

OFFICIAL RECORD OF PROCEEDINGS

Thursday, 19 January 1995

The Council met at half-past Two o'clock

PRESENT

THE PRESIDENT

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

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

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

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

THE HONOURABLE SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

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

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

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

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

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

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

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

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

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

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

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

THE HONOURABLE MOSES CHENG MO-CHI

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

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE FREDERICK FUNG KIN-KEE

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

THE HONOURABLE MICHAEL HO MUN-KA

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 EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

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

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE STEVEN POON KWOK-LIM

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

THE HONOURABLE TIK CHI-YUEN

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

DR THE HONOURABLE HUANG CHEN-YA

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE ZACHARY WONG WAI-YIN

IN ATTENDANCE

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

MR RONALD JAMES BLAKE, J.P.
SECRETARY FOR WORKS

MR CHAU TAK-HAY, C.B.E., 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, C.B.E., J.P.
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

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

MR GORDON SIU KWING-CHUE, J.P.
SECRETARY FOR ECONOMIC SERVICES

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

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

MR DOMINIC WONG SING-WAH, O.B.E., J.P.
SECRETARY FOR HOUSING

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

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 answer questions on the six topics which have been indicated to Members. A Member who has asked a question may, for the purpose of seeking elucidation only, ask a short follow-up question. A show of hands please? Mr Martin BARROW.

MR MARTIN BARROW: *Mr Governor, I would assume that you would agree that the key to solving the issue of Vietnamese migrants stranded in Hong Kong is to build up the voluntary return programme. Could you tell us what specific action is being taken to build up the amount of counselling in the camps, both by the United Nations High Commission for Refugees (UNHCR) and the Government and the various other bodies involved, as many of us have the impression that the amount and quality of counselling is currently inadequate?*

GOVERNOR: I agree with the Honourable Member that counselling is one of the factors in encouraging the voluntary return of Vietnamese migrants. I do not think it is the only issue and I do not think we should underestimate what we have achieved in the last few years. 44 000 have been returned and in 1992 and 1993 about 12 000 a year were returning. We obviously need to try to get back to that sort of level.

I would like to draw attention to two particular issues which I believe to be important. First of all, I am sure that the Orderly Repatriation Programme (ORP) has been an important part of the overall strategy and the mandatory repatriation has encouraged Vietnamese migrants to recognize that they do not have a long-term future in Hong Kong. We had to suspend the ORP for about five months, after the events in Whitehead. I think that was understandable, but I think one of the consequences of that was that we lost some of the momentum in the voluntary programme. But now that the ORP has been properly resumed and we had, I think, the largest number ever returning on one flight yesterday under the ORP, I hope that it will encourage more Vietnamese migrants to return under their own steam as it were.

Secondly, it is important that we have the best and most effectively co-ordinated programme in the region. We were very pleased with the decision by the UNHCR to appoint Mr De MELLO, who is very experienced in this area, to help give the Comprehensive Plan of Action (CPA) a bit more momentum and impetus, and that will obviously include the sort of measures which the Honourable Member has mentioned in individual camps. It will have to include voluntary measures and counselling, as well as a clear and comprehensive

indication of the commitment of governments in the region to complete the programme.

So I concede that there is continuing scope for counselling for voluntary action in the camps. We have been attempting to put more resources through that channel. But I think that it is only one of the many things that we need to do in order to ensure that we resume the rate of progress which was so satisfactory in 1992 and 1993.

PRESIDENT: Dr YEUNG Sum.

DR YEUNG SUM (in Cantonese): *There are currently about 60 000 families living in rooftop structures in Hong Kong where the living environment is fairly dreadful. From the clearance of rooftop structures in Tsuen Wan this time, we can see that there is a lack of co-ordination among various government departments. As far as clearance and rehousing are concerned, there is apparently a lack of communication among the Buildings Department, the Housing Department and even the Social Welfare Department. As a result, residents have to put up with the unreasonable policies. May I ask, Mr Governor, whether you will discuss with your subordinates the issue of rehousing? I understand that residents of rooftop structures generally lead a life under inferior conditions. I hope the Government can learn a lesson in respect of co-ordination among government departments from this incident.*

GOVERNOR: Well, I think that we can always learn how to do things better. I am not sure that I would wholly accept the implied criticisms of the Honourable Member in this particular case. I think that some of the advice which some of those who lived in these structures have received has not necessarily been all that good, and I think that the best thing that they can and should do is to accept the offers of rehousing which have been made. It seems to me that that is overwhelmingly in the interests of those families.

