

OFFICIAL RECORD OF PROCEEDINGS

Thursday, 3 November 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 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 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 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

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

DR THE HONOURABLE LAM KUI-CHUN

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

THE HONOURABLE LAU CHIN-SHEK

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 HENRY TANG YING-YEN, J.P.

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

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 HUI YIN-FAT, 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 MRS PEGGY LAM, O.B.E., J.P.

REV THE HONOURABLE FUNG CHI-WOOD

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

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE STEVEN POON KWOK-LIM

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

IN ATTENDANCE

MR MICHAEL SUEN MING-YEUNG, C.B.E., J.P.
SECRETARY FOR HOME AFFAIRS

MR CHAU TAK-HAY, J.P.
SECRETARY FOR TRADE AND INDUSTRY

MR JAMES SO YIU-CHO, O.B.E., J.P.
SECRETARY FOR RECREATION AND CULTURE

THE HONOURABLE MICHAEL SZE CHO-CHEUNG, I.S.O., J.P.
SECRETARY FOR THE CIVIL SERVICE

MR ANTHONY GORDON EASON, J.P.
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

MR HAIDER HATIM TYEBJEE BARMA, I.S.O., J.P.
SECRETARY FOR TRANSPORT

MR MICHAEL DAVID CARTLAND, J.P.
SECRETARY FOR FINANCIAL SERVICES

MRS KATHERINE FOK LO SHIU-CHING, O.B.E., J.P.
SECRETARY FOR HEALTH AND WELFARE

MR NICHOLAS NG WING-FUI, J.P.
SECRETARY FOR CONSTITUTIONAL AFFAIRS

MRS ELIZABETH MARGARET BOSHER, J.P.
SECRETARY FOR ECONOMIC SERVICES

MR LAM WOON-KWONG, J.P.
SECRETARY FOR EDUCATION AND MANPOWER

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 please remain standing for the Governor?

CLERK: His Excellency the Governor.

PRESIDENT: The Governor will address the Council on his recent visit to London and outstanding issues arising from his policy address and the debate on the Motion of Thanks.

GOVERNOR: Mr President, I made a short but worthwhile visit to London last week. I had useful meetings with the Prime Minister — circumnavigating the ducks in St James' Park — with the Foreign Secretary, with Mr GOODLAD and with other senior officials. We discussed ways in which we can improve co-operation between the United Kingdom and China in the interests of Hong Kong. We looked ahead to the next Joint Liaison Group (JLG) meeting and we noted the formidable amount of work that remains on the JLG's agenda. We very much hope that we will be able to make more rapid progress in the future. Certainly that will be our aim.

I also had a good and well attended meeting with the British-Hong Kong Parliamentary Group, who continue to take a close and supportive interest in our affairs.

I made two speeches — the first to the annual Trade Development Council dinner, which grows in importance as an occasion every year, and which was so well attended this year that it took place in an even larger venue. I also gave the annual Swiss Bank lecture at the Swiss Bank Corporation — a speech largely devoted to promoting the case, the Hong Kong case, for free trade.

While I was in London, this Council of course finished debating my address last month. The Chief Secretary and her colleagues gave the Administration's response in speeches which I enthusiastically endorse. I am always in favour of vigorous debate; I am sure Honourable Members acknowledge that it is right for the Administration to put its case as vigorously as Honourable Members do. I now look forward to Honourable Members' questions.

PRESIDENT: Members may now put questions to the Governor. A Member who has asked a question may, for the purpose of elucidation only, ask a short follow-up question. Show of hands please. Mr Martin BARROW.

MR MARTIN BARROW: *Mr Governor, could you brief us on the discussions you had in London regarding steps to be taken to encourage Vietnamese migrants to volunteer to return home, and in particular on what Her Majesty's*

Government will do to help? And secondly, will the United Kingdom restart its scheme to take refugees to set an example to other potential recipients?

GOVERNOR: First of all, the question of Vietnamese migrants is on the agenda, perhaps I should add alas, on each of my visits because we still have not achieved the successful repatriation which I think the whole community wants to see. The voluntary return of migrants which was going at a reasonably expeditious pace last year and in the latter stages of the previous year, has recently unfortunately slowed and we need to, as we have been trying to do, to increase our efforts to encourage migrants to return home to a community, to a country which the rest of the world recognizes as being on the path to exponential growth. I think some of those who dedicate their lives to looking after or helping migrants in our camps — who have done so in other places around the world, do wonder at why it is that migrants insist on staying in Hong Kong rather than returning. It is because the conditions in Vietnam in comparison with conditions from which others have fled around the world are obviously much better. We will continue both through public education and through other ways to encourage return, and I think that the Honourable Member, like other Members of the Council, recognizes the importance of the orderly repatriation programme as part of our overall strategy.

