

## **OFFICIAL RECORD OF PROCEEDINGS**

**Thursday, 27 February 1997**

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

THE HONOURABLE MARTIN LEE CHU-MING, Q.C., 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 EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

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

THE HONOURABLE FRED LI WAH-MING

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

THE HONOURABLE JAMES TO KUN-SUN

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

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE ZACHARY WONG WAI-YIN

THE HONOURABLE CHRISTINE LOH KUNG-WAI

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

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 CHENG YIU-TONG

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE IP KWOK-HIM

THE HONOURABLE LAU CHIN-SHEK

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

THE HONOURABLE LAW CHI-KWONG

THE HONOURABLE LEE KAI-MING

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE BRUCE LIU SING-LEE

THE HONOURABLE MARGARET NG

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

THE HONOURABLE MICHAEL HO MUN-KA

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

DR THE HONOURABLE PHILIP WONG YU-HONG  
THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE PAUL CHENG MING-FUN

DR THE HONOURABLE ANTHONY CHEUNG BING-LEUNG

THE HONOURABLE CHEUNG HON-CHUNG

THE HONOURABLE CHOY KAN-PUI, J.P.

THE HONOURABLE DAVID CHU YU-LIN

DR THE HONOURABLE LAW CHEUNG-KWOK

THE HONOURABLE LO SUK-CHING

THE HONOURABLE MOK YING-FAN

THE HONOURABLE NGAN KAM-CHUEN

## **PUBLIC OFFICERS ATTENDING:**

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

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

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

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

MR CHAU TAK-HAY, C.B.E., J.P.  
SECRETARY FOR BROADCASTING, CULTURE AND SPORT

MR GORDON SIU KWING-CHUE, J.P.

SECRETARY FOR TRANSPORT

MR NICHOLAS NG WING-FUI, J.P.

SECRETARY FOR CONSTITUTIONAL AFFAIRS

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

SECRETARY FOR HOUSING

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

SECRETARY FOR HEALTH AND WELFARE

MR RAFAEL HUI SI-YAN, J.P.

SECRETARY FOR FINANCIAL SERVICES

MR JOSEPH WONG WING-PING, J.P.

SECRETARY FOR EDUCATION AND MANPOWER

MR PETER LAI HING-LING, J.P.

SECRETARY FOR SECURITY

MR BOWEN LEUNG PO-WING, J.P.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

MISS DENISE YUE CHUNG-YEE, J.P.

SECRETARY FOR TRADE AND INDUSTRY

THE HONOURABLE LAM WOON-KWONG, J.P.

SECRETARY FOR THE CIVIL SERVICE

## **CLERKS IN ATTENDANCE:**

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** (in Cantonese): Members please remain standing for the

Governor.

**CLERK** (in Cantonese): His Excellency the Governor.

**PRESIDENT** (in Cantonese): The Governor will answer the questions asked by Members in respect of the three topics of which Members have already been notified. A Member who has asked a question and has his question answered may for the purpose of seeking elucidation only ask a short follow-up question on the unclear parts of the answer. The three topics are human rights in Hong Kong, housing and services specially provided for the elderly and the new immigrants. Would Members who wish to ask questions please raise their hands? Mr LAU Chin-shek.

**MR LAU CHIN-SHEK** (in Cantonese): *Mr President, will the Government continue to review the existing laws of Hong Kong? If an ordinance appears to be in violation of the Hong Kong Bill of Rights Ordinance, will amendments be made to it? Will the Government submit new amendment bills in the remaining part of the current Legislative Council session?*

**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.

**MR LAU CHIN-SHEK** (in Cantonese): *Mr President, the Governor mentioned the Telecommunications Ordinance in his reply. I would like to know if other ordinances, such as those concerning the system of independent complaints against the police and those preventing discrimination completely, will be considered by him.*

**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.

**PRESIDENT** (in Cantonese): Mr LEE Kai-ming.

**MR LEE KAI-MING** (in Cantonese): *Mr President, may I ask whether Mr Governor would accept the request contained in the letter submitted to him in which five political parties and workers' organizations have urged that the CSSA for the elderly should be increased by \$300 and the eligibility ceiling for CSSA should be increased to \$100,000 with immediate effect so that it will be like a radiating rainbow in a saddening sunset giving warmth to the elderly people in their twilight years?*

**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.



**PRESIDENT** (in Cantonese): Mr Edward HO.

**MR EDWARD HO** (in Cantonese): *Mr President, I would like to ask Mr Governor about a question on housing. In the Long Term Housing Strategy Review consultation paper published by the Government lately, it is stated that the demand for housing in Hong Kong in the next 10 years will be substantial and it is forecast that 80 000 flats will be needed each year. Would the Government inform us whether it has considered if there are enough human resources to meet this production target each year?*

**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.

**MR EDWARD HO** (in Cantonese): *Mr President, in fact my question was about human resources, which include labour, in addition to professionals. Will the Government consider drawing up a co-ordination plan like the one formulated for the New Airport Core Project so that we can have sufficient labour for the*

