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Governor's question-and-answer session in LegCo

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The following is the transcript of the Governor, the Rt Hon Christopher Patten's question-and-answer session at the Legislative Council today (Thursday):

Mr Lee Wing-tat (in Chinese): Mr Governor, a question in relation to the UN ICCPR and the report submitted to the UN Committee; we asked that previously. Now, the Chinese Government has repeatedly said that she is not a signatory to the covenant and therefore she has no obligation to submit a report on behalf of Hong Kong; and the UK Government seems to think that the Chinese Government does have that responsibility. And I believe the difference in opinion will continue, and so what can be done to really make sure that a report will be submitted to the UN after 1997? This is important for the protection of human rights.

Governor: It isn't just the British Government who believes that there is an obligation to continue to report on compliance with the Covenants, it is also the UN Human Rights Committee itself. I think it is worth recalling that during this sitting of the UN Human Rights Committee the Chairman made a clear statement about the obligations to report and he cited two particular reasons for that conclusion. The first was a jurisprudential reason, based on the examples of the CIS States and Yugoslavia. The second was a reason lodged at the heart of the Joint Declaration. So let us make this point absolutely plain: there is no doubt whatsoever about the reporting obligation. The only doubt is whether China will continue to decline to accept that obligation or whether Chinese officials will recognise it.

Now, it is our hope and I think the hope of the community, that the reporting obligation will be implemented. We have, through the JLG, for example, tried to be as helpful as possible to Chinese officials - and ministers have done the same - and we have pointed out how at present Britain discharges its reporting obligation, so that China can see how - and it is one way of proceeding - how it could proceed similarly after 1997. And the UN Human Rights Committee has made it clear that it would be happy to accept reports from China. We will continue to stress the importance of the reporting obligation at every level - ministerial, JLG, and through other contacts as well - and we will, of course, have to say, in the further report that we have undertaken to give to the UN Human Rights Committee next summer, we will of course say whether we have been able to make any progress with Chinese officials on this.

I just make one final point, and it is not meant solely rhetorically. What is the problem about reporting? If, as we all hope and believe, the international covenant is still to apply to Hong Kong after 1997, if there is no need for anybody to be concerned about the continuance of Hong Kong's way of life and the continuance of Hong Kong's civil liberties, then what is the problem about reporting? There's nothing to hide. So I hope that that point will be addressed more positively by Chinese officials and we will certainly continue to put the point very vigorously to them because I am sure that it is one of the reasons why there is concern - I don't state the point controversially, it's a matter of fact - why there is concern about civil liberties and the future of our way of life after 1997.

Mr Lee Wing-tat (in Chinese): A follow up. The JD is an agreement signed by two sovereign states and both these two countries have the right to make sure that human rights are protected as entrenched in the JD. And yet, the Chinese Government has repeatedly said that it does not feel that it has the obligation to report because it is not a signatory state. Now, if in the coming days they still hold on to this point, then what can you do? Are there ways - that is, approved internationally - are there ways that you can resort to in order to resolve the issue?

Governor: Let me make an obvious point at the outset. The easiest way - it is not for me to recommend this way or others - but the easiest way for China to meet concerns and to meet its obligations would be to accede to the International Covenants. That, I am sure, would be welcome to everyone. But there are other ways in which China can continue to meet the obligations which, I repeat, were stated in terms, stated explicitly, by the Chairman of the UN Human Rights Committee itself; terms which exist jurisprudentially, obligations which exist because of the Joint Declaration. The UN Human Rights Committee now has a body of experience to draw on which underpins its view that human rights devolve to the people of the territory, and when the government of that territory or when sovereignty changes, it doesn't mean that the human rights that are guaranteed, change. One of the human rights that guarantees that people have been given in Hong Kong is contained in the covenants: the reporting obligation on individual states. And that continues to exist.

What recourse would be open after 1997 were China not to report - or were China not, for example, which some people have said might be one way through, to agree to the SAR Government issuing reports - what recourse would be available then would clearly be to take the issue up at the United Nations more generally. But I very much hope, and I am sure that all honourable members share this hope, that that is totally unnecessary.

Mr Allen Lee (in Chinese): Mr President, a question for the Governor. According to the Director of Audit's Report for the UNHCR, it owes Hong Kong \$1 billion and some reports say that it is hard for it to repay the money. Now according to past agreement with the UNHCR, is it true that for other countries like the Philippines, Malaysia, Indonesia, which have boat people, is the arrangement similar? If not, why is it that Hong Kong will have this particular arrangement about repayment? The UNHCR's problem is such that our money perhaps can't be repaid in the foreseeable future. So how shall we deal with that? Is it true that there is a kind of dereliction of duty on the part of officials?

