

OFFICIAL RECORD OF PROCEEDINGS

立法局會議過程正式紀錄

Thursday, 27 February 1997

一九九七年二月二十七日星期四

The Council met at half-past Two o'clock

下午 2 時 30 分會議開始

MEMBERS PRESENT

出席議員：

THE PRESIDENT

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

主席黃宏發議員，O.B.E., J.P.

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

周梁淑怡議員，O.B.E., J.P.

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

李柱銘議員，Q.C., J.P.

THE HONOURABLE SZETO WAH

司徒華議員

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

何承天議員，O.B.E., J.P.

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

夏佳理議員，O.B.E., J.P.

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

劉健儀議員，O.B.E., J.P.

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

梁智鴻議員，O.B.E., J.P.

THE HONOURABLE ALBERT CHAN WAI-YIP

陳偉業議員

THE HONOURABLE CHEUNG MAN-KWONG

張文光議員

THE HONOURABLE CHIM PUI-CHUNG

詹培忠議員

THE HONOURABLE EMILY LAU WAI-HING

劉慧卿議員

THE HONOURABLE LEE WING-TAT

李永達議員

THE HONOURABLE ERIC LI KA-CHEUNG, O.B.E., J.P.

李家祥議員，O.B.E., J.P.

THE HONOURABLE FRED LI WAH-MING

李華明議員

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

唐英年議員，J.P.

THE HONOURABLE JAMES TO KUN-SUN

涂謹申議員

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

黃秉槐議員，O.B.E., F.Eng., J.P.

DR THE HONOURABLE YEUNG SUM

楊森議員

THE HONOURABLE ZACHARY WONG WAI-YIN

黃偉賢議員

THE HONOURABLE CHRISTINE LOH KUNG-WAI

陸恭蕙議員

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

田北俊議員，O.B.E., J.P.

THE HONOURABLE LEE CHEUK-YAN

李卓人議員

THE HONOURABLE CHAN KAM-LAM

陳鑑林議員

THE HONOURABLE CHAN WING-CHAN

陳榮燦議員

THE HONOURABLE CHAN YUEN-HAN

陳婉嫻議員

THE HONOURABLE ANDREW CHENG KAR-FOO

鄭家富議員

THE HONOURABLE CHENG YIU-TONG

鄭耀棠議員

THE HONOURABLE ALBERT HO CHUN-YAN

何俊仁議員

THE HONOURABLE IP KWOK-HIM

葉國謙議員

THE HONOURABLE LAU CHIN-SHEK

劉千石議員

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

劉漢銓議員，J.P.

THE HONOURABLE LAW CHI-KWONG

羅致光議員

THE HONOURABLE LEE KAI-MING

李啟明議員

THE HONOURABLE LEUNG YIU-CHUNG

梁耀忠議員

THE HONOURABLE BRUCE LIU SING-LEE

廖成利議員

THE HONOURABLE MARGARET NG

吳靄儀議員

THE HONOURABLE SIN CHUNG-KAI

單仲偕議員

THE HONOURABLE TSANG KIN-SHING

曾健成議員

DR THE HONOURABLE JOHN TSE WING-LING

謝永齡議員

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

黃錢其濂議員，C.B.E., I.S.O., J.P.

THE HONOURABLE LAWRENCE YUM SIN-LING

任善寧議員

MEMBERS ABSENT

缺席議員：

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

李鵬飛議員，C.B.E., J.P.

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

李國寶議員，O.B.E., LL.D. (CANTAB), J.P.

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

倪少傑議員，O.B.E., J.P.

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

劉皇發議員，O.B.E., J.P.

THE HONOURABLE FREDERICK FUNG KIN-KEE

馮檢基議員

THE HONOURABLE MICHAEL HO MUN-KA

何敏嘉議員

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

黃震遐議員，M.B.E.

DR THE HONOURABLE PHILIP WONG YU-HONG

黃宜弘議員

THE HONOURABLE HOWARD YOUNG, J.P.

楊孝華議員，J.P.

THE HONOURABLE PAUL CHENG MING-FUN

鄭明訓議員

DR THE HONOURABLE ANTHONY CHEUNG BING-LEUNG

張炳良議員

THE HONOURABLE CHEUNG HON-CHUNG

張漢忠議員

THE HONOURABLE CHOY KAN-PUI, J.P.

蔡根培議員，J.P.

THE HONOURABLE DAVID CHU YU-LIN

朱幼麟議員

DR THE HONOURABLE LAW CHEUNG-KWOK

羅祥國議員

THE HONOURABLE LO SUK-CHING

羅叔清議員

THE HONOURABLE MOK YING-FAN

莫應帆議員

THE HONOURABLE NGAN KAM-CHUEN

顏錦全議員

PUBLIC OFFICERS ATTENDING

出席公職人員：

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

CHIEF SECRETARY

行政局議員布政司陳方安生女士，C.B.E., J.P.

THE HONOURABLE DONALD TSANG YAM-KUEN, O.B.E., J.P.

FINANCIAL SECRETARY

行政局議員財政司曾蔭權先生，O.B.E., J.P.

THE HONOURABLE JEREMY FELL MATHEWS, C.M.G., J.P.

ATTORNEY GENERAL

行政局議員律政司馬富善先生，C.M.G., J.P.

MR MICHAEL SUEN MING-YEUNG, C.B.E., J.P.

