

# **OFFICIAL RECORD OF PROCEEDINGS**

**Thursday, 18 April 1996**

**The Council met at half-past Two o'clock**

## **MEMBERS PRESENT:**

THE PRESIDENT

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

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

THE HONOURABLE SZETO WAH

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

THE HONOURABLE MICHAEL HO MUN-KA

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 JAMES TO KUN-SUN

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE CHAN KAM-LAM

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE PAUL CHENG MING-FUN

THE HONOURABLE CHENG YIU-TONG

DR THE HONOURABLE ANTHONY CHEUNG BING-LEUNG

THE HONOURABLE CHEUNG HON-CHUNG

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE IP KWOK-HIM

THE HONOURABLE LAU CHIN-SHEK

THE HONOURABLE AMBROSE LAU HON-CHUEN, J.P.

DR THE HONOURABLE LAW CHEUNG-KWOK

THE HONOURABLE LAW CHI-KWONG

THE HONOURABLE LEE KAI-MING

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE BRUCE LIU SING-LEE

THE HONOURABLE MOK YING-FAN

THE HONOURABLE NGAN KAM-CHUEN

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE TSANG KIN-SHING

DR THE HONOURABLE JOHN TSE WING-LING

THE HONOURABLE MRS ELIZABETH WONG CHIEN CHI-LIEN, C.B.E.,  
I.S.O., J.P.

THE HONOURABLE LAWRENCE YUM SIN-LING

**MEMBERS ABSENT:**

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. (CANTAB),  
J.P.

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

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

THE HONOURABLE FREDERICK FUNG KIN-KEE

DR THE HONOURABLE HUANG CHEN-YA, M.B.E.

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

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

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE CHRISTINE LOH KUNG-WAI

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

THE HONOURABLE CHOY KAN-PUI, J.P.

THE HONOURABLE LO SUK-CHING

THE HONOURABLE MARGARET NG

### **PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE MRS ANSON CHAN, C.B.E., J.P.  
CHIEF SECRETARY

MR GORDON SIU KWING-CHUE, J.P.  
FINANCIAL SECRETARY

MR IAN WINGFIELD, J.P.  
ATTORNEY GENERAL

### **CLERK IN ATTENDANCE:**

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MR RICKY FUNG CHOI-CHEUNG, SECRETARY GENERAL

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:** Members please remain standing for the Governor.

**CLERK:** His Excellency the Governor.

**PRESIDENT:** The Governor will address the Council on his visit to London.

**GOVERNOR:** Mr President, I visited London from 10 to 12 April and Belfast from 12 to 13 April.

I had useful discussions with the Prime Minister and the Deputy Prime Minister, and two meetings with the Governor of the Bank of England, during which we discussed the strength of the Hong Kong economy and the guarantees of Hong Kong's autonomy in fiscal, economic and trading matters after 1997. I had meetings with Foreign Office officials and also gave three major speeches.

In my meeting with the Prime Minister, we followed up the subjects that were raised during his important visit to Hong Kong last month.

We discussed the actions that had been taken since then on visa-free access, right of abode and passports for war widows. We will be pressing for as many countries as possible to provide liberal visa regimes for Hong Kong Special Administrative Region (SAR) passport holders and we hope that we will be able to see countries declaring their hands in the coming months. Obviously the progress we make on this issue depends in part on China's position on right of abode. We have noted the comments made by Director LU during his visit to Hong Kong. These underline the need for Chinese officials to join us in expert talks as soon as possible, so we can all be clear about what the detailed arrangements will be.

On passports for war widows, I very much hope that we will be able to see a bill coming forward before the end of this Parliamentary Session. This will help to put people's minds at ease and be a solid indication of Britain's commitment to resolve that issue.

I also discussed with the Prime Minister my forthcoming visit to the United States to discuss the renewal of Most Favoured Nation (MFN) status for China, and we are obviously working closely with the British Government on that issue.

The Prime Minister had been concerned to hear about the decision to establish a provisional legislature, announced by Chinese officials after the recent meeting of the Preparatory Committee in Beijing. He noted that this decision, coupled with a number of remarks about the Civil Service, had alarmed civil servants and the community as a whole. We both hope that we will hear more in the way of reassurance from Chinese officials in the coming weeks and months.

We also discussed the position of Vietnamese migrants in Hong Kong. During his meeting in Bangkok with other Asian and European leaders, the Prime Minister had a good meeting with the Prime Minister of Vietnam. As a result of that meeting, an official from the Foreign Office went to Vietnam to discuss how we could speed up the repatriation of Vietnamese migrants. That visit was followed by one by Mr Jeremy HANLEY which has produced good results. I hope that we will now see an acceleration in the rate of return of Vietnamese migrants.

We discussed a number of other matters as well, including Hong Kong's economy and Britain's continuing relationship with and commitment to Hong Kong after next summer.

I also visited Northern Ireland, where I stressed the attractions of Hong Kong to Northern Ireland investors and *vice versa*.

In all, it is a productive visit. I am now happy to take Honourable Members' questions.

**PRESIDENT:** Members may now put questions on this topic as well as on the other five topics which have been notified 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. Dr LEONG Che-hung.