Governor: No, I don't believe there has been any dereliction of duty. The Council, some Members more clearly than others, will recall that the Hong Kong Government entered into a memorandum of understanding with the UNHCR in 1988 which governed the financial contributions and the financial arrangements between the two parties. That's the basis for the unfortunate debt which is owed at the moment. I can't speak for what precise arrangements were made with other countries in the region, but if they were different I would be as interested as the honourable gentleman but I wasn't, as he'll recall, here in 1988, whereas others were. It's important I think for us to recognise that the UNHCR undertakes to make good the money which it owes Hong Kong and that point was made clear, once again, as recently as September and we will continue to argue the point with the UNHCR because a billion dollars is a very large amount of money for us to be owed.

Mr Allen Lee (in Chinese): The problem is this. OK we signed an understanding with the UNHCR, a memorandum but the Hong Kong people didn't know that that understanding didn't have legal force. Now they know that it doesn't have legal force. That's why I say there might be dereliction of duty because the Administration didn't tell the Hong Kong people, didn't tell the Council, that that memorandum didn't have legal force so you can't prosecute the UNHCR. They don't have the money and it can't be helped, so this is the crux of the matter.

Governor: I don't think that the Statement of Understanding reached with the UNHCR in 1988, was precisely equivalent to a commercial contract, though I'm not sure precisely what the legal effect of an agreement with an international agency like the United Nations may be. I repeat that I wasn't party to the negotiations or the agreement on that Statement of Understanding but nevertheless, its terms are very clear and one of those terms is that the money owed should be repaid. We'll continue to remind the UNHCR of that fact. We'll continue to remind the international community of its obligations to Hong Kong. I was pleased, I repeat, that the UNHCR made clear that it understood what those obligations are and how much that debt is as recently as September and we'll continue to pursue the UNHCR on that point.

Mr Martin Lee: Governor, how do you convince the doubting Thomas's, and there are plenty both here and in the UK, that you still have the full support of the British Government on all your policies?

Governor: Well, let's divide doubting Thomas's into two categories. In the one category are those, who when they see the wounds in the upper room are prepared to believe. In the second category are those who, whatever they see in the upper room, go on with the same arguments because what they're in the nature of doing is propagandising rather than seeking out the truth. The fact of the matter is that the policies pursued on behalf of the sovereign power here in Hong Kong, in the interests, I hope, of the people of Hong Kong, are policies on which the Governor of Hong Kong, the Prime Minister, the Foreign Secretary, the Cabinet and I am pleased to say, the overwhelming majority of Members of Parliament at Westminster, are entirely agreed. If you look at British domestic politics you may have noticed that there are some issues on which there isn't that unanimity of view. But I am delighted that as far as policy on Hong Kong is concerned, we have been able since I became Governor in 1992, to have a broad measure of cross party support, as well as having the total support of Her Majesty's Government.

So, while I'm sure the question will continue to be raised until the 30th June, 1997, just as the question of my departure will continue to be raised, despite \$500 fines, until the 30th June, 1997, they both fall into the realms of propaganda rather than the real concern about the truth.

As far as my own position, and I will stop teetering on the brink of blasphemy at this point. As far as my own position and relationship with the British Government is concerned, no act of faith is required.

Mr Martin Lee: But Governor, maybe I started this analogy, but wounds are not the sort of thing that the people of Hong Kong would love to see. But using this analogy, continuing with it, what are the sacred wounds that you can actually show us in the upper room?

Governor: I really do think that Cardinal Woo and others would wish to intervene at this point in the proceedings. On every aspect of the policy which we have pursued in Hong Kong; the difficult negotiations that we undertook on electoral arrangements; the decision that we took that this Council had to decide how far Hong Kong was to go in meeting the promises that had been made on fair elections; the negotiations on the airport; the negotiations on which the honourable member and I weren't entirely at one on the Court of Final Appeal; the position taken by Hong Kong Government and the British Government over the future of civil liberties in Hong Kong and the Bill of Rights; on every one of those issues the British Government and the Governor of Hong Kong are at one. Were it otherwise life would be far too complicated and far too difficult. Were it otherwise I'm not sure that I would be able to discharge my responsibilities as I wish to do and as the people of Hong Kong wish me to do.

I suppose it's fair to say that there is one issue on which the Governor of Hong Kong has fallen out with all the political parties, or two of the political parties in the United Kingdom, and that is the question of passports and right of abode, with also some differences of view on war widows and on the ethnic minorities. But on everything else we have been, to finish finally with a biblical metaphor, we have been a seamless garment.

Mr Paul Cheng: Governor, going back to reporting to the United Nations Human Rights Committee after 1997. In your comments, on the one hand you said they will be happy to receive reports on Hong Kong and then in another part of your comments you said, China has an obligation to report. In the corporate world I'm used to, sort of saying that when you need to report something you are accountable to the Head Office, so to speak. Can you clarify whether China does have an obligation or is it just a voluntary situation that you are talking about?