It is an indication of a much broader problem, not just, if I may say so, the question of illegal rooftop structures but also illegal structures elsewhere and I do not think one should ignore that aspect. If the Government were simply to ignore those structures, we would be running considerable risks and the first time there was an accident or an incident, for example, involving fire or some other similar causes, we would be properly and roundly criticized. So I think that we have been right since 1988 to implement a clear programme of eliminating rooftop structures and that programme must affect, if I may say so, rooftop structures in every neighbourhood regardless of the price or quality of the flats down below. It has to be a comprehensive policy.

In this particular case, I think I am right in saying that the original decision was made clear in the middle of 1993, and since then all the usual

appeal procedures have been gone through. But alas, some families are still resisting the proposals that have been made on their rehousing. Nobody is going to be rendered homeless by this programme, but we would obviously look at how we can do things better and if there are lessons that we can learn from this then we shall want to apply them elsewhere. The one thing which I do not think we should do is to give anybody who lives in these structures the impression that the right way to queue jump is to acquire this sort of accommodation, because I think that would send the wrong signals.

DR YEUNG SUM (in Cantonese): *Mr Governor, last time you gave an order to the effect that all squatters and Temporary Housing Areas will be demolished under certain circumstances. Will you apply the same determination to the rooftop structures issue by freezing the number of rooftop residents at the present level so that they can be rehoused gradually year by year?*

GOVERNOR: I am not in favour of a freezing survey which was a phrase I had not come across until dealing with this particular issue. First of all, I think it would take a great deal of time. It would involve quite a lot of resources. And I am not sure that holding up the application of this policy for a year or 15 months, which is what we reckon it would take, would be in anyone's interest. It is true that we want to move the programme forward as rapidly as possible. I think that we have got over 50 clearances of rooftop structures in the pipeline over the coming months and we will try in all those cases to ensure that there is proper co-ordination between the Housing Authority, the Housing Department and the Social Welfare Department, so that particularly the most compassionate cases can be dealt with. It is a difficult problem. In some ways, it is more difficult than the question of clearing the temporary housing areas. We are getting on with that, particularly dealing with the older temporary housing areas. This is, I think, a more difficult problem because the bureaucratic solutions are not as neat and tidy. But we will try to implement the policy in a way which recognizes peoples' continuing housing needs and try to treat the families concerned as reasonably and decently as possible.

PRESIDENT: Mr LAU Wah-sum.

MR LAU WAH-SUM (in Cantonese): *Mr Governor, there are at present approximately 700 members of Her Majesty's Overseas Civil Service (HMOCS) serving in the Government of Hong Kong. Some of them have indicated that they hope to continue to serve Hong Kong until after 1997 and to be converted into employees of the Special Administrative Region (SAR) Government thereafter. Have you discussed this matter with the Chinese Government in order to relieve these employees of their worries?*

GOVERNOR: We have discussed in general terms the importance of a smooth transition for the Civil Service and for all civil servants, including those who are members of Her Majesty's Overseas Civil Service (HMOCS). I think that Hong Kong is unusual in having a public service which is drawn from so many different backgrounds, and I think everybody recognizes the quality of the contribution which members of the HMOCS have made to the Civil Service, to the police and to other parts of the public sector. I am sure that Chinese officials would want members of the Civil Service, whatever their backgrounds, whether they were members of the HMOCS or not, to continue in post and to continue to make a contribution to the community here in Hong Kong because I am sure that Chinese officials understand the importance of the Civil Service to Hong Kong's well-being. But the Honourable Member makes a valid point and it is one which we will have to continue to underline.

MR LAU WAH-SUM (in Cantonese): *Mr Governor, could any clear indications be given to these employees to allay their worries as they are at present still not sure whether they can continue serving in their posts?*

GOVERNOR: Well, it is absolutely clear that they can stay beyond 1997, though it is also clear that there is a small number of jobs which will be reserved for local civil servants. The whole Council knows that there are a couple of dozen or so jobs which will go to the locals, and that in terms of personnel development and succession planning, that affects of course rather more jobs than that. But having said that, members of the HMOCS, those who are not local, know very well that they can stay and have a role in Hong Kong beyond 1997 provided that they are carrying out their duties in an effective and responsible way.

PRESIDENT: Mr Michael HO.