**DR LEONG CHE-HUNG:** *Thank you, Mr President. Mr President, I would like to take this opportunity, with your permission, of course, to thank the Governor on behalf of the House, and I am sure you yourself will join Members too, Mr President, for his effort in securing a speedy and fair appeal for the two Hong Kong residents, Mr AU Wing-cheung and Mr WONG Chun-ming, who were detained in the Philippines. We all know that they have now been released and have returned to their very relieved families.*

*May I, Mr President, with your permission, also ask the Governor to convey our gratitude to the Prime Minister and Foreign Secretary and all those in the British Government who have helped in this particular direction.*

*Mr President, many of us in this Council have done much, also, to help to bring this result about and I am sure we are all very happy to see this satisfactory outcome — including, even, the return of some \$8,000 to both Mr AU and Mr WONG, and that the rule of law has been maintained.*

*If you will give me the permission, Mr President, I would also like to ask the Governor a question, if you do not rule me out of order. Should this or similar events occur, after the change of sovereignty, to Hong Kong people travelling with a British National (Overseas)(BN(O)) or British Overseas Citizen(BOC) passport, what would the British Government's action be, if any, and how could we see the whole process being initiated?*

**GOVERNOR:** I am grateful to the honourable gentleman for that expression of gratitude. I know that all our discussions together take place in that warm feeling of exchanges of gratitude from both sides, and I am sure this session will continue in that spirit.

I think it is fair to say that what we saw in the case of Mr AU and Mr WONG was very good teamwork between this Council — and it would be invidious to single out individual Members but I know that there were many who took a very close personal interest in the case and went to considerable trouble to help Mr AU and Mr WONG — the Hong Kong Government — and I was pleased that I was able to raise the issue directly when I visited the Philippines, with President RAMOS, last December — and the British Government as well. It was raised by a number of ministers and officials on a variety of visits to the Philippines and meetings with Philippine ministers.



There are two points I would just like to add on that particular case. The first is that having met Mr AU and Mr WONG myself, I am sure that like many Honourable Members I have been struck by their extraordinary fortitude in bearing the difficult conditions of the last few years with such strength of character. I was very impressed by my meeting with them and with their families. They can, of course, be absolutely certain that they will get all the help that is required as far as welfare benefits and other matters are concerned, as they re-establish themselves and prepare to re-launch themselves on what I hope will be successful business and professional careers.

Secondly, I think a reason why we are all pleased that this has at last been cleared up is that we do have a very good relationship with the Philippines. There is a large Filipina community here in Hong Kong which is making such a substantial contribution to our own well-being and welfare, and this issue, I think, was one of the very few difficulties in an otherwise excellent relationship and I would like to express my gratitude to President RAMOS for his part in clearing it up.

The position as far as after 1997 is concerned is, I hope, clear and was, I think, made clear by both the Prime Minister and the Foreign Secretary during their visits. Those who travel on a British passport will have all the consular protection after 1997 that they could expect today. I hope that they will also be able to count on co-operation between the future sovereign power and the United Kingdom which provides them with the consular protection. I hope that that is the case and I am sure that Chinese officials would want to stress that it would be the case if they were sitting here in my position — which perhaps one day they may.

**PRESIDENT:** Mr Albert CHAN.

**MR ALBERT CHAN** (in Cantonese): *Mr Governor, while you were in Britain, you said to the public and mass media that the people having different political opinions and the petitioners in Hong Kong should be treated kindly. But during the Mr LU Ping's visit in Hong Kong, many petitioners including some Members of this Council were taken by the neck and assaulted by your subordinates. They were accused by your subordinates of doing something which they actually had not done. Your subordinates did not treat them kindly. Mr Governor, in*

*fact, please look at this photo. One of your subordinates was obviously taking a petitioner by the neck and such a rowdy behaviour is definitely unnecessary. In the ensuing 400 days or so, there might be more petitions as well. Would you, Mr President, inform this Council how you could ensure that your subordinates would actually treat these petitioners kindly with a humane attitude, instead of treating these bare-handed petitioners in a rowdy way?*

**GOVERNOR:** Perhaps the Council will allow me to set out my views on this subject at some length.

We have in Hong Kong a free and open society where people have the right to express their views, where they have the right to assemble and to demonstrate if necessary. We have a first class Police Force which, I think, manage to hold the balance between the rights of those who wish to protest and the rights of the rest of the community in an extraordinary firm but fair way.

I want to place on record now my gratitude to the police for the way they have handled events in the last few days and for the way they have handled events over the last years.

Hong Kong is an extremely tranquil community. We have not seen many events like those of the last few days in my four years in Hong Kong. And when there are demonstrations or protests, they are handled with extremely good humour and good sense by our police —very often, young men and women who recently joined the Force. Let me give an example. It is within all our knowledge that the headquarters of the New China News Agency (NCNA) is sometimes a focus for political argument and discussion. In 1994 and 1995, there were in all 139 meetings in the vicinity of the front entrance of the NCNA. There were nine marches to the NCNA. In all that time, with all those demonstrations, there was only one arrest. I think that is a tribute to the police and I have to say I think it is a tribute to the way in which, by and large, people put forth their views in Hong Kong, even when they feel strongly about them and even when they feel that they have to put those views in a demonstration or in a march.

