked at at the specific request of the Government. It is already being looked at by the Law Reform Commission which we hope will report in August of this year. It has part of the Law Reform Commission's work on privacy. We asked them to look at interceptions and they are doing so. The position at present is covered by the Telecommunication Ordinance, section 33, and of course there are provisions in the ICAC Ordinance as well which affect operations in respect of that body's work. I imagine that when it looks at the powers and functions of the ICAC, the review committee will want both to consider the work that is already being done by the Law Reform Commission and may wish to look at the subject itself quite independently. It will bring forward recommendations and the Law Reform Commission will bring forward recommendations and we will consider them in good faith. Some people have suggested additional safeguards when it comes to authorization, I am sure that that is one of the things that will be looked at.

I do want to make it clear once again to Honourable Members that any interceptions are carried out wholly within the parameters of the law. If we wish to change the law then that is a decision which the Legislative Council and the community will take over the coming months and years. But anything which is done is done within the law and it is the Government which has taken the initiative, both in relation to the Law Reform Commission and in relation to the ICAC review, it is the Government which has taken the initiative to actually review the law in these matters.

PRESIDENT: Miss Emily LAU.

MISS EMILY LAU: *Thank you, Mr President. The Governor told us that there was no politicization of the ICAC and said the recent unfounded allegations will*

*only undermine public confidence in the ICAC. Mr President, I want the Governor to confirm for this Council and for the members of the public of Hong Kong, that he himself or any senior Government official has not authorized the ICAC to "bug" the telephones of former senior Government officials and politicians for non-corruption related offences.*

GOVERNOR: I repeat what I said earlier. There is no interception of telephone conversations for political purposes. There is of course interception in two areas, one is in the area of corruption where interceptions have been carried out within the law, the other is in the area of crime and security where it is also the case that interceptions have been carried out within the law. But I repeat that right across the board, any interceptions which have been conducted have been within the law and none have been carried out for political purposes. This is an open society, this is a plural society, people have a wide spread of opinions — perhaps on some issues wider than elsewhere, on other issues less wide than in other communities — and so long as I am responsible it will remain.

There is a difficulty when one is responding to this endless flood of unfounded allegations. It is impossible for the executive for the Administration responsibly to reply to, respond to, each allegation — to each allegation concerning individuals — without putting itself in an impossible position. So we do have to say, when specific allegations come up from time to time, "no comment" and those responses of "no comment" are not "no comment" meaning "yes", they are "no comment" meaning "no comment". And that is the way that it has got to be. That is why I have to say that allegations made with immunity can lead to, I think, an extremely difficult and delicate position which is grotesquely unfair to private individuals and I am sure that is something which this Council will want to take account of.

MISS EMILY LAU: *A follow up. Will the Governor confirm for this Council that all the telephone "bugging" and wire-tapping, that the authorities concerned conduct, is done with your approval and you knowing about it?*

GOVERNOR: Yes. I think it is important that the Council should be absolutely clear about that. I, as Governor, like my predecessors, have final responsibility to authorize any interception. This Council will know that when one is dealing, for example, with major international crime or big corruption cases, these techniques are not just desirable and necessary, but essential if one is to make any progress. But nothing is done unless I finally authorize it. If something has to be done urgently in the case of the ICAC, the Commissioner of the ICAC has regular meetings with the designated officer who is able to authorize, but he is only able to authorize until I actually put my stamp on things myself which I do very swiftly. And nothing sensitive would be done, I am absolutely convinced, without my say so. But eventually, every decision comes to me, every single decision that is made is authorized by me.

PRESIDENT: Ms Anna WU.