SECRETARY FOR HOME AFFAIRS

政務司孫明揚先生，C.B.E., J.P.

MR CHAU TAK-HAY, C.B.E., J.P.

SECRETARY FOR BROADCASTING, CULTURE AND SPORT

文康廣播司周德熙先生，C.B.E., J.P.

MR GORDON SIU KWING-CHUE, J.P.

SECRETARY FOR TRANSPORT

運輸司蕭炯柱先生，J.P.

MR NICHOLAS NG WING-FUI, J.P.

SECRETARY FOR CONSTITUTIONAL AFFAIRS

憲制事務司吳榮奎先生，J.P.

MR DOMINIC WONG SHING-WAH, O.B.E., J.P.

SECRETARY FOR HOUSING

房屋司黃星華先生，O.B.E., J.P.

MRS KATHERINE FOK LO SHIU-CHING, O.B.E., J.P.

SECRETARY FOR HEALTH AND WELFARE

□ 生福利司霍羅兆貞女士，O.B.E., J.P.

MR RAFAEL HUI SI-YAN, J.P.

SECRETARY FOR FINANCIAL SERVICES

財經事務司許仕仁先生，J.P.

MR JOSEPH WONG WING-PING, J.P.

SECRETARY FOR EDUCATION AND MANPOWER

教育統籌司王永平先生，J.P.

MR PETER LAI HING-LING, J.P.

SECRETARY FOR SECURITY

保安司黎慶寧先生，J.P.

MR BOWEN LEUNG PO-WING, J.P.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

規劃環境地政司梁寶榮先生，J.P.

MISS DENISE YUE CHUNG-YEE, J.P.

SECRETARY FOR TRADE AND INDUSTRY

工商司俞宗怡女士，J.P.

THE HONOURABLE LAM WOON-KWONG, J.P.

SECRETARY FOR THE CIVIL SERVICE

公務員事務司林煥光先生，J.P.

CLERKS IN ATTENDANCE

列席秘書：

MR RICKY FUNG CHOI-CHEUNG, SECRETARY GENERAL

秘書長馮載祥先生

PURSUANT TO STANDING ORDER 4AA, HIS EXCELLENCY THE GOVERNOR, THE RIGHT HONOURABLE CHRISTOPHER FRANCIS PATTEN, ATTENDED TO ADDRESS THE COUNCIL AND TO RECEIVE QUESTIONS.

總督彭定康先生依據《會議常規》第 4AA 條的規定出席會議，向本局致辭，並接受質詢。

主席：請各位議員繼續站立，等候總督進入會議廳。

秘書：香港總督。

主席：總督會就已通知議員之 3 項題目回答議員之質詢。各位議員在提出質詢並獲答覆後，可提出 1 項簡短之跟進質詢，但只限於要闡明該答覆不明之處。該 3 事項為香港人權事宜、房屋及為老人及新移民而設的服務。請各位議員舉手示意。劉千石議員。

劉千石議員問：主席，政府是否仍然會繼續對本港現行的法律進行檢討？如有法例違反《香港人權法案條例》，是否會進行修訂？港府會否在本屆立法局會期餘下的時間內提交新的修改法例的條例草案？

GOVERNOR: We have almost completed our review of ordinances. There are one or two other ordinances that we have been looking at, for example, the Telecommunications Ordinance, following the proposals of the Law Reform Commission. I have said again and again to this Council that it was our determination to make sure that we placed before the Council before 30 June proposals which would ensure that our statute book was in line with the Bill of Rights. I have not changed my position and the Government has not changed its position on that. So we may be requiring even more work from the Legislative Council in the future.

劉千石議員問：主席，總督在回答時提到有關電訊的條例，請問其他法例，例如有關獨立投訴警察制度，以及全面禁止歧視的條例，是否也在他考慮範圍之內呢？

GOVERNOR: Well, let me distinguish between those issues. First of all on discrimination, on legislation on discrimination, the Honourable gentleman will know that we already have in place legislation dealing with discrimination against people on grounds of their gender. He will know that we have legislation in place against discrimination on the grounds of disability and he will

know that we are acting as well on discrimination on family responsibilities. We are legislating on all those issues and we are asking the Equal Opportunities Commission to cover those questions as part of its responsibilities.

He will also know that we have proposed to take administrative measures rather than legislate in regard to discrimination on the grounds of sexual preference. He will know the proposals we have put forward regarding discrimination against those of older years, and he will also know that we are consulting the public about the very good study that has been carried out on whether or not there is discrimination in Hong Kong on the grounds of race. We have not thought it appropriate at this time to go for legislation on each of those subjects, but by and large, we have, I think, gone as far as the community thought was sensible. And I am delighted the Equal Opportunities Commission has made such a good start.

As far as the police complaints machinery is concerned, the Honourable gentleman will know that we are putting that on a statutory basis, that there are proposals before the Legislative Council which the Legislative Council is debating. But let me just repeat, I have said consistently that we would review all our statute book to make sure that it was in line with the International Covenants and the Bill of Rights. Even those who do not agree with me would, I think, concede that I do what I say I will do, and that remains our intention.

主席：李啟明議員。

李啟明議員問：主席，請問總督先生會否接受我們剛才遞交給他的函件內 5 個政黨和勞工團體的要求，即時增加老人綜援金 300 元，以及提高綜援資格的限額至 10 萬元，使夕陽殘照下，也可留下一道彩霞，為老人家增添一些溫暖？

GOVERNOR: I was grateful for the Honourable gentleman's greeting outside the Legislative Council. One or two of my old friends and customers were there as well, but it was a particular joy to have the Honourable gentleman waiting for me with a lantern and his cheery good wishes for the New Year.