We come to the events of last weekend and I want to say one thing which is pretty obvious straightaway. I think the euphemism is the "united front press" have claimed that the Governor of Hong Kong, that I was responsible for the demonstrations and the arguments and those sad pictures that flashed around the world of people burning tyres and people marching. It is just another of the fabrications that we get from *Wen Wei Po* and others. I suspect that if they ever started being nice about me, I would have reason to think I was doing my job badly. It is only a matter of time, I can assure the Honourable Member, that the NCNA or those "united front newspapers" will accuse me of being responsible for the demonstrations in 1989. It is, of course, complete and utter nonsense. I do not want in any way to ever excuse breaches of the law or rowdy behaviour, because, in my view, arguments should always be carried on within the law and should always be carried on in as civilized a way as possible. But I do not think that those who refuse to listen should be very surprised if other people raise their voices, and that is what I am afraid we have seen in the last few days. I repeat, this is a very tranquil community. It is a community the politics of which are extraordinarily moderate and it takes quite a lot to push people in Hong Kong into behaving in an immoderate way. It takes quite a lot to push them into raising their voices.

Let me offer one piece of advice and I take it from *Ta Kung Pao*, the edition of 12 March, which reported extensively a speech by a Member of the Politburo, Mr LI Ruihuan, who noted how important it was to allow people to have their say in relation to Hong Kong. That is what he was talking about quite explicitly and he quoted Chairman MAO. Now I do not want to comment on the context in which the Chairman's remarks were made. It is not my part to play the role of historian now, but what he said was this: "the heavens will not fall even if we allow people to speak their minds otherwise the heavens will surely fall sooner or later."; in other words, if you do not allow people to speak their minds. An open and plural society should respect people's rights to speak their own minds, but of course it must insist that they do that within the law. That is what our police ensure happens. They have all my sympathy for the pressure that they have been placed under in recent days.

**MR ALBERT CHAN** (in Cantonese): *Mr President, of course, we appreciate that most of the police officers are performing their duties and most of them are doing very well. But with the approach of 1997, we cannot rule out the possibility that because of this some police officers who are afraid of*

*displacement in the face of the 1997 question and change of boss would make some extra efforts to protect Chinese officials, and so the above-mentioned scene took place. From this photo, we can obviously see that an over-six-foot-tall security officer used force towards a short person. This is absolutely unnecessary. Mr Governor, how would you instruct your subordinates to treat the petitioners kindly, as you said, and not to abuse force in handling such cases?*

**GOVERNOR:** I do not want the Honourable Member, or anybody else, to think that I do not have strong views about the importance of policing demonstrations in a firm but fair way. But I have to say that I do not think the Commissioner of the Royal Hong Kong Police Force or his senior or junior officers need instructions from me about how to handle these matters. I think they handled them conspicuously well. I think they handled them with good sense. I think they handled them with good humour and I think they have managed to handle them, most of the time, with dignity.

I repeat what I have said before. I have been the Governor of Hong Kong for four years. We have had remarkable social harmony during that period, despite the fact that we have had arguments on very important issues. I can look around this Chamber and see Honourable Members who have been vigorously on the other side of the debate. But we have had social harmony and we have had social harmony because we have had an open dialogue. If you try to exclude people, particularly those who can point to the fact that they represent the majority of opinion in Hong Kong, from the debate and the discussion about their own future, then you are going, and I borrow again from Mr LI Ruihuan, to risk social disharmony. You are going to risk a perpetuation of instances in which public officials feel obliged to leave meetings by the back door. I have never in four years left anywhere in Hong Kong by the back door and I never will.

The people in Hong Kong are extremely law abiding. The people in Hong Kong are decent and fair-minded. The people of Hong Kong want to make a success of 1997. The people of Hong Kong would like to hear from Director LU and his senior colleagues.

Just let me make this additional point. I am delighted that this evening Director LU will be seeing the Chief Secretary. I hope that he sees the Chief

Secretary on many future occasions. I hope that he sees other Secretaries and members of the Administration. I would like to see him going to our hospitals with the Secretary for Health and Welfare. I would like to see him going to our schools with the Secretary for Education and Manpower. I would like to see him going to our public housing estates with the Secretary for Housing. If Chinese officials would do that, even though they will sometimes have to receive a petition or listen to people saying things that they do not much care for, they will find that the people of Hong Kong are extremely kind-hearted, warm-hearted and wish to ensure that Hong Kong remains as successful after 1997 as it is today. There is nothing in Hong Kong that anybody should be anxious about or frightened about.

**PRESIDENT:** Mr David CHU.

**MR DAVID CHU:** *Mr Governor, I have a question regarding the provisional legislature. I hope you do not answer the question by giving me a Chairman MAO quotation.*

*Regardless of our personal preferences, do you agree that at this point in time, the establishment of the provisional legislature is a certainty? And if you agree, then would this Government recognize and co-operate with the provisional legislature so that its work can be better integrated with that of the Government and this Council, thereby helps with a smooth transition?*

**GOVERNOR:** I promise not to give the Honourable Member a quotation from Chairman MAO. But what he says about a smooth transition reminds me very much of the story of the man who punched somebody else on the jaw and then blamed the other fellow for hurting his hand with his chin, because the threat to a smooth transition comes from those who say they will dismantle this Legislative Council, elected by the largest number of people who have ever voted in Hong Kong's history, elected fairly and freely, entirely in line with the Joint Declaration and the Basic Law.