MS ANNA WU: *Thank you, Mr President. Mr Governor, given the recommendation in the FAC report that it would be possible, legal and desirable to set up a Human Rights Commission in Hong Kong, and given the added unequivocal support from Amnesty International, what will it take you and your government to set up a commission in Hong Kong or to allow that matter to be determined by the Legislative Council? What is troubling you on this proposal to set up a commission in Hong Kong?*

GOVERNOR: Nothing is troubling me. I am, as the Council knows, a trouble-free man. What does interest me is how we can best secure the Bill of Rights and its proper implementation. Let me spell out what I mean in some detail. The arguments set out by Amnesty and by the Foreign Affairs Committee and persuasively by the honourable lady for a Human Rights Commission are posited on the assumption that we need to make progress in three areas. First of all, we need to do something about awareness of human rights. Secondly, we need to do something about access and thirdly we need to do something about affordability. Now it is a legitimate question to ask whether you meet those objectives best by setting up a Human Rights Commission or whether there are other ways in which you can meet those objectives. That seems to me to be a perfectly reasonable argument to have. If you look around the world, it is difficult to find many examples of communities which have both a Bill of Rights and a Human Rights Commission. Canada is one such, but there are not many other examples. One can think of some Human Rights Commissions which are pretty toothless creatures and, perhaps at the end of the day, do less for the advance of human rights than could have been achieved in other ways.

All I am doing is saying to the honourable lady, there is an argument and what we want to ensure at the end of the day is that we have done more to secure the Bill of Rights rather than more to undermine the Bill of Rights. We also want to make sure that we meet these specific objectives set out by Amnesty and others which I share, that is, awareness, access and affordability.

There will be a lot of discussion and debate about this. There will be a good deal of discussion and debate about how an Equal Opportunities Commission or Women's Commission, if there is pressure to set one of those up, would sit along side a Human Rights Commission, when it would be plainly doing a great deal of the work of a Human Rights Commission. There will be a good deal of discussion about the enhanced role of the Commissioner for Administrative Complaints in relation to a Human Rights Commission. I am sure at the end of the day we can all share the objective of strengthening the Bill of Rights and its implementation and I hope that we come off with solutions which the honourable lady finds as acceptable as I do.

MS ANNA WU: *May I ask a short follow-up, Mr President? Mr Governor, how long will it take you to come to a decision on this matter?*

GOVERNOR: As I said in my statement, we want to come to a decision by the end of June, but it may well be that in relation to that and one or two other issues which are interesting and concerning the Council, we would want to come to a conclusion earlier than that if possible.

MS ANNA WU: *Thank you.*

PRESIDENT: Mr Timothy HA

MR TIMOTHY HA (in Cantonese): *Mr Governor, recently the Prime Minister of Portugal has paid you a visit and he has also visited Macau. According to press reports, during his visit, the Prime Minister had made an absolute undertaking to Portuguese Passport holders in Macau and Hong Kong. Now that the Sino-British relationship is at a low ebb, will the Foreign Affairs Committee reconsider granting the British Passport holders in Hong Kong the right of abode in Britain?*

GOVERNOR: I was able to talk about these matters with the Prime Minister of Portugal, yesterday, for about an hour and a half before lunch and then for some time over lunch as well. I think the Honourable Member will know the differences between the scale of the issue in Macau and Hong Kong. But there are principles which are similar and I can assure the honourable gentleman that I do, with some regularity, draw to the attention of the British Government the issues at stake, not only in relation to this issue but in relation to other nationality and right of abode issues too.

PRESIDENT: Mr James TO.

MR JAMES TO (in Cantonese): *Mr Governor, section 33 of the Telecommunication Ordinance provides that you may authorize any officer to tap telephone messages whenever you consider that public interest so requires. Recently the ICAC has taken over the work of the Special Branch and carried out integrity checking of some senior officials. According to the Commissioner of the ICAC, integrity checking covers financial matters, good faith and possible corruption. Governor, do you consider that the term "public interest" mentioned in section 33 of the Telecommunication Ordinance includes the authorization to tap messages not related to the investigation of corruption but to the checking of good faith, financial matters or other areas concerning*

*personal integrity? Furthermore, in view of the fact that the recent hearing has caused a furore in the community, have you considered attending the Security Panel voluntarily and answer questions and give evidence under oath?*

GOVERNOR: I think it is rather more desirable that I should answer questions to this Council openly at regular intervals and that I will continue to do. Just let me say a word or two about integrity checking and extended checking. First of all, for the ICAC to be concerned about integrity checking is not new, it has been happening for many years, I think ever since the ICAC was set up. What is new is the proposal that, from this July, the ICAC should be responsible for extended checking which was previously undertaken by the Special Branch. The Telecommunication Ordinance section 33 does not deal with personality checks, it is dealing with issues like corruption, major crime and the security and stability of the territory and I do not, frankly, think that those are issues that are likely to arise when one is deciding whether or not to confirm a secretary in his or her post. So I think the honourable gentleman should recognize the difference between the various functions of both the ICAC and the Police Force.