I understand the concern which all Members of the Legislative Council have about the living standards of the elderly. As Hong Kong becomes more prosperous, and the scale of Hong Kong's prosperity was once again underlined in the admirable speech which my honourable friend, the Financial Secretary, made earlier today, I think it is understandable that people should want to ensure that the elderly share in our increasing prosperity, though the elderly themselves would, I am sure, wish us to keep a prudent control over public spending just as they have prudently managed their own finances over the years.

The Honourable gentleman may know that since 1992 we have increased spending on services for the elderly by about 94% in real terms. Comprehensive Social Security Assistance rates for the elderly have, I think, gone up by about 100% in real terms. Now, that has led some to assert that we are driving the car too fast. I think that was the metaphor. It has led some to assert, which is not as good for my reputation as I would like, that I am a socialist or a welfarist, that I am wrecking Hong Kong's economy. I am sure the Honourable gentleman would be the first to denounce those who made those sort of allegations.

The truth is that we have been meeting our obligations to the elderly. We must continue to give their concerns and interests the highest priority while, of course, ensuring that Hong Kong's economy is managed very sensibly.

Perhaps I can just add two things. The Social Welfare Department is conducting two studies at the moment which will, I am sure, be the focus for considerable discussion and debate. The first is a study, which will be available in the late summer, into the financial needs of the elderly and how those are met at the moment. The second study, which I think all Members would regard as particularly important, is into the reasons why some elderly people who are existing on very low incomes at the moment do not claim social security and seek to make do on their own without the help to which they are wholly entitled. I think both those studies will ensure that we can develop our policies in a way which is both generous and well-targeted.

主席：何承天議員。

何承天議員問：主席，我想問總督先生有關房屋的問題。由於政府最近的長遠房屋策略檢討諮詢文件中提及香港在未來 10 年對房屋的需求十分殷切，並預測每年要興建 8 萬個單位，請問政府有否考慮到人力資源是否足夠，可以達到每年這個產量的目標呢？

GOVERNOR: I think that we should have enough resources to meet those targets. But I do see the point which the Honourable gentlemen is making not least as a professional in this field himself, and I think it is a point that has been made by his honourable friend on his right. We do need to look at administrative procedures, and we do need to look at the quantity of professional support that we have in order to speed up those administrative procedures wherever possible. Some of the hold-ups we have are because of the lack of professional expertise when so much is happening in Hong Kong, when there is so much building going on. We have got ideas about sharpening up our procedures and I hope that we will be able to do so. Can I just add a word or two to what the Honourable gentlemen said.

We should be able to reach that rather higher target of 85 000 homes per year largely because we have actually increased the amount of land available in the next five years for private development by about 80% over the amount of land that was available in the last five years. We are, of course, looking beyond 2001, beyond that five-year time horizon as well. We are looking to the years beyond that when it is our intention to try to build in some margin for error in the calculations made, for example, in the Territorial Development Strategy Review, and add about 7% to the target figure for housing each year in the period beyond that. That is going to require a lot of administrative drive from the Government and we are well aware of some of the problems that we have got to overcome.

何承天議員問：主席，其實我的質詢是有關人力資源方面，除了專業人士，也包括勞工。政府會否考慮，一如興建新機場核心工程時制訂一項統籌計劃，使我們有足夠的建築業勞工？

GOVERNOR: I have to say to the Honourable gentleman that the question of supply problems because of a shortage of skilled labour in the industry is not something that has been raised with me before. I very much hope that as our

training schemes become more flexible and take greater account of industrial demand, if there are shortages in the construction industry of plumbers and electricians and so on, then the training body will be able to help us deal with that problem more quickly. But if the Honourable gentleman has particular problems of labour shortage in mind, perhaps he could let me know and I will look into them for him.

主席：羅致光議員。

羅致光議員問：主席，去年一月，政府估計到九七年七月一日時會有 29 000 名兒童符合《基本法》第二十四條的條件，可以擁有香港的居留權。請問總督先生，政府現時有否任何政策或方法，預防這 29 000 名兒童在七月一日後短期內透過不同途徑湧入香港？如果沒有的話，而又真的出現這種情況，政府現時有否任何計劃，就他們的教育、房屋和福利需要等問題採取應變措施？

GOVERNOR: Perhaps I can give the Honourable gentleman a rather more extensive set of figures which will give some indication of the demand that we may well have to adjust to. The latest estimates we have — and we went through this exercise in November last year — suggest that at the end of 1996, there were 84 300 women married to Hong Kong men who had the right to come to Hong Kong and there were in China 46 200 children with the right of abode in Hong Kong in July 1997. We reckon that by the middle of this year, in other words, by 1 July, those figures will have fallen somewhat, that there will be about 76 500 women and 34 900 children, making just over 111 000 altogether.

The Honourable gentleman will know that for almost two years since July 1995, we have increased the daily quota into Hong Kong from 105 to 150, and as a result of that legal immigration from China last year, totalled just over 61 000.