On the United Kingdom's obligations to take their own share of refugees, I am sure the Honourable Member is as familiar as I am with the number taken into the United Kingdom in the past, and also familiar with recent Home Office statements on the position. We have made our views clear to Her Majesty's Government and we will continue to do so, because the whole international community has responsibilities for those refugees which we want to see it discharge.

PRESIDENT: Dr David LI.

DR DAVID LI: *Mr Governor, the average increase of transportation costs this year is around 12.65% which is higher than the general inflation rate by four percentage points. On the one hand, the Government invites private companies not to adjust their annual wage increases beyond the inflation rate, but on the other hand, it allows the cost of public transport to exceed the inflation rate. A 12.65% jump in the cost of transportation alone contributed about one percentage point to inflation. In your policy address, Mr Governor, you said the Government would try to improve the quality of living of the Hong Kong people. Based on that, will you inform this Council, what are the economic rationale in allowing the transport companies to raise their fares beyond the inflation rate? In addition, will you, Mr Governor, also inform this Council how the quality of living of the Hong Kong people can be improved in these circumstances?*

GOVERNOR: I am not sure whether the Honourable Member is comparing like with like, and whether he is taking identical calendar periods in the comparison that he is making, but I will assume that he is doing so because he is a banker and bankers are invariably — I do not say always — invariably right about the figures.

I think that the Honourable Member would himself distinguish between the level of fares for trains and the level of fares for buses. I believe I am correct in saying that the fares set by the Mass Transit Railway Corporation and by the Kowloon Canton Railway Corporation have, over the years, lagged behind the annual rate of inflation. In one case I think that has been so for six years, while in the other case, I think, it has been so for well over 10 years, and that is a tribute to the managerial competence of both those organizations. It is a tribute to their investment. It is a tribute to the productivity achieved by their workforce against the backdrop of that investment.

With our buses, there has been a slightly different story, partly because of the amount of operating costs taken by salaries, and particularly the salaries of drivers. I do not criticize drivers because they need to make a living just like the rest of us. But I think I am right in saying that their pay, as a proportion of overall costs, has been one of the factors — and doubtless, fuel has been another one — in meaning that bus costs are very often being rather higher than train costs. There has also been the requirement to invest, in many cases, in new fleet and particularly in new air-conditioned vehicles in order to preserve and improve the quality of service to passengers.

I do not think that overall it is right to think that transport costs are a major factor in our inflation in Hong Kong. But obviously, the quality of public transport and the cost of public transport are important factors in the overall quality of life, and they are also important and relevant factors in discussing what we can do about managing traffic rather better in the future — that is a subject which we will be offering views to the Council about in the next few weeks and I am sure that there will be a complete consensus in the Council on the sort of measures that will require to be taken.

The Honourable Member is right to remind us of the importance of fares in people's cost of living, but I do not think the situation is quite one of cost-push in the way that he might have been suggesting.

PRESIDENT: Mr PANG Chun-hoi.

MR PANG CHUN-HOI (in Cantonese): *Mr President, the Governor said during the Question Session held last month that the Government had no intention to expand the importation of foreign labour scheme. However, Mr Michael LEUNG, the Secretary for Education and Manpower, recently told the Hong Kong and Macau Affairs Office of China's Ministry of Foreign Affairs in*

Peking that the Hong Kong Government was considering the possibility of allowing more mainland professionals to work in Hong Kong and to extend the scheme to more strategic universities in China. He also mentioned that the Government was thinking about further importing non-skilled labourers so as to meet the demands of the new airport projects. Mr Governor, I hope that you can inform this Council whether the Government is really prepared to raise the quota on foreign labour despite strong opposition from the labour sector. Secondly, the views given by the high-ranking government officials recently and your comments made last month are contradicting. Why is there a change in policy in a short span of one month? What are the reasons? I hope that you can give us a specific answer.

GOVERNOR: The Honourable Member will know that the Administration is under pressure from employers, and employers' organizations by and large to operate more liberal, more open policies in relation to the workforce and allowing more people to work here in Hong Kong, just as we are under pressure from labour organizations to be more restrictive in those that we allow to come and work here in Hong Kong. We do have a very tight labour market associated with the low level of unemployment here in Hong Kong, about 2.3% in comparison with the number of vacancies in our economy. By and large, the number of those unemployed has run at not much more than 50% of the published vacancies, so there is a real, I think, supply constraint there or has sometimes been in the past. I would add that it seems to me that we have been finding ways of coping with that in the last year or two without as a consequence doing what many representatives of labour organizations fear, either on the one hand driving down wages, or on the other hand driving people out of work. In the first half of this year the total labour supply in our economy grew by about 3.5%. Last year it grew by, I think, 2.9%, and at the same time we retained low unemployment and I think saw a steady growth in net disposable income. So I think that we have actually managed to cope with pressures, better than perhaps both employers and labour organizations have suggested.