Whether or not this Legislative Council is dismantled, I repeat what the British Foreign Secretary has said, that the proposal to dismantle it is reprehensible and unjustifiable. There is no justification under the Joint

Declaration and the Basic Law for dismantling it. We have had a tissue of fabrications suggesting that somehow the arrangements for electing this Legislative Council were not in line with the sacred texts. Nobody, as the honourable gentleman will know perfectly well, has ever been able to demonstrate that.

The only thing which is true is that the Chinese officials did not like the arrangements for electing this Legislative Council. And let me dwell for a moment on that point. We all know, Legislative Council Members with experience on the Executive Council know, Legislative Council Members who were here in 1992 and 1993 know perfectly well, that the reason that discussions on electoral arrangements broke down was that our side — Hong Kong Government, the British Government — refused to accept arrangements, refused to connive at arrangements, which would have specifically excluded some Members of this Council from a future Legislative Council solely because of their views, and which would have attempted to dilute the number of pro-democracy politicians in the Legislative Council in future by the sort of arrangements that were made.

Now, we refused to go along with that. What Chinese officials are now doing is asking the Preparatory Committee to endorse precisely those sort of arrangements. And I do not think the 13 Members of this Legislative Council, who it appears are prepared to go along with that, should be surprised if other Members of this Legislative Council and other members of the community, and the international community, find that offensive. I do not know how Honourable Members can justify that.

The honourable gentleman asks about our attitude to the provisional legislature, if there is one. There is only one Legislative Council constitutionally in Hong Kong before 30 June 1997. There can only be one Legislative Council in Hong Kong. If there is a provisional legislature, it may have some constitutional or legal position in China. But before 30 June 1997, it has no constitutional or legal position here in Hong Kong. It cannot make laws, though I concede this Chinese body could make recommendations.

The Joint Declaration is entirely clear on the point. I draw the Honourable Member's attention to Article 30 of the Joint Declaration which underlines who is responsible for the administration of Hong Kong until 30 June 1997 and which makes it clear that the Government of China should co-operate

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with us in our responsibilities for administering the territory.

So that is my position: there is one Legislative Council in Hong Kong while I am Governor and that is the Legislative Council here. And anybody who dismantles that, anybody who seeks to set up another Legislative Council, will have to justify that and will have to tell people why it is morally, politically and legally acceptable.

**MR ALLEN LEE:** *Mr President, a point of order.*

**PRESIDENT:** Mr Allen LEE.

**MR ALLEN LEE:** *The Governor said that under his Governorship there is one Legislative Council. Yes, it is true. Yet the provisional legislature is the provisional legislature after 1 July 1997 and that is when the Governor will have left Hong Kong. Let us not confuse the issue that the provisional legislature is here before 1 July 1997. It may be elected before 1997, but it is to make laws after 1997.*

**GOVERNOR:** Well .....

**PRESIDENT:** Mr Governor, please hold on a minute. Mr LEE, you have not raised a point of order. I am not here to rule on law. I am here to rule on order only. But you have slipped in a question.

**GOVERNOR:** I assume that that was a point of information. What we have just heard from a member of the Preparatory Committee is that no provisional legislature would operate before 30 June 1997. That is what the honourable gentleman has said. It is a confirmation, of course, of the position under the Royal Instructions, the Letters Patent and the Joint Declaration, and I am delighted to hear it.



**MR ALLEN LEE:** *Mr President, can I make one statement?*

**PRESIDENT:** Mr LEE, I am sorry.

**MR ALLEN LEE:** *I just want to clarify this point, a very important point which the Governor said.*

**PRESIDENT:** But I cannot let you ask the question because it is Mr David CHU's turn, not your turn. You raised a point of order and I ruled that was not a point of order but I allowed your question to slip through. So I should not allow you to ask a supplementary.

Mr CHU, do you have a short follow-up?

**MR DAVID CHU:** *Yes. If the provisional legislature is constituted some time before 1 July 1997, which I believe is a reasonable assumption, would this Government, as I stated in the original question, recognize and co-operate with this body, Mr Governor?*

**GOVERNOR:** The honourable gentleman is talking about a body which may have some legal status in China but has no legal or constitutional position in Hong Kong. That is undeniably the case. So if the honourable gentleman is talking about winding up this body and if he is talking about putting something in its place, he had better explain why that is legally justified and why it is morally justified. Let me say this, there is no reference to a provisional legislature in the Joint Declaration. There is no reference to a provisional legislature in the Basic Law. There is no reference to a provisional legislature in the National People's Congress (NPC) decisions of 1990 and 1994. At present, as I understand it, the arguments about a provisional legislature rest on the assumption that the NPC decisions give the Preparatory Committee *carte blanche*. I think that is a slightly worrying argument and a slightly dubious argument, but it is not for me to say what is or is not legally justified so far as the provisional legislature is concerned — a point made very well the other day by Mr Denis CHANG. All I am saying is that there is only one Legislative Council here in

Hong Kong before 30 June 1997. Only one. And that is the Legislative Council the Executive Council is going to work with and that is the Legislative Council which the Government is openly accountable to.