And that has, of course, put something of a strain on welfare and educational and housing resources in some parts of the community. I have recently been, for example, to Sham Shui Po, to Eastern District, to Kowloon District to talk to the District Boards and others in those communities about the way that they are coping with these issues. I went to an extremely good

elementary school in Kowloon the other day and saw what they were doing. I met a group of new immigrants in Eastern District and talked to them about the sort of information they need in order to adjust to life in the community. We do have to do more in areas like education in order to help new immigrants. The Council has only recently voted another \$500 million to help with the training of newly-arrived immigrants. I am sure that this is a subject which the Financial Secretary in due course will want to address over the next year as well.

I think the whole community recognizes the importance of us ensuring that immigrants are able as soon as possible after their arrival in Hong Kong to make a full contribution to our economic and social life. Very often, that means better-targeted programmes to help them.

羅致光議員問：剛才總督先生沒有回答我的質詢的核心之處。他提供了更新的數字，說會有 34 900 名兒童符合《基本法》的要求。根據一般國際慣例或我們所遵照的普通法的角度，如果他們偷渡來港，或持有雙程證在港逾期居留，我們也不能夠把他們遞解出境。如果這 34 900 名兒童來了香港，我們究竟會如何處理？我們有否方法可以防止他們在很短期內湧入香港，因為很多“蛇頭”在內地已廣泛散播謠言，說他們來港後不用離開？如果真的有 34 900 名兒童來了香港，我們最少需要 35 所學校來照顧他們，我們如何處理這問題呢？

GOVERNOR: Well, can I distinguish between the importance of discouraging illegal and encouraging legal immigration on the one hand, and secondly, the impact on our educational service caused by the increase in the number of children who are coming into Hong Kong, very often with language difficulties and other difficulties in adjusting. On the first of the Honourable gentleman's questions, there is certainly, as far as I recall, no recent evidence of an increase in illegal entry into Hong Kong by people from China, whether or not people with the right of abode after 1 July 1997, and I think that is probably partly a result of the sensible decision that we took, I think, with the support of this Council in the middle of 1995 to increase the numbers coming here legally.

On the second question, we do recognize the additional educational demands and we do recognize that we can only meet those demands by the allocation of additional resources, and that is something which the Financial

Secretary and the Secretary for Education and Manpower are well aware of.

主席：李柱銘議員。

MR MARTIN LEE: *Mr Governor, I expect a very short answer from you to my long leading question.*

GOVERNOR: That always sounds rather dangerous! *(Laughter)*

MR MARTIN LEE: *The Foreign Secretary has recently called for the Chinese Ambassador to the United Kingdom and raised with him recent remarks by the Chinese Foreign Minister QIAN Qichen in relation to certain human rights, or the press freedom in particular, in relation to Hong Kong, and since then I understand that China of course did not give a satisfactory answer or assurance.*

And also in relation to the vexed question of whether or not the setting up of the Provisional Legislature would constitute a breach of the Joint Declaration, again, the Foreign Secretary recently in Hong Kong said although it is still on the table, that is, his suggestion that China should submit to the jurisdiction of the International Court of Justice (ICJ) on this question, he could take it no further.

Now, in relation to both matters, are you going to press the British Government to refer both questions to the Security Council of the United Nations in order that it would make the request to the ICJ for an advisory opinion?

GOVERNOR: I noted that the Honourable gentleman had made this suggestion the other day and I do not think I give away any secrets in saying that I think it was part of the conversation which the Honourable gentleman had with the Foreign Secretary in London. But I am not quite sure that I understand what the purpose or value of that particular proposal would be.

Let me explain myself. The Security Council of the United Nations customarily deals with issues which threaten international peace and security.

Now, worrying and damaging to Hong Kong as both the Provisional Legislature is, worrying and damaging to Hong Kong as the undermining of civil liberties in Hong Kong is, of concern as those matters are to the international community which is going to look at the way China is going to handle Hong Kong as a sort of test of how China is going to behave more broadly in the next few years, I think there would be members of the Security Council who would raise questions about whether the issues which the Honourable gentleman and I both feel very strongly about actually represented the same sort of threat to international peace and security as was represented at present by, for example, the crisis in Rwanda or Zaire which are taking up so much time at the United Nations.

It has been the British Government's policy — one which I strongly support — to ensure that there is as much international support for Hong Kong and Hong Kong's freedoms as possible. And I think that that obliges us to look at ways of encouraging support which would be regarded by others as sensible, rather than ways which would not be regarded as sensible. But I will certainly consider the Honourable gentleman's proposal and talk to him further about it if he would like.

Can I add, however, just one point? I do think that everybody in Hong Kong recognizes the degree of concern felt outside as well as inside our community by those proposals on the Bill of Rights and associated legislation which, in the words of the leaders of our legal profession, threaten to undermine the rule of law. And there is just one point, one plea that I want to make. Hong Kong is a very successful society, a society with a successful government, with successful institutions, with successful defences of its way of life. It is, to borrow an analogy, a Rolls Royce of a society. And what people outside, I think, find so difficult to understand is why, instead of just driving the vehicle away, Chinese officials and the Chief Executive (Designate) and his colleagues seem to want to examine the engine, tinker with the tyres, rather than just turn on the ignition and drive the Rolls Royce as successfully in the future as it has been driven in the past. I think that causes genuine incomprehension elsewhere as well as genuine concern.