Let me come specifically to two related matters which the Honourable Member referred to. First of all the overall importation of labour scheme, which I think works tolerably well, though we will want to look once again at quota allocations within the scheme, where there are particular problems of labour shortage because of some major projects. I think we should be able to address those through the importation of additional labour to meet a specific demand, but I think that is a well-established feature of our labour market policy in the community. The particular and related matter to which the Honourable Member refers, is the scheme we have introduced to allow 1 000 graduates of specified Chinese tertiary institutions to come and work and receive a training with employers in Hong Kong. We have had two allocations of jobs under that scheme, allocations on a quarterly basis, and the second one, for example, was heavily oversubscribed. 2 600 people applied for the number of places available which were about a tenth of that size. I think that is why the

Secretary for Education and Manpower said in Peking that we would be reviewing the scheme next year. I do not think that is a new commitment on our part. I believe we have always made it clear that we would want to review the scheme. The suggestion that we should extend the scope of the scheme to other institutions was made by People's Republic of China (PRC) officials and is something that we would want to be considered as part of that overall review.

So I do not think that the Honourable Member should regard the statement made by the Secretary for Education and Manpower as representing a new initiative by the Administration, nor should he regard the scheme, I do not believe, as in some way driving a coach and horses through our existing labour market policy. I think it shows a sensible flexibility in a policy which I recognize is inevitably controversial but which I think, by and large, meets the labour requirements of a community growing as fast as this, as well as we probably could do, without provoking criticisms from labour constituency that we were seeking to return Hong Kong to a sweat-shop economy.

MR PANG CHUN-HOI (in Cantonese): *Of course it is necessary to conduct a review. However, my question is: Last month, you said in this Council that the Government was not considering raising the quota on the importation of ordinary workers for the time being. However, now you are saying that there is an ongoing review, and the situation of the labour market will be taken into account. In other words, you are going back on your own words. How will you explain this to us?*

GOVERNOR: Let me distinguish once again between the overall scheme, the importation of labour scheme which covers 25 000 jobs which we are not undertaking a review of, and the importation of graduates from China scheme which covers 1 000 jobs which we are going to review next year. I can make that distinction which I hope meets the Honourable Member's point. I do not believe I have ever said that we were going to review the importation of labour scheme as a whole, but we are reviewing the scheme dealing with graduates from the PRC. I hope the Honourable Member can be satisfied with that explanation.

PRESIDENT: Mr Timothy HA.

MR TIMOTHY HA (in Cantonese): *Mr Governor, I would like to ask you about the continuity of our legislation beyond 1997. As we all know, the term of office of the Legislative Councillors returned by the 1995 elections will end by 1997. I wonder if you had any discussion in London about the arrangement for our laws to straddle 1997. And can you inform this Council of the attitude of the British Government to this matter? Has the proposal for the setting up of a provisional legislature been brought up during your discussions?*

GOVERNOR: We did not have a substantive discussion about proposals which may have been made by an advisory group to the National People's Congress about the future legislature in Hong Kong. We did not have those discussions because we believe that the legislature which will be elected in 1995, which will be openly elected, and which we believe will be fairly elected and which we believe is acceptable to the people of Hong Kong, is in our judgment entirely in line with the Joint Declaration and with the Basic Law. And if there are those who believe that the legislature should be disrupted in some way in 1997, then it is for them to explain why, and it is for them to justify that to the people of Hong Kong. It is not obviously my responsibility. I have to ensure that what is done before 1997 is in line with the agreements made between Britain and China, that it accords with the spirit and the letter of the Joint Declaration and that it meets, in doing those things, the legitimate aspirations of the people of Hong Kong for a decent and open society; and that I think we are doing.

There are questions which are raised from time to time about legislation which we want to pass through the transition in 1997, and there are two particular aspects to that question which need to be considered — one is localization of laws and the other is adaptation of laws. I think it is important, which is not always done, to make a distinction between those two. On localization of laws, we are making pretty good progress about 300 of the laws which might need to be localized. In fact we can probably put on one side. We probably do not need to deal with those. It leaves a number that do have to be localized. We are intending doing that in about 32 different pieces of legislation, and some of those have already been through this Legislative Council. I think about eight. Two are at present before the Legislative Council being discussed, and I think three will shortly be before the Legislative Council having been broadly agreed in the JLG. There are others in front of the JLG at the moment, about 14, and one or two others which will need to be dealt with in due course. That programme of localization is going forward pretty well. Adaptation has created other difficulties, and they are difficulties that I hope we can resolve with Chinese officials. It was agreed in 1990 in the JLG that adaptation should be discussed there, and I hope that we can make a success of those discussions. So I hope, as I know the Honourable Member hopes, that we can avoid any legal holes come 1997 because that would not be good for the stability or prosperity of Hong Kong.