MR MICHAEL HO (in Cantonese): *Mr President, I would like to ask Mr Governor about the Bill on the Court of Final Appeal. Last year, Mr Governor handed the electoral legislation to the Legislative Council for a decision. If we succeed in amending the Bill on the Court of Final Appeal after its submission to this Council and, after amendment, the wording of the Bill are put in line with the wording of the Basic Law, what would the Administration choose to do? Would the Governor withdraw the Bill during the Third Reading or take any other alternative?*

GOVERNOR: Part of the charm of this Council is there is so little other controversy in public affairs in Hong Kong that Members enjoy asking hypothetical questions and creating other hurdles for the Governor to leap over. And as happened the last time I was asked this question in the Legislative

Council, which I think was shortly before Christmas, so my answer on this occasion is exactly the same. The Government will in due course bring forward legislation which the Government will attempt to see that it is passed by the Legislative Council. And I am certainly not going to consider what the Government would or would not do in unknown hypothetical circumstances. It is entertaining to answer those questions but perhaps not wholly wise.

MR MICHAEL HO (in Cantonese): *Mr President, Mr Governor just mentioned the problem of divergence which is in fact a question on the extent of the divergence. I accept that it is impossible to define its extent at present. However, Mr Governor, will you present this Bill to the Legislative Council before reaching any agreement with China?*

GOVERNOR: Well let me say two things. First of all, we, of course, will put legislation to the Council which we believe is wholly in line with the Joint Declaration, the Basic Law and the agreement reached between China and the United Kingdom through the Joint Liaison Group (JLG) in 1991.

Secondly, we will hope that the legislation that we put forward has as broad support in the community and beyond as possible.

Thirdly, Director LU Ping has made it clear that the Chinese side still thinks that we should go ahead and implement the 1991 agreement before 1997 and we will be seeking to do that with, I trust, the enthusiastic endorsement of many members of the community and with the understanding of the Chinese side. It is true that it seems to be taking slightly longer for the Chinese side to give us their views on the bill than we would have liked. They received the bill in May last year. We have been asked a couple of lists of questions on the bill which we have answered, I trust, satisfactorily. So I hope that we will be able to get a definitive contribution and a definitive positive contribution from the Chinese side as rapidly as possible.

It is in everybody's interest that the Court of Final Appeal is set up and is functioning before 1997. I do not make it up when I note that people are increasingly asking questions about the future of the rule of law in Hong Kong, not least in an economic and commercial context. And I think that they will see decisions taken on the Court of Final Appeal as being central to that debate. So I hope that we can proceed with as much understanding and support from this Council as possible. This Council will have to make the political decisions as the professional bodies representing the law have made plain, and I hope we can have as much support in the legal profession too.

PRESIDENT: Mr Steven POON.

MR STEVEN POON (in Cantonese): *Mr President, Mr Governor, during last week, the most controversial and worrying issue in Hong Kong was the handing over of files on civil servants to the Chinese side. Although this issue does not fall into one of the six questions for answer today, I hope the President and the Governor can allow me to raise the issue here as the Civil Service is the backbone of Hong Kong's administration framework. Mr Governor, can you clarify the Hong Kong Government's stance on this issue? And will you take positive actions and initiative to settle the controversy relating to the handing over of information about civil servants to the Chinese side?*

GOVERNOR: I think the Honourable Member would concede that it is not the Hong Kong Government or the Hong Kong authorities which have in the last few days been tying knots. I do not want to see a heated short-tempered controversy continue to dominate public attention on this issue for two perfectly obvious reasons. First of all, because, as I said yesterday, we were talking about the livelihood and the careers of men and women who have made and continue to make a considerable contribution to Hong Kong's well-being, stability and prosperity. There are people who do have anxieties and we should be seeking to allay those anxieties rather than to whip them up.

Secondly, because I believe it to be the case that the Chinese authorities recognize, as we do, that one of the reasons for Hong Kong's success is the quality of the Civil Service and therefore anyone who wants, not just a smooth transition, but also the future government of the Special Administrative Region (SAR) to get off to a flying start, a successful start, must want as smooth a transition from the Civil Service as we can possibly manage.

So that is the background to the, I hope, non-inflammatory way in which I respond to the honourable gentleman's question. We have already, through the mechanism of the JLG, provided a huge amount of information to the Chinese side about the Civil Service, covering issues like the way the Civil Service is organized, what people are paid, and the biographical details of individual civil servants. If there is more that Chinese officials require than that, then the right way to proceed is to discuss those matters calmly and sensibly through the JLG or through any other channel which Chinese officials think would be more appropriate. But my own judgment is the right place to do it is in the JLG.

In taking that discussion forward, the Hong Kong Government and I would hope the Chinese officials will have, at the top of our considerations, the well-being of individual servants and those anxieties to which I referred. And I have read, as the honourable gentleman would have read, what un-named Chinese sources have said to one or two of our newspapers in Hong Kong about the information which they think should be provided. Any information which Chinese officials say they want should be put to us in the JLG and they should say why they want it and we will respond then. And I can assure this Council that we will respond in a way which takes account of what I am sure would be

the concerns in the Council about civil service morale and in a way which takes account of the individual interests of civil servants.