I am sure that the role, which we have asked the ICAC to take on from the Special Branch in relation to extended checking, is a function of the ICAC which the review committee will want to look at to consider whether it appropriately sits with the ICAC or not. The ICAC was asked to undertake this work in good faith. The ICAC was not pressing the rest of us to undertake the work.

Let me say one other thing which is relevant to the general inquiry which the Honourable Member referred to. This Legislative Council is developing its role very vigorously, as we should all want it to, its responsibilities in holding the executive to account. I hope that the Legislative Council, as it carries out this responsibility and this duty, recognizes that actions have consequences. And I very much hope that as a result of the interest which is shown in improving and making more effective the ICAC, nothing is done and nothing is said which makes the ICAC's job more difficult or undermines the ICAC. This community needs today, as much as it has ever needed, perhaps in some respects more than it has needed since it was first set up, an effective commission to fight corruption. And if at this juncture of our affairs, for whatever reasons, we undermine the role of the ICAC, if we make it more difficult for it to carry out its task in the front line against corruption, then the whole community will rue the day.

PRESIDENT: Mrs Selina CHOW.

MR SELINA CHOW: *Mr Governor, given the not so good relations between the Hong Kong Government and the Chinese Government, following the breakdown of negotiations on constitutional development, and given the importance of the*

*maintenance of a quality civil service in order to effect a smooth transition, and bearing in mind all these stories that we read in the papers about senior civil servants who are about to leave the service come 1997, what are you, Governor, doing to maintain the quality of the civil service for it to have the quality and the continuity beyond 1997?*

GOVERNOR: I share with the honourable lady the regard implied in her question for the quality of the Civil Service. I think the quality of the public service in Hong Kong is one of the most important reasons for Hong Kong's astonishing economic and social success story. So anybody in their right mind must be concerned to ensure that we continue to have a high quality Civil Service which is well motivated, which operates according to the traditional integrity of public service which is uncorrupt, which is imaginative and which serves the community. There is a limited amount that I can do after 1997 and what is said by officials in the north is more likely to affect attitudes about post-1997. The honourable lady referred to, I think, a recent survey carried out by academics at the polytechnic. Some people have suggested that the conclusions of that survey were not quite as damaging as the headlines suggested, but they were, it has to be said worrying, even not as worrying as some headlines made out, worrying because of the anxieties which were expressed about the situation in 1997 and beyond, worrying because of concerns about interference after 1997.

Let me say the following, first, we have consistently made it clear to Chinese officials including on a number of occasions, to the Director of the Hong Kong Macau Affairs Office, that we would like to get involved in a serious discussion about the Civil Service transition through 1997. I first raised the question with Director LU when I went to see him in Peking in October, 1992. At the same time the Legislative Council will recall we proposed setting up a course at Qinghua University for senior civil servants. That has now been established and two groups of civil servants have been through it. A third will shortly go through it. It has been a success. We are keen on civil servants from China coming and seeing how we do things in Hong Kong and sending civil servants from Hong Kong into China to see how things are done there. We are increasing training in Putonghua in our Civil Service so as to ensure that we have the linguistic skills that are going to be required for the future. We would like to talk about doing more with our Chinese interlocutors.

Secondly, I have absolutely no doubt at all that when Director LU and some of his senior colleagues say they recognize the important role of the Civil Service and that they want the best most meritocratic Civil Service through 1997, they are talking nothing but the truth. I think that is what they want. I think that occasionally, however, things have been said by others including some who purport to advise them, which have not been very helpful in encouraging civil servants to think that the transition will be smooth and the operating style will be the same after 1997. But I do hope that we can find more ways of discussing these issues and more ways of working together on these issues.