Governor: No, the terms of Article 40 of the International Covenant are entirely clear. Since China accepts that the international covenant should apply to Hong Kong it must accept that Article 40, which contains the reporting obligation, should apply to Hong Kong as well. But the Chairman of the UN Human Rights Committee raised a different issue, which is an important matter of international jurisprudence, which is what happens to human rights undertakings given in respect of individual countries when the Government of those countries changes or when those countries split up, as has happened with the CIS states and Yugoslavia, or by extension, when the Sovereignty of a country changes. And the Chairman, and I think others, have made perfectly clear that because the human rights, which are guaranteed, devolve to the individuals in the country, rather than just being something to be locked up in a bank by the Government of that country, even when the Government or the sovereignty changes, there's no difference as far as the human rights that have been guaranteed are concerned. So, on two grounds there is no doubt whatsoever about the reporting obligation. And I repeat, not in order to try to extend or arouse controversy, but very much in the attempt to do the reverse, that there are very few things that would make more difference to people's confidence in the future of civil liberties, human rights, in Hong Kong, than a clear statement that China will find some way of reporting after 1997. Because until that statement is made, people wonder what the problem is.

I'm bound to say that I think there were very few people who understood there was any problem at all until recently.

Mr Paul Cheng: Isn't this more of a question on the fact from a sovereignty point of view, until China becomes a signatory, at which time then China would then have a formal obligation? But at this point in time, until they become a signatory it's strictly on a voluntary basis?

Governor: No and that is a point made by the United Nations quite clearly itself by the Chairman of the UN Human Rights Committee for the two reasons that I've expressed. First, because the human rights undertakings made about Hong Kong are not undertakings which are retained by the Government. They're undertakings which apply to the individuals, to the people of Hong Kong and those undertakings remain with the people of Hong Kong after 30th June, 1997.

Secondly, because it is accepted that the international covenants should apply to Hong Kong and because Article 40 of the international covenant that we're talking about makes the reporting obligation clear, then I think that every international lawyer concedes that the reporting obligation, in some way, and there are different ways in which you could do it, the reporting obligation continues after 1997. Now in some ways it would be presumptuous for me to argue that the best way of ensuring that the reporting obligation continued would be for China to exceed to the covenants, but plainly that would be a very satisfactory way and would give a great deal of reassurance, I think, beyond Hong Kong.

Ms Christine Loh: Governor, I also would like to ask about the international obligation. You have made Britain's interpretation of the reporting obligation as part of the Joint Declaration quite clear. China obviously has a different interpretation of that obligation. Now, do you consider that if on 1 July 1997 that reporting procedures are not put in place, have not been agreed with China, then would the Joint Declaration be effectively breached on that day on a very fundamental term? If your answer is yes, what will be the consequences?

Governor: First of all, let me make it clear once again that it isn't solely Britain's view that there is a reporting obligation. That view was put very clearly by the Chairman of the Committee to which we, as part of the British delegation, gave evidence only a few weeks ago, as the Honourable Member knows. Now, I have difficulty with "what if" questions, and most of the hot water I've ever got into is as a result of having answered those hypothetical questions. All I will say is -- no, it involves me saying "if". All I will say is that the Joint Declaration makes clear that the International Covenants should apply to Hong Kong. There are reporting obligations under those International Covenants and therefore not to report would, it seems to me, be difficult to reconcile with ones undertakings under the Joint Declaration. And I think that is a situation which all of us would want to avoid.

Ms Christine Loh: Governor, if I can then change the question to a not "if" question. Is it possible for the Joint Declaration to be breached? And if it is, what can we do?

Governor: Well, it is possible for the Joint Declaration to be breached. The New China News Agency relentlessly argues, with no justification whatsoever in fact, as one sees from squads of international lawyers who have appeared in front of the Select Committee on Foreign Affairs of the House of Commons, that having fair elections in Hong Kong is a breach of the Joint Declaration. Whereas having fair elections in Hong Kong is a clear implementation of the Joint Declaration. But it is possible for either party to be in breach of the Joint Declaration and of other international treaties. But nobody who signs an international treaty should wish to breach it. If you breach an international treaty with another sovereign power, then it stands to reason that that sovereign power would wish to take up the matter, not least in the United Nations where the international treaty is lodged.

Mr Bruce Liu (in Chinese): Governor, whether it be at formal or informal forums, we have a lot of high ranking officials meeting Chinese officials - Members of this Council or other members of the community - and they talk about transitional issues, Vietnamese migrant issues, and human rights. Now, do you have internal instructions and directives for your high officials so that when they quote certain things that have been said they can adhere to certain guidelines? Quote what the Chinese authorities have said that is - then they will have certain guidelines?

Governor: There is perhaps an inwardness in that question which I don't quite follow. But it is of course true that when discussing human rights or other matters bilaterally with Chinese officials, whether in the Joint Liaison Group or in other channels - and there are, as the honourable member makes clear, other channels - that Hong Kong Government officials or British Government officials would have speaking notes and briefings which reflected both the consistent positions of the Hong Kong and British Governments, and which, I am sure, took account of some of the arguments which they thought officials on the other side of the table would put to them. But perhaps I am being very dense and missing out on a point.