MR STEVEN POON (in Cantonese): *Mr President, I would like to thank the Governor for giving me the reply. Mr Governor, can you confirm that in the Joint Liaison Group meetings the Chinese side had never attempted to indicate or specifically indicated what information about the civil servants should be handed over to them?*

GOVERNOR: What I can say is that Chinese officials have made some general requests for information. We have been providing that information, but I believe I am also right in saying that some of the information referred to by the un-named Chinese sources in Chinese language newspapers in Hong Kong has not been asked for in the JLG.

Perhaps I can add one other point. I suspect that some Chinese officials think we have more information on civil servants than is in fact the case, and I also suspect that some of them do not necessarily recognize the legal prohibitions and the moral inhibitions which some of us would feel about the provisions of other sorts of information. In relation, for example, to the question of passport holding and the British Nationality Scheme, the obligations on me and the obligations on others are absolutely clear in the law. Absolutely plain.

One other point, and it is not irrelevant to the question I answered earlier about hypothetical questions. How are these matters going to happen in practice? How are they going to be resolved? This is not a question which touches on the transfer of sovereignty which is absolutely clear. I assume that at some stage after the appointment of the chief executive designate, he or she is going to want to start discussing career prospects with individual members of the Civil Service and perhaps with others, and he or she will presumably put questions to would-be applicants or would-be fillers of jobs about their intentions, about their nationality and so on. That is the way these things, I assume, will work.

So I hope that we do not create problems in a difficult area where it should be perfectly possible to resolve things in a way which takes account of privacy and which takes account of the proper concerns of individual civil servants.

PRESIDENT: Mr Peter WONG.

MR PETER WONG: *Thank you, Mr President. The Governor in his answer just now alluded to the British Nationality Scheme. I think the Governor will appreciate I am a member of that committee and my concern is that I have heard some rumblings recently from the Preliminary Working Committee that they are going to ask for details of the applicants to that scheme. Now to me I am quite clear that this is a British scheme and is not a Hong Kong scheme. So is there any question of disclosing any of that information to the Chinese side?*

GOVERNOR: There is and can be no question at all. I do not want there to be a single scintilla of doubt on this point. If I was to provide information about individuals and their applications under that scheme, I would be in breach of the law and I do not intend, as Governor of Hong Kong, to break the law. There are many people in Hong Kong who having taken, presumably, an objective view of their future, of their prospects, of where they wanted their families to continue their lives, have opted for foreign passports, have opted for the right of abode elsewhere. That is their own business. Some of them are doubtless Members of this Council. Some of them are doubtless among those who advise Chinese officials. We find them right across the community. That is an individual decision for people to make and it should be respected. At the same time, all Hong Kong's civil servants know what the Basic Law says about the nationality of those who will be in senior positions. That is not in dispute. But the question of privacy, the question of confidentiality should not be in dispute either and I do not want there to be any misunderstanding, any doubt about it whatsoever. That is the position on 19 January 1995, and it will be the position for the next two and a half years and beyond.

PRESIDENT: Mr Alfred TSO.

MR ALFRED TSO (in Cantonese): *Mr Governor, when I visited Beijing last Friday, I talked to a Chinese official who was responsible for the problem of the Vietnamese Boat People (VBP) about the handling of the boat people stranded in Hong Kong. According to that official, the Chinese authorities were not notified in advance of the Hong Kong Government's arrangement of transferring the 125 VBP to the open camps and allowing them to go out to work. They thought that this arrangement would pose obstacles to solving the problem of the stranded boat people. They also expressed their deep concern that the VBP problem should be solved before 1997 so that Hong Kong would not be affected. Could Mr Governor inform us:*

- (1) *whether the Hong Kong Government has consulted the Chinese side in advance through the British side in order to avoid any misunderstanding between the Chinese and the British sides;*

- (2) *if the answer is negative, whether the Hong Kong Government will step up communication between both parties in regard to the handling of the VBP problem;*
- (3) *whether the Hong Kong Government will solve the problem pertaining to the VBP stranded in Hong Kong before 1997; and if problems arise and when it deems necessary, whether the Hong Kong Government will seek co-operation and support from the Chinese side as soon as possible with a view to ensuring that the problem can be solved?*