*construction industry?*

**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.

**PRESIDENT** (in Cantonese): Mr LAW Chi-kwong.

**MR LAW CHI-KWONG** (in Cantonese): *Mr President, in January last year, the Government estimated that there would be 29 000 children who would meet the requirements under Article 24 of the Basic Law and could have the right of abode in Hong Kong by 1 July 1997. Would the Governor inform this Council whether the Government has any policies or measures in place to prevent the influx of 29 000 children into Hong Kong by various means within a short period after 1 July? If it has none and this really happens, does the Government have any plans now for the adoption of contingency measures in respect of the problems of their education, housing and welfare needs?*

**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.

**MR LAW CHI-KWONG** (in Cantonese): *Mr Governor has not addressed the crux of my question just now. He has provided the updated figure that there would be 34 900 children who meet the requirements of the Basic Law. According to the general international practice or common law we have been following, if these children sneak into or overstay in Hong Kong after entering the territory with two-way exit permits, we cannot deport them. If all the 34 900 children came to Hong Kong, how could we deal with them? Do we have any means to avoid their influx into Hong Kong within a very short time, as many smugglers of illegal immigrants have already spread rumours in mainland China, saying that the children do not have to leave Hong Kong after they have come? If the 34 900 children had really come to Hong Kong, we would need at least 35 schools to cater for their needs. How could we deal with this problem?*

**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.

**PRESIDENT** (in Cantonese): Mr Martin LEE.

**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.

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-Yan.

**MR LEE CHEUK-YAN** ( in Cantonese): *Mr President, in Mr Governor's response to the question of the Honourable LAU Chin-shek just now, he has claimed that the Government has always been trying to ensure that the statute of Hong Kong is in line with the Bill of Rights and the International Covenants. I believe Mr Governor knows that workers' rights are my prime concern. I have submitted two Members' Bills. One is the Trade Unions (Amendment) Bill, which seeks to promote workers' right to form trade union confederations with unions of different trades, and be a member of any trade union established outside Hong Kong without having to get the Governor's approval. Its purpose is to put Hong Kong in line with the International Covenant on Economic, Social and Cultural Rights. Besides, it seeks to safeguard trade unions from discrimination, and the right of resumption for union members being discriminated. Such practice would be more in line with the section on the right of free association in the International Covenant on Economic, Social and Cultural Rights. I have, furthermore, submitted a Members' bill on the right to collective bargaining, to put Hong Kong more in line with No 98 of the International Labour Convention.*

*My Members' bills aim to put the territory more in line with the International Covenants. However, the Government disapproves of them. Its position seems to run contrary to the proclaims of Mr Governor just now. Does the Government wish our workers to enjoy the rights so granted by the International Covenants, or otherwise?*

**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.

**MR LEE CHEUK-YAN** (in Cantonese): *Mr President, Mr Governor may not have read the International Covenant on Economic, Social and Cultural Rights. I do hope he will read it. As the issue here is not how the Government should implement the Covenant, but that the Government has violated it. I hope he will, after his reading, look at my bills from that point of view, and thus get to the understanding that what I have been asking is to move the territory closer in line with the International Covenant. With the right of trade unions forming federation and the right of free international association so clearly stated in the Covenant, it is not an issue of interpretation, but an issue of blatant violation. I hope Mr Governor will read the two Covenants.*

**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.

**PRESIDENT** (in Cantonese): Mr WONG Wai-yin.

**MR WONG WAI-YIN** (in Cantonese): *Mr President, yesterday in Tin Shui Wai, another unidentified gas incident occurred, which was the fourth time in one year. This time the area affected was even larger. Nearly eight schools were affected. I hope Mr Governor can confirm whether any government departments, including the British garrison or the Correctional Services Department, had carried out any tear-gas exercise at the Firing Range at Castle Peak. What measures will the Government take to identify the cause and prevent similar incidents from recurring?*

**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!

**MR WONG WAI-YIN** (in Cantonese): *Mr President, of course this incident had something to do with housing, since the residents in the whole area were affected. (Laughter)*

*Mr President, similar incidents have occurred in various parts of Hong Kong, but they are especially frequent in Tin Shui Wai. In all past cases, the cause could not be identified. Therefore, I suggest that Mr Governor ask the Environmental Protection Department to set up a special committee to conduct a comprehensive and in-depth inquiry into the matter, since the cause could not be identified in each incident in the past.*

**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.

**PRESIDENT** (in Cantonese): Mr YUM Sin-ling.

**MR YUM SIN-LING** (in Cantonese): *Mr President, I would like to tell Mr Governor that just now I was trying to present the petition concerning the Comprehensive Social Security Assistance for the elderly with the others outside the Legislative Council. Ten minutes before Mr Governor arrived, I invited the Financial Secretary in the antechamber to go down to receive the petition, but I was refused. The Financial Secretary's report on the Budget and the discussion on it have not yet started and they are going to take place in a whole month between mid-March and mid-April. While many people expect that the Provisional Legislative Council will be a rubber stamp, are we going to become one first? I wonder what comments Mr Governor will make.*

**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, a 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.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat.