I don't think, if I can add the point, that diplomacy is entirely like political debate. Sometimes it is more restrained, sometimes I think it is less restrained. In political debate you very often note, for example, how people have spoken and how people have voted on an issue in the past. On the issue, for example, of the Bill of Rights, that might be an appropriate way of conducting the argument. But normally, a dialogue between diplomats doesn't necessarily pursue up and down the highways and byways what other people have said on previous occasions.

Mr Fred Li (in Chinese): Mr President, I have a question not related to human rights.

Now it is a district matter. Last night in Kwun Tong, in Yan Oi Court, a concrete canopy collapsed and this morning I went to the spot. So there was one death and there were several injuries. I am sure the Governor will know about this incident in Kwun Tong.

Now for this sort of incident, they happen from time to time in old areas and they are about the illegal structures, the illegal canopies. Now it is said that a task force will be set up for investigating. It seems that every time it is post-mortem and then the structures in the vicinity will be cleared afterwards. Can the Government be forward looking? Can the Government do something pro-active and preventive so that these things will not happen again.

Governor: I'm very prepared to answer it because it's obviously a subject of considerable concern to the community and I'd like to offer my condolences to the family and friends of those who were injured and the fatality.

We have, as the honourable member said, appointed an investigation team to establish the causes of the collapse and we have also set up, the Director of Buildings, has set up a special task force to survey the buildings involved and to examine the scope for enforcement action against all unauthorised building works in the vicinity.

The honourable member is correct in saying that we should go beyond that. We do consistently urge the public to seek proper approval for building works in order to comply with safety standards. We don't have as much success as we would like, so what we are planning is to launch an intensive public education campaign in the early months of next year, to try to bring some of the problems to wider attention in the community and to try to avoid people putting up unauthorised buildings with the sort of calamitous consequences that we saw yesterday. I hope that will have some effect. As with industrial accidents and industrial safety, what is important is to combine rigorous enforcement with as much public education as possible and that will be our objective.

Mr Fred Li (in Chinese): Mr Governor, the problem is this. The Buildings Department acted on complaint. If there were no complaints, then perhaps hazardous structures will not be dealt with. Has the Administration considered sending inspecting officers to go to the old areas, not upon complaints but take the initiative to investigate the different floors, especially the illegal food establishments, because that particular incident last night was about food establishments? So you should not wait for complaints. Will you take the initiative? Will you change your tack? Can you do that?

Governor: I've actually been with inspectors when they've been doing exactly what the honourable member recommends. It is an issue on which one needs to be proactive and not just reactive. If you travel around Hong Kong, as the honourable member will know better than me, you're I suppose impressed, among other things, by the large number of examples of illegal structures which our inspectors have to deal with, particularly in some of the most crowded and busy and elderly areas. And so, a combination of the proactive and the reactive. But I hope that people will recognise that what will sometimes seem to them merely the extension of a commercial opportunity, can be the end of somebody else's life.

Mr Lee Cheuk-yan (in Chinese): Thank you Mr President. Recently the PWC wants to reinstate the older versions of six ordinances and Hong Kong people are now very concerned about the protection of the human rights. But I can say there are many people, including Councillors, who are not well conversant with the Bill of Rights.

Yesterday I listened to the debate here. Some Councillors said that the Bill of Rights actually gives protection to the criminals and they say that human rights are too excessive. So, Hong Kong people have very little knowledge of human rights and sometimes they get confused because of this kind of statement, so they don't have much knowledge of the Bill of Rights and they can be even more confused.

So, Mr Governor, have you considered setting up a human rights education fund, so that the NGOs in Hong Kong can have the resources to promote human rights education? So that the Hong Kong people can be better conversant with human rights, with the Bill of Rights, with the protection of their rights, with the two international covenants.

Governor: There were a number of claims made yesterday about the impact of the Bill of Rights. There were a number made in one Councillor's speech - I'm not sure whether he's here this afternoon, but I'm sure he won't mind me addressing his, he is here this afternoon. I'm sure he won't mind me addressing his, doubtless inadvertent errors, in the course of my remarks this afternoon. Errors which underlined the case which the honourable member has made for greater human rights education.

It was claimed yesterday that the Bill of Rights Ordinance has enabled tax defaulters to leave Hong Kong without paying their tax. The fact is that the Commissioner of Inland Revenue has ample power to prevent people who owe tax from leaving Hong Kong without paying it. Since July 1993, 119 Departure Prevention Orders have been made by the District Court on application by the Commissioner.

It was claimed that the Bill of Rights Ordinance had been used by Vietnamese migrants denied refugee status to delay their return to Vietnam. In the very few judicial review cases which the Government has lost in this area, the Bill of Rights Ordinance wasn't the deciding issue at all. Indeed the Bill of Rights Ordinance specifically provides that it does not affect immigration legislation governing the entry into, stay in and departure from Hong Kong of persons who don't have the right of abode here.

Similar claims, and I could go on at this sort of length. Similar claims made about the recovery of drug proceeds, which were wrong and we'll write to the honourable member because I'm sure he'll want to know what the facts are.

Similar claims made about the enforcement of drug laws which were wrong.

Similar claims made about the Prevention of Bribery Ordinance that was wrong.