GOVERNOR: There is a lot wrapped up in that question. We have, I think, always kept in touch with Chinese officials about the dimensions of this problem. We were in touch, I think, with Chinese officials when Vietnamese migrants were arriving in Hong Kong. We were in touch with Chinese officials about how some Vietnamese migrants were getting to Hong Kong. We, of course, let Chinese officials know about issues like the 125 Vietnamese migrants to whom the Honourable Member referred. The Honourable Member was, I am sure, able to tell his Chinese interlocutor about the legal reasons for the decision that we took in that particular case. I hope that Chinese officials, who have doubtless had similar problems to deal with themselves, will recognize that we have been trying to tackle this problem as effectively and compassionately as possible, that we have recognized the huge burden which this community has shouldered, and that Hong Kong has probably done better than anyone else in the region in organizing and encouraging the return of migrants. There are still well over 20 000 in our camps. If we can get back, which I hope proves possible, to the success rate, as I mentioned earlier, of 1992-93, then we will be able to clear the camps in good time and that remains our firm and determined objective.

PRESIDENT: Mrs Peggy LAM.

MRS PEGGY LAM (in Cantonese): *Mr Governor, I would like to ask about the policy relating to the migration of Chinese children to Hong Kong. The Government proposed to give special permission to those children who have come to Hong Kong illegally and are awaiting judicial review in their bid to receive education in Hong Kong. To avoid attracting more illegal child immigrants, the Government has promised to review the matter after six months. How is the matter progressing now? Will the measure of the Government affect the policy for the migration of Chinese children to Hong Kong?*

GOVERNOR: I think that it is right for us to behave as compassionately as we can in what remain difficult cases which involve difficult matters of judgment

for officials. But there is an aspect of the problem which I think we need to tackle as imaginatively as we can. There are, it is reckoned, 64 000 children who will after 1997 have the right of abode in Hong Kong. I have to say that I do not think that it would be right for us to leave that problem pretty well on its present scale for the SAR government to have to cope with on 1 July 1997. We have, with Chinese agreement of course, increased the daily quota and within that quota there is an additional group of children from the 64 000 coming in every day — about 15. In a week, that is two or three classrooms full of children and we recognize the impact of that increase on our educational provision. But I do think that we have to do more and go further if we are not to leave a very very difficult problem to the SAR government. It will be a question of balancing, in due course, some increased provision against our educational demands. But we will be hoping to discuss figures and discuss the development of the policy with Chinese officials as soon as possible. And I think that we will have the understanding of this Council and of the community when that happens. I repeat that the present policy is a difficult one to implement. I think it is necessary for us to control the flow of children into Hong Kong, but it involves decisions which are very difficult to take, in the courts, for officials, and it has to be said, for the Governor too. But if we were not to implement a policy like this, the consequences could be catastrophic as, I think, they were a few years ago when there was so much smuggling of children into Hong Kong.

MRS PEGGY LAM (in Cantonese): *Mr President, I would like to follow up with an issue. As the Governor has just said, 15 more children are coming into Hong Kong every day, that means 450 children a month and about 5 000 to 6 000 a year. Based on this calculation, it will take 10 years to take in these 64 000 children, excluding those who would be coming in the future. Will the Government discuss with the Chinese authorities about the possibility of increasing the quota further?*

GOVERNOR: The simple answer to that question is, yes, which I tried to say in my earlier reply but I am sorry if I did not make the point sufficiently clear. I think we do have to discuss and we hope to be able to do so soon, with the Chinese authorities, an increase, an adjustment in the quota, but we have also obviously to do so in a way which we can manage in terms of our educational and other provision.

PRESIDENT: Mrs Miriam LAU.

MRS MIRIAM LAU: *Thank you, Mr President. Mr Governor, I wish to ask a question concerning the report on measures to solve the problem of traffic congestion. In this report, private vehicles including private cars and motorcycles are singled out as being the main culprit of traffic congestion, and*

all of the more controversial measures are targeted at private vehicles with a view to pricing them beyond the ordinary person's means or pricing them off the roads. I appreciate that private vehicles, specifically private cars, have grown at a rate higher than that originally intended by the Government. But nonetheless, the fact is that private vehicles are not the prime cause of traffic congestion and on many roads in Hong Kong, including our major trunk roads, it is actually the other types of vehicles, that is, container trucks, lorries, vans, taxis, buses, and so on, that take up most of the road space. Under these circumstances, would you, Mr Governor, not agree that it is unfair to target the proposals at private vehicles only? And can you, Mr Governor, also confirm whether fairness is a relevant consideration by the Government in the formulation of the policy in this area?