As I have said on many previous occasions, because we have not been able to agree on political development in Hong Kong, it does not mean that we cannot agree on as many other things as possible. We had today, for example, a meeting of the Land Commission involving of course Hong Kong civil servants which reached I think very satisfactory conclusions. It is possible to do business and to co-operate in a sensible way in the interests of Hong Kong and there is no area where it is more important to do this than in discussing and helping to protect the future of the Civil Service. Where there have been real anxieties and we could contribute, for example, in setting up the seven and a half billion pension fund for civil servants, we have acted ourselves. I am sure that Chinese officials recognize that they have to act too.

PRESIDENT: Mrs Elsie TU.

MRS ELSIE TU: *Thank you, Mr President. In his introductory remarks today the Governor remarked, I will quote his words, "arrangements announced by the Hong Kong Government in 1992". Since the Governor's electoral proposals were made on 7 October, 1992, without consultation with either the outgoing or incoming Executive Councils, would the Governor be prepared to tell us where those proposals originated and what he meant when he called them "arrangements announced by the Government in 1992"?*

GOVERNOR: Well, I am sure the honourable lady will recall that when I came to Hong Kong I had a wide range of discussions with political groups and others and the proposals that were put to this Council in the autumn of 1992 were the result of those wide ranging discussions.

I think I can say, hand on heart, that virtually every proposal I put forward had already been put forward by a Member of this Legislative Council. I am pretty certain I can say that including, I have to say to the honourable lady, one or two Members of the Legislative Council not sitting very far from the honourable lady. So the proposals were born and brought up in Hong Kong and it will be for this Legislative Council in Hong Kong to decide in the next few weeks whether it wishes to change any of them in any way as I am delighted that so far we have seen two bills passed through the Legislative Council, so that we have got about two-thirds of them on the statute book.

MRS ELSIE TU: *May I just follow up? I think the Governor missed my point there, that he talked about arrangements announced by the Hong Kong Government from which I presume the Executive Council has to be consulted and I understand it was not. Is that correct?*

GOVERNOR: The honourable lady will know the constitutional position. The Administration is advised by the Executive Council. It happens that the Executive Council was changed in October, 1992, for the reasons which were set out pretty clearly at the time.

PRESIDENT: Miss Christine LOH.

MISS CHRISTINE LOH: *Mr Governor, I would like to ask you about the conditions of human rights in Hong Kong today. Two days ago, the Secretary for Security came to this Council to brief us on the raid that took place at the Whitehead Detention Centre on 7 April. He said that he had briefed both you and the Chief Secretary about the raid. It is not clear how detailed the briefing was but if you knew that officers would go into the camp without previous advice to the detainees that they would only move from one camp to another and that in the end they ended up using over 500 cans of tear gas, and in addition to that, they used mace and pepper-fog, would you have questioned that operation or would you have consented to that operation?*

GOVERNOR: I would be a rare creature if I did not take the view that it was easier to take decisions after the event rather than before and the benefits of hindsight are now available to all of us. I do not want to say anything today which would in any way inhibit the inquiry which we have put in place. That inquiry I am sure will assist us in drawing any general conclusions which are required from this extremely unfortunate incident. There is a real problem which the Administration has and which the CSD have. There has been a rapid run-down in the number of people, the number of Vietnamese migrants in the camps. I think that most of us when we look at the conditions in Vietnam today think that removal of people from the camps and return to Vietnam should, if anything, be a good deal faster. But the reduction in the numbers does create real problems of management in the camps. Does the Legislative Council, which is responsible in many ways for overseeing the spending of the taxpayers' money, want us to go on with the same number of camps even as the number of people in them falls? The honourable lady looks slightly puzzled by that but it is a reasonable question.

What account do we take of incidents in the camp which suggest that very often there is a hard core which is making life more difficult for some of the other inhabitants? I do not make those points provocatively; they are serious problems in terms of reasonable camp management. Dealing with them firmly creates a lot of difficulties for CSD and the Administration and I hope that one of the outcomes of this inquiry — which is, alas, because of events which sadden us all, necessary — is that we will be able to deal with those matters in a more effective and more informed way.