So strong case for more human rights education and I'm delighted to say that one of the issues on which the Human Rights Committee in Geneva congratulated the Hong Kong Government, was that they thought we were doing a good deal more to educate people about human rights and their civil liberties here in Hong Kong.

Perhaps I can add one other point. What has happened in the last years since the Bill of Rights Ordinance was introduced? What has happened is that our courts have shown a considerable sense of balance in weighing up, on the one hand the importance of protecting human rights, and on the other, broader interests such as the importance of fighting organised crime. They've struck that balance in a very sensible way and doubtless a consequence of that is that Hong Kong hasn't been ravaged by crime. The suggestion that the Bill of Rights has led to the breakdown of law and order in Hong Kong is probably, of all the crazy things I've heard since I've been Governor of Hong Kong, the maddest of all.

I've got in my hand, as lawyers occasionally say, a copy of the Straits Times, Singapore. The Straits Times, the headline of which, for the 6th November, "Crime rate here", that is in Singapore, "higher than in Hong Kong". That's what the headline says. So are we really to believe, are we really to believe that the Bill of Rights has broken up Hong Kong society? Are we really to suppose that in one of the most law abiding communities anywhere in the world, that the Bill of Rights has done the sort of damage which people were suggesting preposterously yesterday? What the Bill of Rights is, is a sign of the sophistication of this community. Why people are concerned about it is because they are concerned about their future. They're concerned about their way of life and they're concerned, not about what will happen to that way of life before 1997 - does anybody here really think that they're concerned about that? No, so we're unanimous on that point. What they're concerned about is their way of life after 1997. Now are there people here who deny that those concerns about the future exist? Well, we're unanimous about that as well. So 40 - 15 last night, 60 - love today.

The President: 59 - love!

Governor: 59 - love. These are the truths. We are not making it up. This argument wasn't started by my honourable friends in the Administration. It wasn't started by the Hong Kong Government. It wasn't started by the British Government. This controversy blew up because of things that were said by the PWC, despite the fact that many members of the PWC had voted for the Bill of Rights Ordinance, and things which subsequently have been said by Chinese officials. And don't let anybody think that an argument about human rights in Hong Kong doesn't have any effect on economic confidence. One of the reasons why we've got to stop these arguments, one of the reasons why we've got to give people the reassurance they want, is because we've got to show that we're concerned about confidence both here and internationally in Hong Kong's future. So if there is no problem about securing Hong Kong's freedoms in the future, let's have more Chinese officials and let's have more members of the PWC making that absolutely clear.

And if I can say one other thing in a long answer. What would, what would really be breaking the Basic Law? I'll tell you what would be breaking the Basic Law. Not trying to implement the Bill of Rights. What would be in breach of the Basic Law would be to put laws back on the statute book of Hong Kong which are clearly in contravention of the international covenants. That would be clearly in breach of Article 39 of the Basic Law. So in this whole sad and sorry business, we have the extraordinary spectacle of members of the PWC and Chinese officials themselves making proposals which would be in breach of the Basic Law.

I hope that we can end this argument soon with a clear statement which people will believe in Hong Kong of the commitment of the PWC and of Chinese officials to the future of Hong Kong's way of life.

Mr Lee Cheuk-yan (in Chinese): I seldom agree with what you say but now I am in full agreement with you Mr Governor. But you failed to answer one of my questions; that is I hope that there will be a human rights education fund. Since I do agree with everything that you have said, I hope that you will agree with what I am saying, that there will be a human rights education fund so that there can be promotion and education in this area.

Governor: Well, I can prolong this joyous period of amity

Mr Lee Cheuk-yan: the importation of labour scheme!

Governor: by telling the honourable member that there already is such a fund. It may not be as large as the honourable member would like. Sometimes it's true that one of the things that we disagree about is that he wants to spend more money than I do, but it is a substantial fund. It was increased recently and I have to say that I think it is exceptionally well used. The quality of the material produced by those who are responsible for dispersing these funds is exceptionally high and I think they deserve a good deal of credit for that.

Mr Tsang Kin-shing (in Chinese): Thank you Mr President. Mr Governor, last Sunday there was the memorial service and I was looking at people in the legal service in full gear and we have very good judicial personnel. Now, this is my dream. But, I had a nightmare, immediately, the same evening, and we had people coming up with different views on the human rights. And if we have judicial personnel who openly criticise the Bill of Rights Ordinance, what is your view towards that?

And then, of our Government officials and also people in the Judiciary, how many of them hold different views and think that the BOR Ordinance is not something that they can support? And how can you make sure that the Ordinance is fully implemented in Hong Kong? I hope that, Mr Governor, you will restore my original beautiful dream.

Governor: I much enjoyed seeing the honourable member at the moving Cenotaph ceremony last Sunday, and I noted that the honourable member was in full gear; and I was in what has been gubernatorial full gear - at least since 1992; and the judges were in full gear. And we all know that an independent judiciary is one of the most important bulwarks in protecting and preserving the rule of law and hence Hong Kong's freedom and pluralism, both today and in the future. I have confidence in our Judiciary and I also have respect for the separation of constitutional powers, which means that this Legislature makes laws, and means that the judiciary implement the laws which this Legislature makes. And that is the constitutional position today, and will continue to be the Constitutional position.