MR MARTIN LEE: *Mr Governor, maybe they want to make sure there is no bomb planted in this Rolls Royce! But my supplementary is this, and here is another attempt on my part to get a short answer from you, Mr Governor.*

Would it not be wonderful if, as a result of the advisory opinion given by the ICJ on both of the matters I mentioned earlier at the request of the Security Council, China would then be persuaded to change her mind and not persist in mucking about with the Rolls Royce, as you put it, or by not pursuing its plans to change laws through the appointed Provisional Legislature?

GOVERNOR: I must not pursue the Rolls Royce analogy any further. I do not think the manufacturers would necessarily care for it. I think it may be the case that — and this is to risk abusing metaphor — what makes Hong Kong motor forward so successfully, that is a combination of economic and political freedom, worries some Chinese officials, though worries them wholly unnecessarily.

On the ICJ, yes, it would be a very satisfactory outcome if the Chinese would accept the invitation which is still on the table to go to the ICJ for arbitration and would then accept what the ICJ had to say. There are not actually all that many members of the Security Council which do accept the binding arbitration of the ICJ. I think I am right in saying that the United Kingdom is the only permanent member of the Security Council which does so. I think I am right in saying that though I am happy to be corrected.

It is worth adding that elsewhere, where we think there is a clear obligation on China to follow procedures under the auspices of the United Nations, it is arguing at present that it does not see the need to do so. I am referring, of course, to the reporting obligations under the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights. So, I agree with the Honourable gentleman about the desirability of the outcome he has mentioned. I am not sure that his proposal about the Security Council would be the right one. I am sure that it should remain a priority for the United Kingdom in the conduct of its foreign affairs to ensure that there is the maximum international support for the survival of freedom and the rule of law in Hong Kong.

主席：李卓人議員。

李卓人議員問：主席，剛才總督先生在回答劉千石議員的質詢時，說政府一直注視香港的法例是否符合《香港人權法案條例》及國際公約。相信總督先生亦知道，我最關注的是工人本身的人權。我遞交了兩條私人條例草案，一條是修訂《職工會條例》的私人條例草案，希望使香港的工人能有權組織跨行業的工會聯會，以及加入國際工會時無須總督先生的批准。這能令香港的情況更符合《經濟、社會、文化權利國際公約》。此外，也使香港的工會免受歧視，如遭歧視，可獲復職，這才能更符合《經濟、社會、文化權利國際公約》中有關結社自由權利的部分。另一方面，我提交一條有關集體談判權的私人條例草案，使香港的情況更能符合《國際勞工公約》第 98 號。

我提交的私人條例草案全都是希望令香港的情況更能符合國際公約，可是，香港政府的立場卻是反對我的私人條例草案。這似乎跟總督先生剛才所說的有些矛盾。香港政府是否不想香港的工人可以享受國際公約所賦予的權利？

GOVERNOR: Let me respond directly. The fact is that we do not agree with the Honourable gentleman that the present state of the law which he wishes to change contravenes our obligations in the Bill of Rights and in the International Covenant. We disagree on that point. I do not think we disagree about the importance of applying the International Covenant to Hong Kong.

Where we also disagree is in the approach which the Honourable gentleman has taken to, not in every case but in this case, labour legislation. The Honourable gentleman knows that he has been a distinguished part of the process, that we have tended to legislate in the labour sphere on the basis of a consensus reached in the Labour Advisory Board (LAB). I think what that has meant in Hong Kong is that there has been far less scrapping between employers and employees over legislation, far less here than exists in some other communities we are seeing in this region at the moment. Indeed, the Honourable gentleman, I think, has had first-hand experience of what is happening in this region at the moment where there is not a consensus of labour legislation.

So, I would prefer to proceed on that basis, though I understand that the

three issues which the Honourable gentleman is talking about — two, I think, in one bill and the other, in another — are matters about which he and his trade union colleagues and his own trade union have felt strongly about for many years and have argued about both in Hong Kong and internationally for many years, and I am sure he will continue to do so. The Honourable gentleman may well be able to get a consensus in the LAB on those matters, though I would not advise him to hold his breath.

李卓人議員問：主席，總督先生可能沒有看過《經濟、社會、文化權利國際公約》，我希望他細讀一下，因為問題不是你們應如何去實施公約，而是你們違反了公約。我期望他細閱公約後，再從那個角度去檢視我所提出的私人條例草案，了解到我其實是在幫助香港更能符合國際公約。這並非關乎解釋的問題，而是明顯違反的問題，因為公約清楚列明工會有聯合組織的權利，同時也有國際結社自由的權利。我希望總督先生細閱那兩條公約。

GOVERNOR: I can only repeat what I have said: that we do not wholly agree with the Honourable gentleman about our own law being out of line with the International Covenants and the Bill of Rights. The Honourable gentleman will know that one reason why we have carried out this very comprehensive review of laws, which I think has led so far to about 38 different parts of ordinances being changed, maybe slightly more than that now, is that we did not want to be taken to court over existing laws which it could be argued were out of line with our international obligations as applied to Hong Kong law through the Bill of Rights. I think the fact that we have not been subjected to a legal challenge on that particular point may speak volumes, but I am not encouraging the Honourable gentleman to take legal advice.

主席：黃偉賢議員。

黃偉賢議員問：主席，昨天天水圍再次發生不明氣體事件，是一年之中的第四次。今次的影響更大，幾乎 8 間學校都受到影響。我希望總督先生證實，昨天是否有政府部門，包括英軍或懲教署曾在青山訓練場進行催淚彈演習。政府會採取甚麼措施，以找出成因，以及如何防止類似情況再次出現？

GOVERNOR: Well, now that I have had notice of that question, which I suppose imaginatively one could relate to housing, the welfare of the elderly and human rights in one way or another, I will seek to reply to it in appropriate detail. I very much doubt whether the British Garrison were firing tear gas yesterday because they did have the Secretary of State for Defence with them!