**PRESIDENT:** Mr James TO.

**MR JAMES TO** (in Cantonese): *Mr President, it is still unknown for the time being whether the Legislative Council would be "dismantled", but it seems that somebody has now dismantled some important constitutional principles of the Executive Council. Executive Councillor the Honourable TUNG Chee-hwa voted, at the Preparatory Committee, for the establishment of a provisional legislature; and another Executive Councillor the Honourable Raymond CHIEN openly expressed that there was a legal basis for the establishment of a provisional legislature. What these two Honourable Members said and did obviously violated the Government's position and principle towards the provisional legislature. Mr Governor, have the two Honourable Members violated the collective responsibility of the Executive Council? Collective responsibility is an important principle insisted on by you and was even applied by you in excluding some Members who represent the majority of public opinion from the Executive Council. Mr Governor, have you relaxed this principle, to such an extent that the whole system now exists in name only? Is it right that different Members of the Executive Council can practise "one council, two systems" in the Council? Is the Governor afraid of them as one of them is a favourite candidate for the Chief Executive of the Hong Kong Special Administrative Region? Should the protection of Hong Kong's interests be a top priority of the Executive Councillors; and are the words and deeds of the two Honourable Members contrary to this principle?*

**GOVERNOR:** Let me, in these confidential surroundings, (*Laughter*) be very honest with the honourable gentleman. I was a member of two British Cabinets. I have a good deal of personal experience of the application of the principle of collective responsibility. Therefore the honourable gentleman has never and will never hear large numbers of lectures from me on the subject. I know that it is a principle which has to be applied with a degree of propriety by those who are collectively responsible and good sense by whoever is *primus inter pares*, and that has always been the position and will remain the position.

Yes, we do have a position of collective responsibility in the Executive Council and it is exercised with, I think, the tolerance and generosity of spirit which are necessary in order to have as broadly based an Executive Council as possible which I believe to be in the best interests of Hong Kong. Honourable Members will know that I deliberately chose an Executive Council which represented all shades of opinion here in Hong Kong. I hope that some of its Members even represent the broad aspirations of the Honourable Member. Well, there are going to be one or two Members of the Executive Council, if I may say so, who will be broken-hearted by the feeling that they do not represent the Honourable Member there. It is a broadly based Executive Council and I intend to ensure that it stays that way. I could hardly crack the whip and behave like the Spanish inquisition over the Executive Council when I have said and feel very strongly that others should be a little more open-minded and generous of spirit in the way that they deal with disagreement and argument.

Having said that, the position of the Executive Council and the Government is absolutely clear and it is the position which I set out earlier and it is the position which others like the Chief Secretary and the Financial Secretary and senior officials have set out on other occasions. There is only one Legislative Council. It is the one which sits here and was elected here last autumn. And the Executive Council and the Government will work with it until 30 June 1997.

**MR JAMES TO** (in Cantonese): *Mr Governor, would you be worried that with the approach of 1997, if your principle continues to be relaxed to a particular extent, the Executive Councillors might rebel collectively against some of your views? Mr Governor, is the principle being relaxed to such a risky extent at present?*

**GOVERNOR:** No, I do not think I have relaxed the principle to the extent of being risky. I think I have applied it in my customarily sensible and civilized way. I believe in open discussion and debate. I think I have helped, with some Members of this Council, to extend that important aspect of a free society here a little bit in Hong Kong and I certainly do not intend cracking the whip unnecessarily either with my colleagues in the Administration or with those whose advice I take in the Executive Council.

I think if the Honourable Member looks back he may find in history rather more examples of Executive Council Members speaking out for themselves in years past than there have been in the last four years. But what I have said about collective responsibility does not mean that the principle does not still apply. It has to be implemented in a sensitive and sensible way. That is how I will continue to do it and I hope that we have as broadly based an Executive Council as long as possible because I think, particularly at this difficult and challenging period for Hong Kong, it is helpful to have as broad a base of advice as I can possibly get.

**PRESIDENT:** And be fairly tolerant of the wets too?

**GOVERNOR:** And be tolerant of the .....?

**PRESIDENT:** Wets.

**GOVERNOR:** Wets, whips, tolerant of everybody.

**PRESIDENT:** Mr NGAN Kam-chuen.

**MR NGAN KAM-CHUEN** (in Cantonese): *Mr Governor, is it appropriate for you, in the capacity of Hong Kong Governor, to make rash comments on the future provisional legislature of a special administrative region of another sovereign power, China? Will you forbid your senior officials to co-operate with the provisional legislature?*

**GOVERNOR:** The provisional legislature has nothing to do with me. If Chinese officials want to set one up as a Chinese institution, then it would be impertinent of me to involve myself in it. All I am saying to the honourable gentleman is that it has nothing to do with the Government of Hong Kong between now and 30 June 1997. If Chinese officials, or others, wish to make

preparations for the position after 1997, then that is their matter. But the provisional legislature does not have a constitutional position in Hong Kong. If it has a legal position at all, that is for Chinese officials to justify. But I repeat, it has nothing to do with me.