Now, there are slight differences between the Constitutions of different communities. In this community the Chief Justice used to be a Member of the Legislative Council, in the last century. In the United Kingdom the head of the judiciary is a member of the Government, a member of the Cabinet. In the United States there is an absolute and clear separation of powers and those things would be impossible. But whatever the nuances of constitutional difference, wherever there is the rule of law you have a clear recognition of the leading roles of the legislature in making laws, and the judiciary in implementing them. This Chamber recognises some of the consequences of that; you have in your Standing Orders specific rules which you follow about not criticising the judiciary. And that is as it should be in any honourable legislature like this one.

I am sure that just as this Legislature respects the role of the judiciary, so the judiciary today and in the future will continue to respect the role of the legislature. And we certainly do that in Government, and the Judiciary has my full confidence.

Mr Tsang Kin-shing (in Chinese): Mr Governor, I don't think I should further argue any point with you because we would be talking about interfering with the Judiciary, but I would like to go back to Mr Fred Li's point. Now, in the Construction Training Course, they do not really cover the demolition procedures.

The President: You cannot ask a question which is not related to your original question. I'm sorry.

Mr Yum Sin-ling: Mr Governor, I would like to follow up on the debt owed by the UNHCR. We, the Panel on Security, have had a meeting with the responsible person from the UNHCR and he told us that how soon he can repay the debt depends on the donations from other countries. So, we think we should have a binding contract - some sort of contract - with repayments scheduled, so that they can show it to other countries who are willing to donate, then that would help his job and also help the repayment to us.

Governor: Sorry, is the honourable member suggesting that there should be a schedule of repayments agreed by the UNHCR?

Mr Yum Sin-ling: Yes, some sort of a contract with the repayments scheduled.

Governor: We would obviously like the repayment made as rapidly as possible, and we could then use that money on some other purpose. The commitment to the UNHCR was made in good faith and we expected to get the money back quickly. We still expect to get the money back and the UNHCR still says it is going to give us the money back. I'm sure we would be prepared to consider arrangements with the UNHCR which would enable the UNHCR, which is of course dependent on the contributions made by member states, to collect larger contributions from them. If there are particular proposals, then I am sure we would be prepared to look at them.

I would just add this. I, too, met the UNHCR representative when he was in Hong Kong. I think he is totally committed to helping us resolve the problem posed by the Vietnamese migrants, and I think that all of us should recognise the role that he and other members of the UNHCR have played in the last few years in dealing with this very difficult problem. Shortly before I arrived in Hong Kong the number of Vietnamese migrants in our camps had peaked at over 60,000. We had got that down to about 21,000 when we first ran into some difficulties last year; we were just starting to cope with those difficulties when, as the honourable member knows, the United States Congress intervened unhelpfully. But I hope we can get back to the earlier period in 1992 and 1993 when we were enjoying such a rapid rate of voluntary repatriation.

Mr Cheng Kar-foo (in Chinese): Thank you Mr President. Mr Tsang he was talking about interference with the judiciary, but I think he should have said interfering with the independence of the judiciary. But I would like to follow up by asking another question that is more direct.

Mr Governor, you gave us quite a bit of officialese saying that there should be separation of power between the judiciary and the legislature. But recently, two members of the Judiciary made some comments on the BOR Ordinance. Now, Mr Governor, you lead the Government and you said - tapping on the table with a lot of vigour - saying that we should continue to protect human rights in Hong Kong. And yet, here we do have members of the Judiciary, at certain functions, criticising the Bill of Rights Ordinance. Now, if this is what actually happened, then people in Hong Kong would be quite disturbed, so, Mr Governor, what can you do to assure us that the Administration under your leadership, and the Judiciary under your leadership, will really have a consensus on this issue? And then you are really working to protect the human rights here in Hong Kong.

Governor: I'm sure that all individuals in Hong Kong, including members of the Judiciary and including members of the Administration, will have reached certain conclusions as a result of events in the last weeks and months. I think that I don't wish to say anything else about the Judiciary, which has my full confidence. I don't wish to say anything, and nor have any of my honourable friends, which would cross the important boundary line between the executive and the judiciary. Though I have to say this: obviously, the events of last Sunday raised a lot of questions in people's minds and we therefore, in the Administration, welcomed the Chief Justice's offer to make the views which he was said to hold, by a functionary of the New China News Agency, clear to the Administration as well. And we will look forward in due course to hearing what those views may be, which I think the Chief Justice has said are of a technical and jurisprudential character. But nobody is doubting the role of the legislature in making laws, and I go further than that and point out the breadth and depth of the debate in 1991 when the Bill of Rights was being considered and drafted; all the consultations which took place with the Law Society, with which some honourable members are more familiar than others; the debate and discussion that took place with the Bar Council, with the community as a whole; the consideration that was given at the time to the so called New Zealand model. Though it has to be added that the President of the Appeal Court in New Zealand recently said that in practice there is not very much difference between the application of the law under the New Zealand model and under our model. All those matters were widely discussed and debated in Hong Kong at the time and this Legislative Council came to some sensible conclusions under which, I think I am right in saying, 36 Bills have been amended or changed or repealed since then, none of them - none of them - with any detrimental effect to Hong Kong's way of life, to the stability of our society. Look around Hong Kong - does this look an unstable society? Look at one or two other places in the region.