黃偉賢議員問：主席，這件事當然跟房屋有關，因為整個地區所有居民都受到影響。（眾笑）

主席，類似情況曾在香港各區出現，尤以天水圍次數最為頻密。以往的個案都查不出原因，因此，我建議總督先生要求環境保護署成立一個特別專責小組，全面及深入研究有關問題，不用每次事後都查不出原因。

GOVERNOR: It is a serious issue. I can assure the Honourable gentleman that we will give it serious attention. I understand why he raises it in that imaginative, if tangential, way. I think that many parents will have been particularly concerned because of the effect on schoolchildren in the area, and we will try to give the Honourable gentleman who represents the interests of people in the community, in this case so successfully, and we will try to give him a full and early answer.

I doubt whether it needs the establishment of a special committee. What it does require is an urgent and comprehensive answer to his question.

主席：任善寧議員。

任善寧議員問：主席，我想告知總督先生，剛才我也有分兒就老人的綜援金問題在局外遞交信件。在總督先生到達前 10 分鐘，我在前廳曾邀請財政司下去接信，但卻遭拒絕。財政司就財政預算案向我們作出的簡報及討論仍未開始，要在三月中至四月中這整整一個月內進行討論。當很多人預計臨立會可能會成為橡皮圖章之際，我們是否要先成為橡皮圖章？不知總督先生有甚麼批評？

GOVERNOR: I am not quite sure that I wholly follow the Honourable gentleman's question, but let me seek to respond to each of the parts that I did understand. First of all, I was grateful for the Honourable gentleman's attendance in the welcoming party down below. I think he will understand that the Financial Secretary, while the most obliging of men, would not wish, even for the Honourable gentleman, to play the role of Postman Pat.

My honourable friend, the Financial Secretary, had the great benefit of substantial consultations with Members of the Legislative Council earlier in the year about his budget and spending priorities. I think he is well aware of the concerns of Honourable Members, just as he is well aware of the concerns in the financial markets and the concerns in the broader community that we should continue to enjoy a reputation for care in our public spending.

Can I add two points? First of all, the Budget this year, as the whole Council knows, as the whole community knows, is a curious one. It is, if you like, an one-off. The Budget takes place in a year in which sovereignty changes after three months, just over three months. Now, that has inevitably meant that our procedures have been different this year. Though Chinese officials have said on a number of occasions, and I hope on this occasion that they mean what they say, that this is an one-off, that they would not seek to be involved in Hong Kong's budgetary procedures in this way again. But it does cause some problems. The Honourable gentleman will know that Mr QIAN Qichen, among others, has made it clear that there is only one Legislative Council before 1 July and I am sitting in it. And the Legislative Council has the authority to vote the Budget, and, I hope, will do so with enthusiasm.

The other point that I would like to make is this. Hong Kong is in an extremely strong and healthy position economically and fiscally. Where other communities very often fight over deficits, we find ourselves sometimes, it appears, embarrassed by our surpluses. But because you have got a surplus as a government, as a community, and if you have a surplus as a family, it does not mean that the sensible thing to do is to spend it all. I think that whatever the size of our surplus may be, and the Honourable gentleman will know that when you add the Land Fund to our aggregate surplus we are extremely well off,

whatever the size of those figures, I do not think that anything would justify breaking the link that we have welded over the years between the growth in our overall economy and the growth in public spending.

One of the reasons why we have got so much to spend today on areas like health and welfare and education is precisely because we have been sensible about relating spending to the growth in the economy in the past. So, I hope the community and this Council will continue to be mature about the responsibilities of handling a surplus sensibly. It is, on the whole, a rather nicer problem to have to face than dealing with deficits.

主席：李永達議員。

李永達議員問：總督先生，最近你在報章上說希望董建華先生是一位民意的領袖，我很希望你在解決市民問題時也是一位民意的領袖。據我所作的統計，自你上任至今，有兩個問題一直都是市民最關心的，在民意調查中通常都佔第一及第二位，一個就是香港的前途和政治問題；另一就是房屋問題。在這半年，房屋問題一直領先，我不知總督先生做夢時會否夢見房屋問題已經不是最重要的問題，而是已經下降至第九、第十位，令你晚上可以開心一陣子。

我們能夠在公開會議上再向你詢問有關房屋問題的機會不會太多，因為數個月後已經沒有機會再問。請問總督先生，經過這 5 年後，你覺得香港房屋問題的根本原因何在？這似乎並不是一個難於解決的問題，但是我們糾纏了 5 年，也不見任何曙光，可以令房屋問題在短期內，即未來 5 年或 10 年，不再成為每次民意調查中香港市民認為是最重要的問題。你有否想過這件事呢？

GOVERNOR: First of all, I very much agree with what the Honourable gentleman said about the priority which the public give to housing, and I must say that it is not only in this community. When I was myself a Member of Parliament, I think the issue that more than any other dominated my post bag as an MP was housing. And it is understandable. It is related to people's sense of their own family security. It is related very much to people's financial position. It is related to their concerns about bringing up their children. It is very often related to their health as well. And not surprisingly here in Hong Kong,

because of increasing immigration still, because of the increase in household formation, because of the very substantial size still of the queue of people on the Waiting List for housing, housing is a dominant feature.