PRESIDENT: Mr Jimmy McGREGOR.

MR JIMMY McGREGOR: *Mr Governor, I assume that the relationship of the Hong Kong Government with the Preliminary Working Committee (PWC) was mentioned during your discussions in London and I should be grateful to know whether you consider that yourself and the Hong Kong Government should continue to constructively consider the present system of communication between the Government and the PWC to see whether this can be further*

improved; and I would also like to know whether it might be helpful to involve the Legislative Council in this process?

GOVERNOR: Well, we are always delighted to receive constructive advice from the Legislative Council on this matter as on others. The impression that I got from the debate which the Legislative Council had on my speech to this body at the beginning of last month, was that some people wanted us to do more and some people wanted us to do less in relation to the PWC. I think that the guidelines set out by my honourable friend, the Chief Secretary, are extremely sensible and enable us to provide members of the PWC with any help, with any briefing, that they may require to do their job better.

I was very pleased the other day that we had the opportunity of taking part in a seminar on the link between the Hong Kong dollar and the United States dollar, at which a senior Hong Kong public servant was able to make it absolutely clear what our position was on the link. I was delighted that a senior PRC official made it clear that the PRC totally shares our view on that important element of macro-economic policy, though I think I am right in saying that not every member of the PWC takes that view. But it was very helpful, I think, to have that opportunity of making it absolutely clear that there was not a piece of tissue paper between the views of the Hong Kong Government and the views of PRC officials on that particular issue. I think it will have helped to clear up some perhaps unfortunate confusion. So there are opportunities like that which I think we should take as constructively and positively as possible.

I still believe that there is a difference between the position of the PWC and the Preparatory Committee. I think that is well-recognized. But we remain, I repeat, ready to offer advice and information to the PWC whenever they ask for it.

During your debate on my speech, one Honourable Member, in a colourful metaphor, said that we had cooked some pretty good meals ourselves here in Hong Kong and we should offer to show others the recipes. I think we are all very happy to pass over books full of recipes, but I think nobody should necessarily expect us to queue up to cook at a second stove. We have a very good first stove of our own, but we are delighted to tell the PWC and others everything they want to know about it. We are prepared to be as helpful as possible to PWC members — genuinely as helpful as possible to PWC members — as we have been to a considerable extent, and I hope that we will be able to be very positive right across the board in a comprehensive and open relationship with the Preparatory Committee.

MR JIMMY MCGREGOR: *Mr President, could I have just one clarification? Does that mean that the Hong Kong Government is taking a proactive position with regard to the PWC in the offering of information? Are you inviting, in*

other words, the PWC to seek information which you will try to provide? Or are you taking a reactive position where you wait for the PWC, because there is a matter of, if you like, a certain degree of "face" involved here and in order to get dialogue going, if dialogue is necessary, then perhaps it would be helpful if the Hong Kong Government — which after all is holding the information required and the experience which can be provided — if the Hong Kong Government were to take a more proactive position?

GOVERNOR: I have learnt more and more about "face" the longer I have been Governor of Hong Kong, though the Honourable Member knows that it is not something which particularly bothers me, not least given my background. We are as proactive in relation to this as we are to anything or to everything else. I say once again this afternoon that if PWC members want to be thoroughly briefed on the Airport or other infrastructure projects, we would be happy to brief them. If they wish to be briefed on the Railway Development Strategy or related capital investment opportunities for Hong Kong, we will be delighted to brief them. If they wish to be briefed about the localization and adaptation of laws, if they wished to be briefed about our budget, the way we manage Hong Kong's finances, we will be delighted to brief them. We have absolutely nothing to hide and a great deal to be proud about in the way that we have managed Hong Kong's affairs, so we will be delighted to hand over those recipes.

But I do not think, to repeat what I have said before, that it would be right for us to send civil servants off to meetings in Peking or whatever, formal meetings of the PWC, as though the PWC was an alternative to the JLG or the Legislative Council to which the executive in Hong Kong is accountable today and will be accountable under the Basic Law.

PRESIDENT: Mr CHEUNG Man-kwong.