A lot of questions, I am sure, occur to the Governor as well as legislators and the rest of the community, about the quantity of teargas used, about the effects of tear gas, about the reasons for injuries, about whether or not warnings should be given or whether warnings would lead to provocatively defensive actions by those in the camps. Those are all problems that we have to look at and we have, at the end of the day, to come up with arrangements which enable us to do a difficult job in as calm, fair, reasonable and liberal a way as possible.

MISS CHRISTINE LOH: *A follow-up, please. Mr Governor, would it be right in saying that actually you did not have any details of the raid?*

GOVERNOR: That would be right because I was not actually in Hong Kong at the time. But that is not an attempt to shuffle off responsibility. I have total confidence in all those who took decisions. And whether or not I was in Hong Kong at the time, I am responsible for what happened. I would like to add that I think I might well have been 30 000 ft in the air then. But I need to check that.

PRESIDENT: Mr TAM Yiu-chung.

MR TAM YIU-CHUNG (in Cantonese): *Mr Governor, according to press reports, the Preliminary Working Group (PWC) will hold sub-group meetings in Hong Kong and Director LU may also attend such meetings. Governor, may I ask whether you would welcome such meetings by the PWC in Hong Kong and indeed would facilitate them; and whether you would take this opportunity to seek a meeting with Director LU so as to improve your relationship with China?*

GOVERNOR: Well, the activities of the PWC are not my responsibility. I wish the PWC well in its endeavours. I hope that it will give advice without fear or favour to Chinese officials. I think there are many people who have looked at some of the advice that it has given in the past and raised a quizzical eyebrow. But because I am a man of legendary charity, I am not among them. I have read reports in the press about a possible visit to Hong Kong by Director LU. I think that if the Director were to agree to come to Hong Kong again, it would be a matter for considerable satisfaction for the whole community. I think we would throw our hats in the air. I am sorry that he has not been able to come for a couple of years. I think we would very much welcome a visit soon, and many visits over the next three years, because we recognize that he has responsibilities which touch very sensitively on the future prosperity and stability of Hong Kong.

I have said on a number of occasions that I would be delighted to see him and talk to him again. I would genuinely. There are many things that it would be useful for us to talk about; there are many things on which we need to develop as candid and co-operative a relationship as possible. We have not yet had any formal notification that Director LU is coming. But if he is, I am sure he will have much to say to Hong Kong. I am sure that, I hope some of it, most of it, all of it, will be good news, and my door remains always open and there is a red carpet ready to roll down the steps of Government House.

MR TAM YIU-CHUNG (in Cantonese): *Mr President, it seems that the Governor has not answered directly to the two important points which I raised in my question just now. My question is whether he would welcome and facilitate the meetings to be held by the PWC in Hong Kong?*

GOVERNOR: Well, it is for me to facilitate meetings of the Joint Liaison Group. It is for me to facilitate meetings of the Land Commission. It is for me to facilitate meetings of the Airport Committee. While I welcome anybody who comes to meet in Hong Kong, it is not for me to facilitate meetings that lie outside the usual relationships between the sovereign powers and Hong Kong. So, I welcome meetings by the International Lions and I welcome meetings by the International Rotary and I welcome meetings by the Chamber of Commerce and I welcome meetings by the PWC, but I am not actually responsible for any of them. I very much hope that the existing and very important channels that we have — the channels of communication between the present and future sovereign powers and Hong Kong — will work as effectively as possible and we will facilitate as much as we can all those activities. As for the meetings of the PWC, they are advisers to the future sovereign power; I hope they will give the very possible advice in the interests of Hong Kong. I can offer them my thoughts and prayers but it would be totally wrong of me to offer anything else. And I am sure if I were to do so, I would have my wrist very promptly slapped by the NCNA.