**MR NGAN KAM-CHUEN** (in Cantonese): *If the officers designate to be appointed by the Special Administrative Region Government must co-operate with the provisional legislature, will you ask them to resign from their present posts in the Hong Kong Government?*

**GOVERNOR:** I do not understand what the honourable gentleman means about them working with the provisional legislature. What is the honourable gentleman suggesting that the provisional legislature will do? Is he suggesting that before 30 June 1997 it will pass laws? It cannot. What is he suggesting? What happens after 1 July 1997 is not my business, though I have an interest in it.

**PRESIDENT:** Mr SZETO Wah.

**MR SZETO WAH** (in Cantonese): *Mr Governor, when the Legislative Council Panel on Constitutional Affairs discussed with government officials the Members' term of office, the government officials said to us that our term might not necessarily be four years because the Governor had the power to order dissolution of this Council at any time. Mr Governor, will you order the dissolution of this Council on or before 30 June 1997, in line with the establishment of the provisional legislature?*

**GOVERNOR:** Certainly not.

**MR SZETO WAH** (in Cantonese): *Some Legislative Council Members in the last term died or was sent to jail, so their terms were less than four years. When government officials cite as an example that the Governor has the right to dissolve the Legislative Council to say that our term is not four years, is this as*

*ridiculous a logic as citing those who served less than four years because of death or imprisonment to prove that our term is not four years?*

**GOVERNOR:** I do not think the logic I am about to offer the honourable gentleman is ridiculous and I hope he will not think it ridiculous either. Honourable Members are elected to this Council for four years and it is desirable that they should be able to serve their four years. But nobody has ever suggested they have a legal entitlement, as it were, a four-year contract. They do not.

One reason why they have not in the past and do not now has nothing to do with 1997 and it is the most important reason of all. For example, the Hong Kong Governor could, I suppose, under the Royal Instructions and the Letters Patent, dissolve the Legislative Council and call for new elections. In those circumstances, he would not feel obliged to pay everybody for the two years or three years or three-and-a-half years of service in the Legislative Council which they had been denied by an election.

In the United Kingdom, we have five-year Parliaments, but nobody has an entitlement to be paid as an MP for five years. It is exactly the same principle and, I repeat, basically has nothing to do with 1997.

**PRESIDENT:** Mr Howard YOUNG.

**MR HOWARD YOUNG:** *Mr Governor, during your trip to London, you raised the question of travel documents and of course right of abode which is linked to it, and I agree it is an issue which is imminent. It appears that this issue, now, is being tackled through a very, perhaps should I say, unique way by the Chinese Government, of rather than doing things with the Basic Law, but tackling it by some other sort of legal mechanism with regard to the Chinese nationality law.*

*Now although, Mr Governor, you have called for discussions on these issues to be taken up with China, you have done so for some time and there is still no result. But I believe that the National People's Congress is very shortly going to debate this explanation or amendment or whatever to the nationality law which will become legally effective as Chinese Law.*

*If there is no route through diplomatic channels, will you consider perhaps another channel, say the Preparatory Committee members, some of whom sit on this Council, including myself, and I genuinely feel that I have been able to — to use your quotation of Chairman MAO "to speak my mind" in the Preparatory Committee — to see whether we can do something to ensure that this result in explaining the nationality law is satisfactory and will dovetail with Hong Kong law in this regard? The time is short and I believe the next opportunity will be the next Preparatory Committee meeting towards the end of May.*

**GOVERNOR:** Not least because of his own experience in the functional constituency which he represents, the Honourable Member knows as well as anyone just how important this issue is to Hong Kong's self-confidence and to Hong Kong's continuing prosperity as an open society with the maximum freedom of travel.

Our position is quite simply this: in January, Mr RIFKIND had a successful meeting with Vice Premier QIAN Qichen during the course of which Vice Premier QIAN Qichen confirmed that anybody who had permanent residency in Hong Kong before 1997 would have it after 1997, though both of them of course recognized that the precise way in which this was to be achieved had to be worked out in relation to the Basic Law and so on.

Now, we very much hoped that that meeting could be followed by very rapid expert talks. It is not a question, or should not be a question, of high politics. It is a question of dealing with real administrative difficulties in a way which helps people in Hong Kong and helps other people — the extended Hong Kong family in Canada, Australia and elsewhere. Unfortunately, those expert talks have not yet taken place though we have had leaks of what the Chinese position is and we have now had this interesting speech by Director LU last week.

I do not know any more about the situation than that, nor do my officials, though they have — and this is not because we are carping, it is because our Immigration Department is eventually going to have to make this work — literally, dozens of difficult questions which we are being asked. Look at the

newspapers. Look at the difficult questions which the newspapers are asking about these arrangements. Consider the questions which our immigration staff are going to start having at immigration counters before very long.

The sooner we can start addressing with Chinese officials these very difficult questions, the better. And if the Honourable Member and other members of the Preparatory Committee are offering their help in elucidating these matters, then we would very much welcome that assistance and welcome any information that we can get from them.

Originally, you may recall, we did not think it was going to be possible to deal with the question of visa-free access for SAR passport holders to the United Kingdom until we had sorted out right of abode. I did not think we could wait any longer on SAR passport visa-free access and I am delighted that the British Government reached a sensible decision on that. But there are all sorts of other countries which are going to be very reluctant to move on visa regimes for SAR passport holders until that question of right of abode is absolutely clear.