MR CHEUNG MAN-KWONG (in Cantonese): *I learnt from the press that the Government had sent a copy of the draft Bill on the Court of Final Appeal to the Hong Kong Bar Association and the Law Society for consultation. However, the Legislative Council, which is responsible for making laws, and the people of Hong Kong are still being kept in the dark and have no knowledge of the draft Bill. I would like to ask the Governor: If this is a confidential document, why do the Law Society and the Bar Association have prior access to it? If this is a consultative document, why is the Legislative Council, which represents public opinion, not being consulted? What are the reasons for taking such a discriminatory step? Is this something that a government, which places much emphasis on openness and claims there is no hidden agenda, is supposed to do?*

GOVERNOR: If the debate and the discussion about the Court of Final Appeal is taking place in the dark, it is the sort of dark they have at midnight in Lapland. I do not think there is any great secret and certainly no hidden agenda in what has been happening or what has been discussed. In Hong Kong, we have quite enough on our open agenda without having hidden ones as well. But we have been proceeding not secretly. If this is a secret, a whole lot of people seem to know about it. But we have been proceeding in the way that we regularly proceed, when we consult particular interests or particular professions about a legislative proposal before framing legislative provisions to put for open and full debate in this Council.

What I do not want to do is to delay the process by having another long consultation which might jeopardize our ability to get the Court of Final Appeal up and running before the middle of 1996 which is necessary if we are not to have a gap. And I think it would be a gap if we did not have the highest court for appeal and when the Judicial Committee of the Privy Council ceases to be able to discharge that function. The matter has been debated extensively in this Council. It has been debated extensively in the legal profession. It has been debated extensively in the media and in the community at large. And the decision does not turn out at this stage to be any different to the decision which people considered two or three years back. We have to decide whether we want to set up a Court of Final Appeal before 1997 or not. If this Council concludes at the end of the day that it does not want to set up a Court of Final Appeal before 1997, then I think it will have to explain the reasons why very clearly to business and to the rest of the community.

I do not dispute at all that this Court of Final Appeal that we are going to propose is not as superb an institution as some Members would like. Much of life is about choosing whether or not to settle for the good as opposed to the best in order to avoid the worst. And I think this is one such occasion. I know how strongly some Members, particularly perhaps those with a distinguished legal background, feel that the Court should be even more broadly based. But the fact of the matter is that an agreement was reached in 1991 — an agreement before I became Governor, but one which I support. I think it is a good agreement even though it is not the best possible agreement, and I think we should get on and legislate for it. So I do not accept that there are any secrets. I do not accept there is a hidden agenda. I do think that we should get on and sort this out as rapidly as possible. I say sort it out one way or the other. I hope it is sorted out in the way that I have suggested.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr Governor, as you have mentioned just now, when the Bill on the Court of Final Appeal is submitted to this Council early next year, some Members who are conversant with law would most probably move an amendment to increase the flexibility of the ratio of overseas judges. As the amendment is in line with the Sino-British Joint Declaration, will you recognize it if it is approved by this Council? Would you also tell us in passing which is more legally binding, the Sino-British Joint*

Declaration or the agreement on the resolution in respect of the Court of Final Appeal reached by the British and Chinese Governments as mentioned by you?

GOVERNOR: Can I just say one thing about the Honourable Member's premise? It is not I am sure just people with legal backgrounds who feel strongly about rule of law issues. There are quite a lot of us without legal backgrounds, although we may in some cases been married to lawyers, who feel extremely strongly about rule of law issues. I think that just as the health service with great deference to distinguished practitioners should not just be debated by doctors and nurses, so the law should not just be debated by lawyers. The law is what guarantees all our freedoms and all our prosperity and we should all take a lively interest in it. And I am glad the Honourable Member is doing so. Secondly, one of the distinguishing characteristics of this august institution is that it always wants to make my job more difficult. And it is enough of a problem answering real problems and questions and without answering hypothetical ones. The Honourable Member says what would I do if. Well, first of all let us have the if. We will be arguing our own case, we will be arguing for our own bill and the first question I have to address is how we get that bill through the Legislative Council. If Honourable Members were to amend it, then we would have to consider the consequences of that action. But I have a profound and, I think, defensible aversion to answering hypothetical questions when the real questions are difficult enough. Thank you very much.

PRESIDENT: Mr LAU Chin-shek.

MR LAU CHIN-SHEK (in Cantonese): *The labour sector has all along held that imported workers and those coming into Hong Kong to seek jobs on the pretext of attending certain training programmes are seriously undermining the job opportunities which would otherwise be available to local workers and driving down their wage level significantly. Apart from these two sources of imported labour, the local labour market also has a large supply of illegal workers. According to the findings of the Confederation of Trade Unions' studies on this problem, some Indian or Pakistani illegal workers overtly loiter in Sham Shui Po every day waiting for offers of odd jobs. The wage they ask for is \$150 every four hours and, if two workers are recruited at the same time, the wage is \$250 every four hours. In addition, there are also large number of domestic helpers who work illegally at markets, eateries, factories and so forth while many illegal immigrants from mainland China toil on construction sites. The Governor mentioned in his policy address two years ago that workers would be required to display their identity cards at all times on construction sites. Yet, it is a pity that this proposal has never been put into practice. As I see it, the Government deals with the problem of illegal workers half-heartedly by merely taking some law enforcement actions occasionally. It has never taken this problem seriously. I would like to ask Mr Governor: What specific and*

effective measures does the Government have in mind to address illegal working? Thank you, Mr President.