Mr Mok Ying-fan (in Chinese): Mr President, a hot topic again. Mr Governor didn't want to mention this but I would like him to describe it once again. Recently from the press we know that the Chief Justice, Sir Ti Liang Yang, said that he will put something down in writing to be submitted to the CS very soon.

Now Mr Governor, do you think this is a kind of interference by the executive concerning the judiciary?

Governor: I don't think that the Chief Justice saying that he would give the executive in writing his views on the Bill of Rights represents an interference by the executive in the judiciary. My honourable friend the Chief Secretary didn't tell or instruct the Chief Justice to do that. She wouldn't have dreamt of doing so. Had she done so, which she wouldn't have dreamt of doing, the Chief Justice wouldn't have dreamt of complying, because that would have been interference in the judiciary. So, I think there is one of those authentic Hong Kong, whale-sized, red herrings crossing the path of the shoal of fish.

The fact of the matter is that certain remarks made in private by the Chief Justice, and I read a very interesting column in the Economic Journal yesterday about the dangers if everybody made clear things that had been said to them in private. Some who report remarks in private would find themselves in hot water. The Chief Justice being reported as having said things in private, said that he would actually let us have those views so that we could see what they were and that seems to me to be a helpful contribution by the Chief Justice. It's not unusual for members of the Judiciary to give the Administration their views on aspects of public policy, or aspects of the administration of the law and I'm sure that they will continue to do so, though this Administration will not, at any time, seek to influence the views of the judiciary or to interfere in the affairs of the judiciary. Nor, I'm sure, will anyone in this Administration report as matters of public controversy things that are said to them at private dinner parties.

Mr Mok Ying-fan (in Chinese): I hope Mr Governor will not mind my follow-up question. About this particular submission by the Chief Justice, will this be tabled to LegCo for reference?

Governor: What the Chief Justice does with his written observations, if or when he produces them, is entirely, entirely a matter for the Chief Justice and I wouldn't seek to influence what he does or says on this point or on any other because I have too much of a respect for the rule of law and because of the importance of an independent, a robustly independent judiciary. One, as I said, of the bulwarks of Hong Kong's freedoms, openness and pluralism.

End/Thursday, November 16, 1995

Guidelines on bathhouse and massage establishments endorsed

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The Town Planning Board has endorsed a set of guidelines for commercial bathhouses and massage establishments.

The purpose of the guidelines is to establish the main planning criteria adopted by the Board in considering planning applications for commercial bathhouses and massage establishments. The guidelines were intended to facilitate prospective applicants in preparing their applications, a spokesman for the Board said today (Thursday).

"They are for general reference only and each application will be considered on its individual merits," he stressed.

The spokesman said in considering planning applications for these uses, the main concern of the Board was that the uses should not be incompatible to adjoining uses and would not cause nuisance to their neighbourhood.

"These uses should not be located within a predominantly residential neighbourhood and should be located in a commercial building or in the non-domestic part of a composite commercial/residential building.

"If the proposed uses are to be located within the non-domestic part of a composite commercial/residential building, it is preferable that the access to these establishments be separated from that to the domestic parts of the building by way of separate stairways and/or lifts/escalators," he said.

"The views of local residents on such application will also be taken into account.

"Further, the provision and maintenance of fire services installations within the application premises should satisfy the requirements of the Fire Services Department," the spokesman added.

Copies of the guidelines are available free of charge at the Planning Information and Technical Administration Unit, Planning Department, 16th floor, Murray Building, Garden Road, Hong Kong.

End/Thursday, November 16, 1995

Special team to investigate collapse canopy case

The Director of Buildings, Mrs Helen Yu, has appointed a special investigation team to establish the cause of the canopy collapse which occurred in Kwun Tong yesterday evening.

The team, headed by an experienced Senior Structural Engineer, was on site in Yan Oi Court early this (Thursday) morning to gather evidence to verify the facts.

Preliminary check of the building plans has indicated that the collapsed structure was an illegal extension of an approved concrete canopy.

In addition, the Buildings Department has also set up a special task force to carry out an urgent survey of the buildings involved for necessary action to ensure safety.

The team will also inspect constructions in the vicinity to examine scope for enforcement action against all unauthorised building works.

Mrs Yu urged property owners to seek professional advice and where necessary, approval for building works in order to comply with safety standards. As for canopies, they must also be properly maintained and if necessary, repaired, after construction.

"Unauthorised building works may pose danger. Property owners should therefore take heed - for their own life and property, their families and members of the public," Mrs Yu said.