GOVERNOR: Yes, we do need to be fair but we also have to decide whether or not we want gridlock in due course. There is a horrifying implacability about the figures. Hong Kong has far fewer cars per household than most other communities, probably than any other community of its relative prosperity. At the same time, Hong Kong has far more cars per kilometre of road than most other communities like it. At the moment, I think I am right in saying that there are 270 vehicles per kilometre of road, and that is far greater than in comparable cities. We have managed, despite that, to secure — Members may not believe this but it is what the figures tell me — more rapid transportation around the community, again, than most comparable communities. But those figures are steadily moving against us as more people, probably understandably, becoming better off seek to become the owner of a car.

Now what does the Government do in these circumstances? I suppose, cynically, one could put off taking any decision which might be unpopular until individuals made their own choices because of the horror of actually trying to drive a car in constant traffic jams. It is by and large what passes for a transport policy in some other communities. I do not think it is very satisfactory but it produces a result of sorts. Or we can try, through a variety of measures, to deal with the problem before it deals with us, before it overwhelms us.

Now it is not a question of targeting the private ownership of cars, though that may be how it comes across on the election hustings later in the year. There are many things that we have to do. We have to build more roads and we are spending \$30 billion over the next five years doing that. Members may note that building more roads does not always solve traffic problems. More roads equals more traffic on them. Secondly, we have to take traffic management initiatives as well, such as bus lanes, tougher measures dealing with the loading and unloading of vehicles and more computerization of traffic-lights. Thirdly, we have to do things which improve public transport and encourage more people to take public transport, such as more frequency of trains at peak hours, more buses and again more bus routes. And 90% of people are using public transport for their journeys.

Next, and the honourable lady is entirely right to refer to the problem because of movement by trucks and lorries, I hope that as we implement — which I hope the community will be able to — the Railway Development Strategy, more goods will be taken off our roads and will travel by rail, particularly as they go in and out of China. That will have some impact. But with the best will in the world, one cannot avoid taking some decisions which will have an impact on, if not car ownership, at least on the costs of using a car, and that is where the unpopularity comes in. And that is where people can say: It is all very well but your Governor and you drive around, indeed the case, unlike most, in a car with a flag on the front and you do not have to bother about the issues which the rest of us have to bother about. Well, I just say in passing that you were only Governor once and there will be a life without a flag on the front of the car, so I recognize the problems of car ownership as others do.

I hope that the Council and the community will not seek the entirely easy way out. The easy way out is, as St Augustine suggested, to be in favour of virtue but not yet. The easy answer is to be in favour of all the long-term measures to deal with transport but not any of the medium or shorter-term measures. But the long term happens; we get to the long term eventually and when you get to the long term happens; we get to the long term eventually and when you get to the long term, you were left with bigger problems and even more unpopular things to do. So when the Council debates this issue next month, I trust it will take account of the importance of facing up to some issues which may not be very popular but are almost certainly right.

MRS MIRIAM LAU: *Mr President, just to follow up. My question specifically was why private cars are chosen as the target for the more controversial measures, that is, the fiscal measures, the Electronic Road Pricing, the quota system, when other types of vehicles that are also conducive to traffic congestion are not included? Why is the target at private vehicles? I do not think that part of the question has been answered.*

GOVERNOR: It is because private car ownership is growing at 10% a year. It has done so for the last three years and that is, to be blunt, difficult to sustain, or its implications are difficult to sustain, in the long term. I do not deny that there will be responsibilities for others to discharge, for public transport undertakings among others. It is also, I suppose, worth pointing out that in some respects we have not been allowing tax to rise in line with inflation over the last few years, so that some of the costs of motoring, believe it or not, may have actually been falling relative to the costs of doing other things. But it is difficult when so much of the traffic on our roads is the car and when so many of those cars, as Honourable Members will know for themselves, are being driven by one person with maybe no passengers at all. It is difficult to ignore the car as the principal factor, if one is going to deal with difficult traffic management problems.

It is not a question of being anti-car. It is not a question of being anti-car owner. It is not a question of singling out the understandable aspiration of people to car ownership as they get better off. What it is to say is that there are consequences of that aspiration and that we either need to deal with them or the results for all of us will be environmentally very difficult to live with.

There is one other issue that, in the company of the Chief Secretary and the Financial Secretary, I would like to raise, otherwise I shall be in very considerable trouble. A lot of people in the community, and I have just mentioned two of them, are very worried, very concerned about the amount of time or about the number of occasions on which, among others, public utilities open up our roads and make traffic management much more difficult. We are looking at ways in which we can try to improve that situation. I think that it would be nice if the public utilities were prepared to enter into performance pledges about what they do. I think there are arguments for working at night rather than during the day, though that has implications that we need to be concerned about for noise. I think it is important to cover cuttings in the road when work is not going on. But above all, I think that anybody who lives in Shouson Hill Road or in the south of Victoria Island will feel very strongly that it would be nice if the same stretch of road was not opened up by so many undertakers, as it were, seriatim rather than all at the same time.