GOVERNOR: I think that the employment, indeed the existence of illegal workers, has two consequences, both of which are thoroughly undersirable in a modern first-world economy like ours. And we are not of course just talking about illegal workers from the South Asian subcontinent, we are also talking about illegal workers from the mainland — from the PRC, and we are talking about illegal workers from elsewhere, too.

The first consequence of large numbers of illegal workers in the community is exploitation of those workers in often deplorable conditions with all the possibilities of crime, both petty and organized, that are associated with that. And it is not least in the interests of illegal workers themselves that we should take a very firm line on illegal working.

Secondly, I have got no doubt at all that even though the macro-economic effect may not be very substantial, there must be sectors of the economy where the number of illegal workers does, in particular areas, drive down wage levels. And I am sure that the Honourable Member has as clear an idea as I do of the sort of sectors that one is talking about.

Both those are very powerful arguments for doing more to stop people being brought into Hong Kong to work illegally — to stop people themselves coming into Hong Kong. We have worked very closely with the police and we have worked very closely with some sectors of industry, particularly the construction industry, to try to stamp out illegal working. I think that illegal working in the construction industry has been an additional reason for the lack of safety in some parts of the construction industry.

I can let the Honourable Member know in terms and in detail, precisely what steps have been taken over the last few months. But I just want to underline to the Honourable Member that we do regard it as a priority; that the police regard it as a priority; and that we have, as the Honourable Member knows, been proposing heavier fines for those employers who take on illegal workers. But I will come back to the Honourable Member about more detailed measures by letter, if he will allow me to do so. (Annex)

PRESIDENT: Mr LEE Wing-tat.

MR LEE WING-TAT (in Cantonese): *Mr Governor, I would like to raise a question on the supply of land and housing.*

The Government released a report in this summer as part of its drive to curb spiraling property prices and to deal with the shortage of housing. One of

the major proposals was to make available an additional 15 hectares of land for the construction of housing units, with the proviso that the Sino-British Land Commission's approval must be sought. As far as I know, since the release of the report in June, the Sino-British Land Commission to date has convened no extra meeting. In other words, if the Land Commission is not going to hold any meeting in the next couple of months, your proposal will fall through. Fifteen hectares of land could churn out 12 000 flats, which are vitally important in alleviating our current housing shortage.

Mr Governor, have you or any of your colleagues ever considered the point that though approval from the Sino-British Land Commission is required for private housing or residential flats for sale, its approval is not required for public housing or rental units? Has the Government ever considered, in the event that no meeting is held by the Sino-British Land Commission at the end of the day to approve the allocation of these 15 hectares of land, using all of this land to build rental housing instead so that applicants on the Waiting List can be allocated accommodation in due course?

I would also like to raise another question. In your policy address, you have not mentioned any timetable to solve the problem of the 150 000 people on the Waiting List, who are now living in private premises, bed-space apartments or partitioned rooms. May I ask why, for these three years, Mr Governor, you have not had the courage to face up to this problem?

GOVERNOR: First of all, on the requirement for additional land supply in order to meet the targets that we announced earlier in the summer, we will need to go to the Land Commission. I think I am right in saying that we will not require to go to them about 15 hectares. I think there are a couple of hectares which are actually covered already — I think it is about 13 that we need to go to them about but I will tell the Honourable Member if I am not absolutely accurate on that. But the Honourable Member is right that we will need to go to the Land Commission. I do not wish to be presumptuous but I have no reason to suppose that the Land Commission would wish to object to proposals which are clearly in the interests of Hong Kong and which are clearly directed towards the quality of life of the people of Hong Kong.

If we were unable to satisfy that requirement, then theoretically, the Honourable Member is entirely right to mention the other option. But we do want, as far as we can, to provide a balanced response to housing demand in the community and we think we have got it just about right between Housing Authority accommodation and private accommodation and publicly-assisted home ownership schemes.

On the size of the Waiting List, perhaps I can say two things. I do not want to get into a theoretical argument with the honourable gentleman about the 150 000 figure, but I think he knows, as I do, that there is a good deal of skepticism about that figure, that many people believe that it includes double

counting and that it includes people who have already met their housing demands elsewhere but who have not taken themselves off the list. There are some who would put the real figure of demand waiting for Housing Authority accommodation at just over half the 150 000, at about 80 000. I do not want to become too precise about it; it is not a precise science. But even if 80 000 is the figure, it is still an awful lot of people waiting in need for decent living accommodation.