**MR LEE WING-TAT** (in Cantonese): *Mr Governor, it has been reported in the press recently that you would like Mr TUNG Chee-hwa to be a leader of the public opinion. I very much hope that you are also a leader of the public*

*opinion in resolving the problems of the people. According to a study that I have carried out, since you took the office, the two problems that have been the greatest concern of the public, ranking the first and second in every opinion poll conducted, are the future and political situation of Hong Kong and the housing problem. Over the past six months, the housing problem has taken the lead. I wonder whether you would dream of the housing problem having dropped from the head of the list to the ninth or tenth place and then you could be happy for a while at night.*

*There will not be many opportunities left for us to ask you about the housing problem in public meetings and a few months later there will not be any. I would like to ask what you think, Mr Governor, after five years in office, is the fundamental cause of the housing problem. This does not seem to be a hard problem to tackle but we have been quibbling over it for five years but are yet to see any light at the end of the tunnel that the problem will cease to be the top concern of the Hong Kong people in opinion polls in a short time — say, five to 10 years. Have you thought about that?*

**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.

**MR LEE WING-TAT** (in Cantonese): *Mr President, Mr Governor has made his points but I hope that he will take note of two points. First, in Hong Kong, especially among the middle classes, there is a popular saying that every one of us is working for the property developers for life. That is very true. In fact, Mr Governor has never talked about the relationship between the development of Hong Kong's property market and the interests of the developers and the Government. Secondly, I commend highly on the Airport Development Steering Committee chaired by Mrs Anson CHAN which completed such a huge project in just five years. It is just astounding. However, as regards the housing construction, government departments have to spend as much as 14 years on procedures involving the planning, environmental assessment, transportation, land allocation as well as approval. Why it takes 14 years? As the Chief Executive, does Mr Governor find the time required for these procedures totally unacceptable? Why does it take so long? If an airport can be completed in five years, why can housing projects not be completed within five or six years?*

**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!

**PRESIDENT** (in Cantonese): Mr Albert HO.

**MR ALBERT HO** (in Cantonese): *Mr President, I am disappointed by the reply given by Mr Governor to the Honourable Martin LEE's question just now. He seemed to imply that requesting the International Court of Justice (ICJ) to judge the legality of the Provisional Legislature now is a futile attempt which will be of little actual value and there may even be procedural difficulties. Actually, since Mr Governor maintains such close links with the Foreign Secretary and the Prime Minister, he should know their thoughts very well. If it involves so many difficulties and if its value is in doubt, why should the Foreign Secretary have made such a suggestion? Was he just making an empty gesture without really intending to solve the question through this means?*

*Before attending this meeting, I did a little research and read some reference materials on international law. I have brought the relevant books with me and made photocopies of the reference materials, which will be passed to Mr Governor later. In case he cannot sleep tonight, he might like to have a look. The document is very simple and consists of a dozen pages or so. It discusses the procedures of the ICJ and is not too complicated.*

*Actually, with regard to the arbitration procedures, the British Government could take the initiative and then wait for the Chinese Government to respond. Alternately, it can directly request the ICJ for an advisory opinion through the General Assembly or Security Council of the United Nations, without having to obtain the consent of China. So there are two ways of doing it. On the whole, so long as the British Government would take the first step, one could await the response from the Chinese Government. We need not assume that the Chinese Government would resist this idea. Who knows? Maybe the Chinese side would like to prove the legality of the Provisional Legislature through the ICJ, or they would like to make a counter-accusation through the*

*ICJ that the British Government has breached the Joint Declaration, or charge that Mr Governor's constitutional reform package has violated the Joint Declaration. Therefore we should not assume that the Chinese Government will certainly not respond. I hope that Mr Governor can provide a more definite answer and say that he will press the British Government to take concrete actions and the initiative to settle this matter through fair legal means.*

**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.

**MR ALBERT HO** (in Cantonese): *Mr President, I would just like to make a very brief follow-up. Naturally, all our Members are very concerned about the issues mentioned by Mr Governor. We will also continue to perform our duty to ensure a fair election in the future. However, what Hong Kong people are most concerned about is that the Joint Declaration is now being breached, when it is supposed to apply to Hong Kong for 50 years. We also see that the Hong Kong Bill of Rights Ordinance enacted according to the Joint Declaration is now being partially emasculated. These matters need to be resolved. We cannot sit there and do nothing. Apart from taking the matter to the ICJ, which Mr Governor has just mentioned, there are many other procedures which are listed in this book. I feel the British Government should fulfil its responsibility in taking the initiative.*

*Another thing is that the Human Rights Committee will be holding its general meeting next month. I hope Mr Governor will bring the message to the United Kingdom that the question of whether the enactment of the Hong Kong Bill of Rights Ordinance is consistent with the Joint Declaration and whether it contravenes the Basic Law should be brought to the United Nations Human Rights Committee for discussion, so as to arouse their attention. I am sure that the Chinese Government will pay heed to the independent and professional*

*opinion of the Human Rights Committee.*

**PRESIDENT** (in Cantonese): A rather lengthy "brief" follow-up. *(Laughter)*

**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**

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**PRESIDENT** (in Cantonese): In accordance with Standing Orders, I now adjourn the Council until 2.30 pm on Wednesday, 5 March 1997.

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