PRESIDENT: Mr Timothy HA.

MR TIMOTHY HA (in Cantonese): *Mr Governor, in recent years, many Hong Kong men have set up families in Mainland China, this is the reason for the large number of children in China as we have just discussed. However, the families recently set up by these men in China are not their first families (as they already have wives and children in Hong Kong), they are their second or third families. This phenomenon is commonly known as "keeping a second wife" or "keeping a third wife". Under these circumstances, would the Hong Kong Government recognize their offsprings as the legitimate offsprings of Hong Kong residents? If yes, would they be allowed to come and reside in Hong Kong? And if they are so allowed, would it be a heavy burden on the social services of Hong Kong? Does the more than 60 000 children mentioned just then take count of these children?*

GOVERNOR: There are two figures, one of which I hope will not increase as rapidly as the Honourable Member's description of the social behaviour of some might suggest is a threat. There are, I think, about 300 000 children with a parent in Hong Kong. I think I have got that figure correct. Of those there are about 64 000 who would, after 1997, have the right of abode in Hong Kong

because of the length of residency of a parent. It is a serious social problem and I just want to remind the Council that the Government's policy is to try to unite families, not to divide them. The Government and individuals are very often blamed for families being divided when frankly, it is the parents who have made that choice. We have to try to help unite families in a way which the community finds acceptable and in a way which the community can handle in terms of the impact on welfare provision, education provision and so on. And it is a very difficult policy to implement.

I repeat what I said earlier in reply to a question from the other Honourable Member that I think we have, in the next two and a half years, to try to do more to ensure that the problem faced by the SAR government is more manageable than would otherwise be the case because there will be a very large number of people with right of abode in Hong Kong on 1 July 1997, and for those tens of thousands all to come in at the same time would have quite a disruptive impact on social provision.

MR TIMOTHY HA asked (in Cantonese): *Mr President, Mr Governor might not have heard clearly a question I have just asked, which is whether the Hong Kong Government will recognize the legitimate status of the offsprings from these extramarital affairs as well as their right to come and reside in Hong Kong?*

GOVERNOR: I do not know how we could recognize as legitimate those who were born outside an existing marital relationship. But if I am misunderstanding the question, I am sure the Honourable Member will let me know. And as for the status of the children concerned, in relation to right of abode in Hong Kong, that will presumably depend primarily on the status of the parent. But on the first case — I mean without seeking to make it a matter of moral judgement — I do not think the Government could be expected to regard as legitimate offspring of a marriage those who were not legitimate offspring of a marriage, even though the Government would of course recognize that their existence created social problems which the Government and voluntary organizations need to try to cope with. I think that there are serious difficulties for some married women in Hong Kong as a result of the establishment of second families in China, and that is obviously something which many organizations are having to give greater counselling to help with.

PRESIDENT: Dr LAM Kui-chun.

DR LAM KUI-CHUN: *Mr President, during the scrutiny of a current bill, an actual previous incident was noted in which the Government brushed aside objections from environmental protection groups and proceeded with a landfill*

project that caused substantial damage to the environment. It was noted that the Government was able to do that by invoking crown immunity from its own rules and regulations.

Will the Governor inform this Council whether the Government intends to continue overruling objections to its projects by invoking crown immunity and if not, with what new policy does the Government intend to replace it and how can grievances be properly redressed against crown immunity?

GOVERNOR: Well, I would like to look at the particular case that the Honourable Member has in mind before responding. It is obviously an important question and I would like to answer it, taking account of the circumstances of the case, though I am sure the Honourable Member has expressed the issue surrounding the case wholly objectively. It may just be that the Administration would not agree with his description of that particular case. But perhaps if the Honourable Member will give me the information, I can respond to him as soon as possible.

DR LAM KUI-CHUN: *Mr President, would the Governor require the details now or later?*

GOVERNOR: I would be very happy. Perhaps we could get in another question or two to have the details later and I will respond as comprehensively as possible to the Honourable Member.

PRESIDENT: Mr Fred LI.