Secondly, we have actually addressed the need of particular groups within that overall list. For example, we have given commitments to those living in Temporary Housing Areas. For example, we have given commitments about the single elderly and the elderly living in families. Both those are important groups and in both cases we have been able to be fairly specific about when offers of housing may be made and about reductions in the amount of time they may have to spend on the list. For the overall list, the best way we can meet it is by ensuring that we continue to have a housing programme in the public as well as the private sector which caters for a community which is not only growing as Hong Kong is growing, but where housing demand is becoming more sophisticated and therefore needs to be met with more targeted supply measures.

MR LEE WING-TAT (in Cantonese): *I accept that the figure of 150 000 households includes double counting. But you agreed that there are at least 80 000 to 90 000 households who are waiting for public housing. May I ask if you have any target in your own mind, I repeat, "in your own mind", as to when these people on the Waiting List will be allocated a decent and affordable public unit? I brought this up because performance pledges are made for many public services but where the Waiting List is concerned, no performance pledge, say, giving those on the Waiting List an undertaking that they would not have to wait more than three or four years before being allocated public accommodation, has ever been made. Mr Governor, honestly have you ever thought about this?*

GOVERNOR: The programme will take us up to 2001. I guess that the overwhelming majority of those who are at present on the list should be able to look to being rehoused within the time scale of an existing programme. The difficulty that the Honourable Member and I, I am sure, both recognize is this: first of all, the Housing Authority themselves are looking, as the Administration is looking, at the real scale of demand, and I would hope that we could come to some agreement about that. But the 80 000, if 80 000 it is, is not a static number because secondly, there are going to be new requirements for public housing, not least — and this has nothing to do with illegal immigration or extra workers coming in — because of the fact that there will be more people coming in to Hong Kong, for example, after 1997. So I do not think it is easy to give a precise pledge, but I will certainly look at that and see how much more precise we can become.

If I may add one rather controversial point. I think I am right in saying that at the moment about 10% of those living in Housing Authority accommodation have household incomes which are more than twice the level which we would apply if we were looking at them newly applying — the income level that is — newly applying for Housing Authority accommodation. I think that that is undoubtedly a reason why we are not able to deal with housing need as flexibly as might otherwise be the case. It is in the Honourable Member's experience, as it is mine, that there are some people living in Housing Authority accommodation who own property outside.

PRESIDENT: Mr James TO.

MR JAMES TO (in Cantonese): *Mr President, when commenting on the Court of Final Appeal just now, the Governor made some sort of comparison between the best choice and the second best, yet more practical, choice. He concluded that if the Legislative Council was to amend the bill or make any other decision, legislators would have to explain to the rest of the community. Looking at this matter from another perspective, however, we must not forget that it is stipulated in the Joint Declaration that after the transfer of sovereignty, the lifestyle and the social systems of Hong Kong will remain unchanged. Against this backdrop, there are now two options available to us. The first option is to sabotage the Joint Declaration right now and this would completely shatter people's confidence in the entire system and make them feel hopelessly unprotected. The second option is to breach it, hopefully, for this time only and there may not be a second time. In the latter case, people may feel that they still have some sort of protection.*

Mr Governor, of these two options, which one do you think will be more damaging to Hong Kong people's confidence and that of the international community in Hong Kong's transition in accordance with the Joint Declaration? Has it ever occurred to you, Mr Governor, that if we set up a Court of Final Appeal with a measure of flexibility under the Joint Declaration and then following her resumption of sovereignty over the territory in 1997, China decides to sabotage our systems which have been serving us so well for years, including the Court of Final Appeal, it will be China's responsibility to assure the world that Hong Kong will still be able to maintain its stability, prosperity and the rule of law, will it not? It is certainly not for the Legislative Council, nor the present sovereign power in Hong Kong, to take the blame for sabotaging the Joint Declaration in the first place and dealing a blow to Hong Kong people's confidence.

GOVERNOR: The Honourable Member's question assumes that the Court of Final Appeal that we propose to the Legislative Council will be a Court of Final Appeal which is not in line with the Joint Declaration, and I do not accept for one moment that assumption. I do accept that we may put forward proposals

which the Honourable Member and some of his honourable friends do not regard as ideal, but that is a different point, and one which in due course we will have to debate. But I do not accept that we will put forward proposals that are out of line with the Joint Declaration.

PRESIDENT: Mrs Elsie TU.