So, however we achieve it, I think the sooner we can get our experts sitting down round a table with Chinese officials, the better, because nobody doubts that under the Joint Declaration and the Basic Law, it is going to be for our Immigration Department to try to make this policy work.

**MR HOWARD YOUNG:** *Mr Governor, as a demonstration that the Executive Council is not the only body that has problems of skirting around the edges of collective responsibility, could you bear in mind that all that has been said about the amendment to nationality law is not all that secretive? There has been an official decision by the Preparatory Committee and on that basis, plus what Mr LU said which is also public, that there is a great deal of room within the next few months through whatever channel —private or personal capacity — for us to achieve a sensible solution to the right of abode.*

**GOVERNOR:** Can I say something about that. I think it has been suggested during the last few days by one or two very senior Chinese officials that even though the Preparatory Committee has reached this view, discussions cannot begin with Hong Kong Government officials because the NPC has not made a decision. I really find that difficult to accept as a sensible position, but I assure



the Honourable Member that it has been said.

We really have to clear up these matters very, very quickly. There are difficult problems, mainly problems of implementation. We think, and we have tried to sound positive, that the proposals are an advance on the previous position. I still happen to think that the best way forward would have been to allow people to make a simple declaration. But that is not acceptable to Chinese officials, so we must try to find some other way forward. But the way that they are proposing raises all sorts of questions and we had better get on with sorting them out because otherwise there are going to be some very worried people come 1997, and some very confused Immigration Department officials.

**PRESIDENT:** Mr CHIM Pui-chung.

**MR CHIM PUI-CHUNG** (in Cantonese): *Mr Governor, you have assumed office for almost four years. As you have said, we may not hold the same political views, but I personally appreciate very much your efforts so far in other aspects. (Laughter) Mr Governor, now I would like to raise a question on the Securities and Futures Commission (SFC), which also concerns .....*

**PRESIDENT:** Mr CHIM Pui-chung, this is not one of the six topics.

**GOVERNOR:** I will take it.

**MR CHIM PUI-CHUNG** (in Cantonese): *Mr President, the Governor agrees to take it. I have just made a compliment to him, therefore, he will take my question. (Laughter)*

*The people of Hong Kong appreciate very much the Government's overall checks and balances, but all along the people and investors feel that the checks on the SFC's work in the past were inadequate. Though the Financial Secretary and the Secretary for Financial Services are empowered by you to monitor the SFC, but the SFC ignores their advice. Therefore, I hope that the Governor can take actual action. The licences of a group of small shareholders*

*in the company chaired by me have been suspended for 10 years. They recently applied for restoration of their licences through normal channel but some Australian staff in the SFC went so far as to .....*

**MR JAMES TO** (in Cantonese): *Mr President, can the Governor's consent to answer override the rules of this Council? Our topics have already been fixed.*

**PRESIDENT:** I do take that I should not allow that question but the Governor is pleased to answer it. I think the intervention is appropriate in another sense in that, are you, Mr CHIM, personally pecuniarily involved and interested in the company that you were talking about?

**MR CHIM PUI-CHUNG** (in Cantonese): *Mr President, absolutely not. Later I will submit a letter for the Governor to read carefully. I only call on the Governor to use his power to exercise checks on the SFC. How is your power of checks and balances applied?*

**MR RONALD ARCULLI:** *Mr President, I would like you to rule on the fact as to whether or not a Member of this Council can properly put the Governor in that embarrassing position by putting a specific case to the Governor during Governor's Question Time?*

**PRESIDENT:** I rule that the question itself is inappropriate. Mr CHEUNG Man-kwong.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Mr Governor, I quite agree to what the chairman of the House Committee, Dr the Honourable LEONG Che-hung, said about your efforts in the incident of Mr AU Wing-cheung and Mr WONG Chun-ming. You were performing the duties of a Governor. The incident of Mr AU and Mr WONG makes us think of Mr XI Yang. Mr Governor, during your return to Britain, did you discuss with the Prime Minister Mr John MAJOR the imprisonment of XI Yang, a reporter of Hong Kong's Ming Pao, in Beijing, and how will the British and Hong Kong Governments follow up the case so that XI Yang will be released? We are very sorry to learn from today's*

*media reports that XI Yang fell ill in prison and had not seen sunlight for years. Will the British and Hong Kong Governments formally ask the Chinese Government to bail Mr XI Yang out for medical treatment on humanitarian or health ground?*

**GOVERNOR:** If I can, without breaching the rules of order, just apologize if I was in any way responsible for an earlier breach. I have on previous occasions, occasionally answered questions which were not actually on the list in front of us. It does not necessarily mean that I will always do it if people are flattering and kind to me, but that does actually help. *(Laughter)* Should I resume a political career in the future I will know where to turn for assistance.