I do not want — I have got them all here but I will recognize the seriousness of the Honourable gentleman's question — I do not want to go through all the figures of what we have done and what we have achieved in the last five years because I want to address a question which I will not be around to help solve. I think there are two real issues at the heart of our housing problems. The first is that despite the increase in the income in people's pockets, despite the effect that economic growth has had on things like median household incomes, there are still too many people who find it difficult to do what they want to do, that is, to become a home owner. And if you look at World Bank comparisons in Hong Kong, there should be far more people able to do that given our median household incomes.

Secondly, despite the fact that we put a huge amount of effort and a huge amount of resources into the provision of public housing, we still do not give enough assistance to those in the greatest housing need. And there is very little choice at all in our housing provision, particularly for the needy and the disadvantaged.

What on the whole happens? What on the whole happens at the moment is that after five, six, seven years on the Waiting List, a family gets a Housing Authority flat and they are then in it for life, and sometimes their family are in it after. They will pay in that housing accommodation flat about a third as a proportion of their household income that they were paying in private sector, probably far worse accommodation. If they are lucky, they may be able to get into the Home Ownership Scheme, but nine out of every 10 who apply for that scheme are not lucky.

I repeat, we put a huge amount of effort, of money, of energy into trying to cope with the problem, but we have still got probably 80 000 people who are — I know the Waiting List is bigger than that — actually qualified to get public housing and are having to wait for too long. That is why I think the issues that are raised in the Long Term Housing Review are serious ones which the community has to address. We have got to try to ensure that public housing goes to those who need it most. We have got to ensure that there is more

flexibility in our housing provision, and we have got to ensure that it becomes easier for people to become home owners than it is today.

In trying to achieve that, we do not give up what we have got to do for those who are still in real need. I was standing on a rooftop in Sham Shui Po the other day looking at some of the awful housing that people still have in what is one of the most prosperous communities in the world. It is a challenge to us administratively and a challenge to our social consciences as well. These are big problems. I do not think we can go on trying to tackle them in the way that we have been using for the last 10 or 20 years.

Finally I would commend to the whole Legislative Council a speech made on this subject about a fortnight ago by the Director of Housing in which he set out all these issues, I thought, with considerable clarity and with considerable verve.

李永達議員問：主席，總督先生提出了他的意見，不過，我希望他留意兩點。第一，香港所有市民，特別是中產階級都知道一句名言，就是我們每一個人都是一世為地產商打工，這是香港一個很重要的現實。其實總督先生從來都不會談論香港整個地產市道發展和地產商的利益與政府的關係。第二，我很欣賞陳太主持的機場核心工程督導委員會以 5 年時間就完成了這麼龐大的計劃，這實在十分精采。不過，在興建樓宇方面，政府部門在規劃、環保、交通、批地和審批等程序上卻要用上 14 年時間，為何要 14 年呢？總督先生作為行政首長，是否覺得完成這些程序所花的時間完全不可以接受呢？為何要花這麼多年時間呢？5 年已經可以完成興建機場，興建房屋為何不可以也在五、六年內完成呢？

GOVERNOR: I cannot speak for the Chief Secretary, but I suspect that she and I would have a good deal of sympathy with the Honourable gentleman's question, and I think that we do have to speed up our procedures very considerably. The Honourable gentleman referred to the position of real estate developers. It is interesting, and I had better be careful with what I say. I do not think that in late February 1997 it is entirely sensible for me to open up yet another front. It is interesting that in a community which is recognized internationally for its ability to deliver spectacularly good value for money in spectacularly short

periods, we do not have that reputation in housing. I have been very careful in the way that I have said that, but, for example, setting aside the Government or Government's subsidized schemes, you do not see quite as much competition at the lower, cheaper end of the market as you see in comparably well-off communities. And I think that that is a subject which I know everybody else talks about a great deal though it is perhaps dangerous for the Governor to flirt with it. Perhaps the Honourable Member would like to come in?

PRESIDENT: This is the Governor's Question Time!

主席：何俊仁議員。

何俊仁議員問：主席，剛才總督先生就李柱銘議員的質詢所給予的答案，令我感到失望。他似乎說現在將臨立會的合法性問題提交聯合國國際法庭，好像很消極，並沒有甚麼實際價值，甚至有程序上的困難。其實總督先生與外相，甚至首相的關係那麼密切，他會很明白他們的想法。如果有那麼多困難，而又對這樣做的價值有質疑的話，為何外相要這樣提出來呢？他這樣做是否只是一種姿勢而沒有誠意循這方式解決問題呢？

我出席這會議前曾作了一個小小的研究，看了一些有關國際法的資料。我帶了有關的書籍來，並影印了資料，稍後會交給總督先生，如果他今晚未能成眠時，可以取來一看。資料只有十多頁，很簡單，是談論國際法庭的程序，不很複雜。

其實如果以訴訟的程序來說，英國政府可以作出第一步，然後待中國政府回應；又或透過聯合國大會或安理會，無須中國同意，直接向國際法庭求取意見書，所以是有兩個途徑的。總括來說，只要英國政府作出第一步，就可以等待中國政府的回應。我們也無須假定中國政府一定會採取抗拒的態度，中方可能想借國際法庭來證明臨立會是合法也未可料；又或中方想借國際法庭來反告英國政府違反《聯合聲明》，或控告總督先生你的政制改革方案破壞了《聯合聲明》也未可料。因此，我們不要假定中國政府一定不會回應。我希望總督先生提供較確實的答案，說會促使英國政府採取實際行動，作出第一步，使這件事能夠透過一個公平的法律程序來解決。

GOVERNOR: I am not, as I have had to point out to the Council before, a lawyer, though I have become more knowledgeable about legal matters since I have been Governor of Hong Kong, and I am sure that after speed-reading the document which is at present in the President's hands I will be even

PRESIDENT: Was that meant for me or meant for you?