MRS ELSIE TU: *Mr president, I would like to follow on what Mr LEE Wing-tat said. I agree with what he said. But besides those 80 000 we have an unknown number of people who fall between the rental housing income limits and the point at which they can buy ownership or go into the sandwich class. That is a huge and unknown number of people. I am tired of drawing attention to them. What is being done for them?*

GOVERNOR: I agree with the Honourable Member that there are a group of people who do not qualify for Housing Authority accommodation, and who do find it difficult to purchase their own accommodation. It is also worth noting that they will, if they were in privately rented accommodation, be paying a far higher proportion of their income than they would be if they were in Housing Authority accommodation. I think I am right in saying that as a proportion of household income those in Housing Authority flats would be paying about 7.5%, whereas on average though their flats may be a bit larger, while those in the private sector are paying about 28% of their household income. One may not be comparing identical income groups, but those are, broadly speaking, the figures across the sector. It is precisely for that reason that we have a range of programmes to subsidize the purchase of accommodation by those who do not qualify for Housing Authority homes. We have Public Sector Participation Schemes, we have the Home Ownership Scheme and so on, and we will continue to put public support into those schemes so that we can help the group which the Honourable Member refers to, which is not, I have to say unique to Hong Kong, but is a feature of life in most advanced economies.

MRS ELSIE TU: *Mr Governor, if you would check up on that because I think you are wrong in saying that they are living in better accommodation and paying higher rent. It is true that they are paying higher rent — up to 50% of their salary is going in rent, and they are living in worse accommodation than public housing.*

GOVERNOR: I did not. If I said better, it was inadvertent. The floor space comparison suggests that the flats usually are. Well I am just giving the averages. Of course the Honourable Member is right to say that there will be many examples of people living in very bad private sector accommodation and

paying more than the average figure that I gave. But I was giving the averages and they perhaps distort in both public and private sectors.

PRESIDENT: Mr CHIM Pui-chung.

MR CHIM PUI-CHUNG (in Cantonese): *Mr Governor, during your recent visit to Britain, something happened in Hong Kong which runs counter to your principles. You hold that government policies should be open, fair and highly transparent. However, to my disappointment, the Secretary for Financial Services, under the influence of the Futures Exchange and the Securities and Futures Commission, came up with the decision of allowing the shares of two companies to be traded as stock futures. Stock brokers and all those involved are kept in the dark about the series of developments which lead to such a decision.*

In view of this, may I, firstly, request you to clarify whether or not it is you yourself who allow the Policy Secretary to make such a decision in your absence. Secondly, although you may not have much experience about the industry, do you know what futures are? What are their functions? Is it the policy of the Hong Kong Government to take advantage of the transition period by converting the scene so that the spot market has to serve the futures market and the financially strong companies and stock brokers all over the world may come to Hong Kong to do whatever they want? A lot of people outside this Chamber are pricking up their ears at the answers to these two questions. I hope that the Governor can elaborate on this issue and provide us with an explicit reply.

GOVERNOR: I would hesitate to give a lecture on stock market operations, on the difference between stock options and futures or whatever, to such a great expert in these matters. It would be like me, even though I can only pick out a few notes on the piano, giving a lecture to Paderewski on Beethoven. I mean I simply would not be qualified to do it. But I think the Honourable Member knows the difference between a future and some of the stocks in which he has doubtless in his time dealt with considerable success for his clients.

I think what we are talking about in this case is the reputation of Hong Kong as an international financial market and the breadth and competitiveness of that market. I think that the discussions about futures, about the development of derivatives, to which the Honourable Member refers, were necessarily taking place in confidence because those who were discussing those questions did not want other markets to know too clearly what was happening. But I think that the further extension of investment opportunities which this development represents is welcome. It comes under, of course, the regulatory umbrella of the very widely respected Securities and Futures Commission. And I have to tell the Honourable Member — which I hope does not confirm all his worst

prejudices about me — that the decision was taken while I was in Hong Kong. Indeed, it was discussed by the Executive Council just before I went to London.

I hope that any disagreement, any misunderstanding between those responsible for our futures market and those responsible for the Stock Exchange, can be ironed out and overcome and I am sure that we all want to see the best possible communication between those two important camps.

MR CHIM PUI-CHUNG (in Cantonese): *Mr Governor, as you have got the full picture of the incident, may I make a public appeal that the implementation be delayed for a few months, so that investors and all those involved may have a better understanding of the intention of the Government?*

GOVERNOR: I think that if that decision was to be delayed for a few months we would find that the business had gone elsewhere, and I think that the Honourable Member is probably a wily enough practitioner in these matters to recognize that himself. I think the business would probably go off to another financial centre. What is important is to ensure that any trading in our financial markets is properly regulated and takes place within parameters which are regarded as financially prudent by the community, and I certainly think that is true in this case. But I would not go into the arcana of the futures market because I am sure the Honourable Member knows much more about it than I do.

ADJOURNMENT AND NEXT SITTING

PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday 9 November 1994.

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