PRESIDENT: Mr CHEUNG Man-kwong.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr Governor, I would like to give a hand to my colleague Mr James TO, because he did not have a chance to raise his follow-up question. Is the anti-corruption work of the ICAC so paramount that members of the public and this Council cannot monitor its operations? When the public and this Council queried whether the ICAC had too much power and whether it had abused its power to do something that was outside the scope of anti-corruption work, such a move was regarded by the Governor as something which would undermine the ICAC's role as a corruption fighter. Did the Administration overreact? In fact, this Council has just begun the hearing concerning the dismissal of Mr Alex TSUI Ka-kit, and though*

*Members have not yet interrogated Mr TSUI about his evidence, we have already been criticized many times for having digressed from the subject of the hearing and undermined the ICAC's credibility. Is such a judgement premature and is it fair to this Council? If we have an ICAC which even this Council cannot monitor in accordance with the law and which has taken over the work of the Special Branch without this Council even knowing it, will that be healthy to Hong Kong's anti-corruption effort?*

GOVERNOR: Well, life is a complicated old business and it is much more complicated and difficult when one gets attacked or criticized for things one did not say rather than for things one did say.

I invite the Honourable Member to look at what I actually said. Nobody is suggesting for one moment that the ICAC is above this Council or above the executive. Nobody is suggesting that it should not be accountable. It should be accountable. That is why we have the Operations Review Committee which has I think eight out of 12 members from outside the Administration, including I think two Members of this Council, to see whether in their view the accountability of the ICAC has to be enhanced and its functions looked at. Those are both perfectly proper ways of trying to ensure the accountability of the ICAC.

All I said is that in looking at the ICAC's functions, in considering the question of accountability, everyone has to be very careful in the way they go about these matters. Just let me make two perfectly obvious points to the Honourable Member. Next time, if there is a next time, that management in the ICAC have an employee who they think for a variety of reasons should be dismissed, what conclusions after the last few weeks does one expect them to come to? Do they conclude that it is a risk free enterprise, doing what is best for the management of the ICAC, or do they conclude that if they try to do what is best in personnel terms for the ICAC and its management, it is going to lead to the sort of unfounded allegations that have been pouring out and I guess will probably continue to pour out over the last few weeks? I wonder what Sir Jack CATER or any of those who founded the ICAC and made it such a vigorous opponent of corruption would have thought if their ability to manage the institution had been affected in that way.

It is also the case, the Council must know it, that there are people in the ICAC, there are individual men and women who are doing incredibly sensitive work, who are doing work which brings them personal danger. How does the Honourable Member think they feel about the possibility that at any moment an operation in which they are involved can be half-splashed over the papers or leaked to the papers. I am not saying to the Honourable Member that we do not need to ensure that the ICAC works in a way which is appropriate for the conditions in Hong Kong today; that is totally right. I also totally accept that issues like surveillance which I have talked about today, that issues like the drive against corruption, should be issues for which the executive is accountable to

this Council and Councillors are entirely right to ask questions about them. But there are ways in which one can proceed which actually make it very difficult for aspects of the Administration to operate subsequently with the sort of support which they need from the community.

Let us make those very obvious points to the Council, not in order to try to inhibit the Council, but just to try to encourage the Council to look at the way in which it actually discharges its responsibilities.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, I am not sure whether the Governor is aware of what happened on that day. When Mr TSUI finished giving his evidence, it was already half-past six (an additional 15 minutes had been given to him to finish his speech), and Members did not have the chance to put questions to him. So how can the Governor know that Members would not query Mr TSUI's evidence if they had a chance to raise questions? As far as I am concerned, I was prepared to raise many questions. Besides, if an inquiry by this Council can help to bring out the truth, what is the harm in having it? Why did the Governor say that we had overdone in this incident? If the questioning by Members can fully reveal the true story, it will only enhance instead of undermining the credibility of the ICAC, so why is that not advisable?*

GOVERNOR: Well if the Honourable Member and I share the objective of trying to enhance the capacity of the ICAC, then that is a useful note of co-operation on which to conclude this afternoon. I am not seeking to pre-judge the way the Council works in its inquiries. The only point that I am making is the point I made earlier, that there are consequences of the actions that one takes and that means that when one is in a sensitive area, one has to be very careful about the way one proceeds. And I was delighted by the assurance from the Honourable Member that he recognizes that and I hope he will take it from me that I was not seeking to criticize the legitimate undertaking of this Council's role by individual Members. No intention of that on my part whatsoever. But I repeat, the way the Council operates has consequences.

### **Adjournment and Next Sitting**

PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 27 April 1994.

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