MR FRED LI (in Cantonese): *Mr President, I would also like to ask questions concerning the handing over of information on civil servants. It is reported in today's newspapers that Chinese officials have specifically requested the British side to hand over records of senior civil servants on such particulars as their nationality, job performance, integrity, and so on, rather than those on the structure of the civil service or their dates of birth. Mr Governor, do you think these requests are reasonable for the sake of deciding whether or not officials at secretary level should remain in their office after 1997?*

GOVERNOR: The Honourable Member said some civil servants may stay beyond 1997. I very much hope that most civil servants will stay beyond 1997, and I am sure that Hong Kong hopes that as well. I hope the Honourable Member would not regard it as unsporting of me if I do not add to what I said earlier. I think I have set out the Government's position as clearly as I can without, at the same time, giving or putting more fuel on this particular

controversy. We would like to see the flames die down rather than the flames leaping ever higher because we do not think it is helpful for Hong Kong. As I said earlier, if Chinese officials want more information they should say precisely what they want in the JLG. I am sure the Honourable Member has some pretty strong views about what would be acceptable in terms of additional information and what would not, and so, I have to say, does the Governor.

MR FRED LI (in Cantonese): *Mr Governor, is it true that the Chinese side has never made such requests as the provision of records on job performance, integrity and nationality sessions in respect of the civil servants at any sessions of the Joint Liaison group? Has the Chinese side ever made such requests?*

GOVERNOR: Well, I have to say that some of the requests which the Honourable Member is mentioning and some of those which I have read about coming from un-named Chinese sources have not been put to us. If they are put to us in the JLG, then we will respond with our views.

PRESIDENT: Mr Howard YOUNG.

MR HOWARD YOUNG: *Mr Governor, I wish to ask a question relating to visa-free entries to other countries by Hong Kong residents, which has an impact on the freedom of travel now and beyond 1997. There have been moves recently in some European communities, in particular nine countries, Schengen Agreement countries, to make changes in their visa laws which could end up either by requiring Hong Kong British Passport holders no visa to enter into any of them or maybe a visa to enter any one of them, as opposed to now where we can enter the majority without a visa. Visa-free entry is now granted mainly by unilateral administrative arrangements by governments or by abolition of visa agreements or by negotiations between Hong Kong and other countries. I believe most are administrative arrangements. Will the British Government consider whether it can tidy up the arrangements that it has now with other countries with regard to abolition of visa arrangements and increase them, if necessary, because they can be applied to Hong Kong, and thereby will help and retain the privileges or enhance the privileges of British National (Overseas) Passport holders now and beyond 1997, or at least to do that within the European Community? I might need to declare an interest. I am a holder of the BN(O) Passport myself.*

GOVERNOR: There is a lot tied up in that question, perhaps I can just single out a couple of elements. First of all, against a background of a lot of countries around the world changing their minds on visas and requiring visas when once they did not do so, I think it is very important for us to work with China — the United Kingdom and China working together — to try to provide some

assurances about visa abolition agreements for members of the Hong Kong community in the future. The issue is, of course, related to other issues of nationality and right of abode. It is important to try to get a comprehensive approach to these issues and that is what we have been seeking to persuade Chinese officials in the JLG. I do not think it is unfair to say that we have been rather disappointed by some of the remarks that have been made on this issue recently. But we are still keen to take the matter forward and I think the closer we get to 1997 the more members of the community will be very concerned, if we have not made progress on these issues and if it looks as though it is going to be more difficult for people to travel freely in the future than it has been today or in the past.

Secondly, there is the issue of the Schengen Agreement and the views of some members of the European Union on entry into the Union and Union territories. There are complicated questions of Community competence which are debated enthusiastically on this issue, not least at Westminster. But the British Government has made its position absolutely plain in relation to Hong Kong and there has not been any change on that.

MR HOWARD YOUNG: *I would like to follow up. I agree that it is much more comprehensive but with the track record or the way progress is being made in trying to get things done together with China, could the British Government at least — even on its own with Commonwealth countries and also European Community countries, not just check and go through those which do not have abolition of visa agreements already and set them up, whereby the BN(O) Passport could automatically qualify, thus paving the way for continuation of freedom to travel to those countries with or without the agreement of China?*

GOVERNOR: Well, I do not rule out the possibility of us having to act in a different way if we cannot find some acceptable way of taking things forward with China. But it would be much in Hong Kong's interest for us to find arrangements which covered both SAR passport holders and others after 1997. We have put proposals as to how to take that forward to China which in our judgment fully meet China's understandable concerns about sovereignty in relation to this question. I hope we can still proceed in that way but if not, then we will have to give consideration to the sort of idea which the Honourable Member has raised. And I repeat what I said earlier that it is our judgment that this is going to become a much more worrying issue for individuals the closer we get to 1997 and if, as we should be, we were in the business in the next couple of years of trying to bolster confidence rather than undermine confidence, the sooner we can demonstrate progress to the community on all this the better.

ADJOURNMENT AND NEXT SITTING

PRESIDENT: In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on 25 January 1995.

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

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