On the sad case that the Honourable Member has mentioned, I can assure the Honourable Member that I always discuss that particular and related issues when I return to London. It was not actually on the agenda of my meeting with the Prime Minister, but we did during the course of other discussions touch on it. The honourable gentleman will know the slightly more limited capacity for intervention where one is talking about somebody with resident's status rather than citizenship or a passport. But we have at meetings between senior British Ministers and senior Chinese officials raised the case continually and will continue to do so. I think that it is a case which concerns everyone in Hong Kong in the same way perhaps as the case of Mr AU and Mr WONG did. There is a difference in what one is able to do in the two different cases, but I appreciate that concerns will continue to be expressed, particularly if Mr XI Yang is not in good health.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Mr Governor, the Chief Secretary Mrs Anson CHAN is going to meet Mr LU Ping, the Director of Hong Kong and Macau Affairs Office, this evening. Do you, Mr Governor, know whether the Chief Secretary will raise XI Yang's case and hope for his release at the meeting? If you do not know, would you convey my message to ask the Chief Secretary to raise XI Yang's case at the meeting with Mr LU Ping this evening. Also, during your return to Britain, did you ask the British Government to use diplomatic means, for example, sending a special envoy to visit XI Yang in China, in the hope that the Chinese Government would release XI Yang immediately or at least, as I have just suggested, bail him out for*

*medical treatment or return to Hong Kong on humanitarian or health ground?*

**GOVERNOR:** I am sure that reports of what the honourable gentleman has said will reach the Chief Secretary before her engagement this evening. I am not sure whether Director LU is the ideal, and I am speaking in terms of administrative responsibility, recipient of the message. But I will ensure that the message arrives at the Chief Secretary's office.

I did not raise in London the suggestion of a special envoy, but I will continue to raise the argument that British Ministers should keep in touch with their counterparts on an issue which, I repeat, has caused widespread concern, not only in this community but elsewhere too. It is the sort of case which I dare say I will find myself answering questions on when I go in a couple of weeks' time to the United States to argue for the renewal of MFN status against a background of concern in the United States about matters such as the one the honourable gentleman has raised.

**PRESIDENT:** Last question, Mr CHENG Yiu-tong.

**MR CHENG YIU-TONG** (in Cantonese): *Mr President, I often heard the Governor and his subordinates say that this term of our Legislative Council Members would be up to 1999. But I have a copy of A Collection of the Laws of the People's Republic of China 1994 and it was stated that our term would be up to 30 June 1997. In this circumstances, will you, Mr Governor, work for us in striving for this Council's interests or go for a 50-hour hunger strike as some Members did?*

**GOVERNOR:** Well, I could probably make more physical use of a hunger strike than any of the lean, perfectly formed. *(Laughter)* It is rather a pity when one pays people a compliment and they cannot recognize themselves.

Let me deal with the honourable gentleman's question seriously. Nothing I have ever said seeks to argue that 30 June 1997 does not see the end of British

sovereignty in Hong Kong. Equally, nothing that I have seen justifies the derailling of the so-called through train on 30 June, which has nothing to do with decisions taken by this Council or the Hong Kong Government except that those decisions which were in line with the Joint Declaration and the Basic Law were not liked by Chinese officials.

I think that this Legislative Council should continue until 1999. I think that it would be in the community's advantage for it to do so. And I repeat that anybody who garrottes this Council in the middle of 1997 will have to justify that to opinion in Hong Kong and I dare say, since there will be quite a lot of interest in the issue, to international opinion too.

**MR CHENG YIU-TONG** (in Cantonese): *I hope very much that you will meet Director LU. Last time, I hoped you could use your charisma to attract his coming. Now he has come to Hong Kong, but all along he has not met you. Mrs Anson CHAN will have dinner with Director ZHOU Nan of the New China News Agency, and Director LU Ping this evening. Will you, with the help of Mrs CHAN's charisma, express that your wish to meet Director LU, or convey your wish through the British Foreign Secretary's meeting with Mr QIAN Qichen on Saturday? If you can have a meeting with Director LU, matters will be more cleared up and the interests of this Council can be protected.*

**GOVERNOR:** I am not sure that my charisma or lack of it has anything to do with whether or not Director LU will meet me. There is of course an obligation on us to meet, regularly, under the Memorandum of Understanding on the airport. It is not me who is preventing that happening.

The *South China Morning Post* did not like it when I said that I thought the civilized thing to do for people in Director LU's position and mine was to meet and talk, as happened elsewhere in the world. Well, let me put the point in another way. Everybody knows in this community that it would be in the interests of Hong Kong for us to meet and discuss matters. Everybody knows that there is hardly anything that would send a better signal to the community and the outside world. When I say hardly anything, there is one thing, and that is, if Chinese officials would bring themselves — which they will have to do sooner or later — to begin a dialogue with those who represent the majority of public opinion here in Hong Kong.

But in the absence of Director LU or other Chinese officials meeting me, I hope that they will have many and increasingly frequent fruitful meetings with the Chief Secretary and other senior members of my Administration. I hope that that will be the pattern for the future, even if this PATTEN will not be part of it.

But nothing that has been said, nothing that will be said — no reflection of anyone's charisma — is going to change the fundamentals of the position on the Legislative Council, on the Bill of Rights, on the application of the International Covenants in Hong Kong, and on the faithful and successful implementation of the Joint Declaration.

### **ADJOURNMENT AND NEXT SITTING**

**PRESIDENT:** In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Wednesday, 24 April 1996.

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