GOVERNOR: better informed. It is called "Stark on International Law". I have in my hands the Eighth Edition and I am looking forward to reading it later on this afternoon.

To be serious, and I think Mr Stark or Professor Stark or Lord Justice Stark, or whoever he is, will agree with me, the simple position is that where two countries agree to take a dispute to the ICJ, the ICJ will accept the case from them. If one of the parties to the dispute does not accept that and resists going with the other party to the ICJ, then the party which is concerned has to get the agreement of the General Assembly of the United Nations to the ICJ's role in the case. Now, there may be an argument for doing that, but I would just like to point out to the Honourable gentleman that the General Assembly of the United Nations does not meet until next autumn and next autumn is after 1 July, by which time, I suppose, it is possible that the business in Shenzhen will have moved south, much to the discredit of those involved and much to the disadvantage of Hong Kong.

What I want to assure the Honourable gentleman of is this, that this issue will remain an important issue for the United Kingdom Government. It is not something about which the British Government has "agreed to disagree", to borrow a phrase. We have to take our responsibilities under the Joint Declaration seriously and intend to continue to do so. That applies to human rights and human rights legislation, and it also applies to the question of democratic development.

I can assure the Honourable gentleman of one other thing. We are told that an early priority in the months after 1 July will be to design election arrangements for the elected legislature after the hand-over. I think the United Kingdom, like other countries around the world, will be looking at those arrangements with great interest. We will be interested if those arrangements prove to be fairer than the present ones. We will be interested if those

arrangements increase the suffrage in Hong Kong. We will be interested if those arrangements have the principal purpose of reducing those who can get elected on a democratic platform. Those are all issues which are going to be of considerable concern to the United Kingdom, to the United States as the United States has made clear, and to others. And I think what we have to do is to maximize interest in those issues and concern about those issues by behaving in the way which is most likely to build an international consensus rather than in the way which may narrow international support for decency, good sense and the rule of law in Hong Kong.

何俊仁議員問：主席，我只想作很短的回應。剛才總督先生所提及的問題，我們每一名議員當然都很關心，而且會繼續做我們應做的事，來確保將來有一個公平的選舉。但最使我們香港人關心的，就是《聯合聲明》應適用於香港 50 年，但現在我們卻看着有人違反《聯合聲明》；又看到根據《聯合聲明》而制定的《香港人權法案條例》現時給別人削弱部分權力。這些都是需要解決的事，我們不能坐視不理。除了剛才總督先生所說的國際法庭這途徑外，這本書中載有很多程序，我覺得英國政府應盡責任作出第一步。

此外，人權委員會在下月將會舉行大會，我希望總督先生將信息帶給英國，將《香港人權法案條例》的制定是否符合《聯合聲明》，有否違反《基本法》等問題帶到聯合國人權委員會上討論，引起他們的關注。我相信中國政府一定會關注人權委員會的獨立和專業意見。

主席：相當長的“短”跟進質詢。（眾笑）

GOVERNOR: Let me follow what the Honourable gentleman has said. I would guess that the Honourable gentleman, like me, has yet to hear from anyone who is supporting what he described as the emasculation of our civil liberties legislation, has yet to hear a single rational description of in what way our civil liberties legislation breaches the Basic Law. All that we hear is that the bills are going to be changed because of Article 160 in the Basic Law, which is the article which says that bills can be changed if they are not in line with the Basic Law. I mean, it is a completely circular argument. It is like a cat chasing its own tail. I think that was the point made by the Chairman of the Bar Association.

Why is it, why is it that these laws are going to be changed? Not a single argument about them being in contravention of the Basic Law, but a lot of implied concern that somehow they will bring about social chaos and instability in Hong Kong. We have had these bills and where is the social chaos? I looked up before today the figures for marches and demonstrations in Hong Kong, and it is perfectly true that as Hong Kong has become a more open, more plural society, as it has developed a civic consciousness, so there have been more marches and demonstrations. The figures increased very substantially over the last decade. At the same time, our economy has doubled in size and crime has fallen. So, nobody can say that allowing people to demonstrate, allowing people to let off steam is bad for our economy or that it is bad for social order. The fact of the matter is that if you try to stop people using safety valves, the steam will come out in other ways, in ways which do lead to social disharmony.

The United Kingdom has made it clear that the report that will go to Parliament every six months on the implementation of the Joint Declaration will be made available to the treaty-watching bodies in Geneva, so that even if there is not proper reporting from Hong Kong, at least there is some focus for Geneva's consideration of what is actually happening in this territory.

ADJOURNMENT AND NEXT SITTING

休會及下次會議

主席：按照《會議常規》，本席現宣布本局休會，並宣布本局於一九九七年三月五日星期三下午 2 時 30 分續會。

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

會議遂於下午 3 時 37 分休會。