End/Thursday, November 16, 1995

Unemployment and underemployment statistics

The seasonally adjusted unemployment rate for the period July to September 1995 was 3.5%, and the underemployment rate was 2.5%, according to the latest labour force statistics released today (Thursday) by the Census and Statistics Department.

The provisional seasonally adjusted unemployment rate for the period August to October 1995 was 3.6%, while the provisional underemployment rate was 2.3%.

A government spokesman commented that, having regard to sampling fluctuations in the General Household Survey which could give rise to minor variations in the unemployment and underemployment rates in successive three-month periods, the overall labour market situation as reflected by these latest figures may be regarded as broadly stable.

Commenting further on these figures, the spokesman said unemployment in the distributive trades, restaurants and hotels, and transport sectors showed some increases. Unemployment in the manufacturing sector and in community, social and personal services remained generally stable.

On the other hand, unemployment in the construction sector and in financing and insurance services decreased. As to underemployment, the situation in most of the major sectors remained generally stable, with improvement seen in the construction and transport sectors.

The spokesman also noted that, following the trend since the early part of this year, total employment continued to show a notable increase, by 2.5% in the three months ending September 1995 over a year earlier. But the total labour supply rose even faster, by 4% over the same period.

During the period July to September 1995, the number of unemployed persons with previous jobs was estimated at 94,900. Another 18,600 unemployed persons were first-time job-seekers. The number of underemployed persons was estimated at 77,000.

The unemployment and underemployment statistics were obtained from a continuous General Household Survey. The survey for July to September 1995 covered a quarterly sample of some 16,200 households or 55,600 persons, selected scientifically to represent the land-based civilian non-institutional population in Hong Kong. Data were obtained from the survey by interviewing each member aged 15 or over in the households sampled.

In the survey, the definitions used in measuring unemployment and underemployment follow closely those recommended by the International Labour Organisation.

"Seasonally adjusted" refers to adjustment for seasonal variations in the proportion of first-time job-seekers in the labour force.

Detailed analysis of labour force characteristics is given in the report on the General Household Survey which is published four times a year.

The next report covering the quarter ending September 1995 will be on sale at the Government Publications Centre at ground floor, Low Block, 66 Queensway, Hong Kong, by the end of December 1995.

End/Thursday, November 16, 1995

Domestic export statistics classified by industrial origin

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In the third quarter of 1995, the four major industries of textiles; wearing apparel; machinery, equipment, apparatus, parts and components; and consumer electrical and electronic products together accounted for 72% of Hong Kong's total domestic exports of manufactured goods, according to statistics released today (Thursday) by the Census and Statistics Department.

In the third quarter of 1995, domestic exports of machinery, equipment, apparatus, parts and components continued to increase significantly by 28% over a year earlier to \$10.7 billion.

Those of wearing apparel increased by 2% to \$12.1 billion. On the other hand, domestic exports of textiles and consumer electrical and electronic products decreased by 5% and 2% to \$14.2 billion and \$8.2 billion respectively.

As for other industries, significant absolute increases in the value of domestic exports were also recorded for professional and optical equipment (+\$430 million or +11%); paper and paper products (+\$193 million or +9%); basic metals and fabricated metal products (+\$127 million or +5%).

For the transport equipment industry, although the change in absolute value was not as large, a marked percentage increase of 794% was recorded.

On the other hand, a more notable absolute decrease in the value of domestic exports was recorded for tobacco manufactures (-\$139 million or -21%).

The above statistics of domestic exports classified by industrial origin are derived by re-grouping the merchandise export items originally grouped under the external trade classification system according to the industries in which these merchandise items are normally produced. Transactions in gold and specie are excluded.

The industrial classification used is the Hong Kong Standard Industrial Classification (HSIC). The HSIC is to be distinguished from the United Nations Standard International Trade Classification (SITC) used in the regular trade statistics reports.

In comparison, the HSIC is more related to production processes whereas the SITC is more geared to end uses of products.

Caution should be taken when referring to these domestic export statistics classified by industrial origin. There may be several intermediate processing stages in the production of certain merchandise export items. In compiling the above statistics, the total value of such an item has however been wholly related to the industry in which the item is finally produced.

The above domestic export statistics of a particular industry may include products which are secondary products by establishments of other industries.

Further details of merchandise domestic export statistics classified by industrial origin may be found in the attached table which is obtainable from the General Economic Surveys Section of the Census and Statistics Department, Tel 2805 6642.

A table showing more detailed breakdowns of similar statistics for major manufacturing industries is also included in the report "Hong Kong External Trade, September 1995".

**Domestic exports of manufactured goods classified by industrial origin
for the third quarter of 1995**

(Value in HK\$ Million)

| Industrial origin of the commodities exported | Merchandise domestic exports | | | |
|--|------------------------------|------------------|-----------------|-------------|
| | 1995 3rd qtr. | 1994 3rd qtr. | Value change | % change |
| Food | 668.6 | 675.5 | -6.8 | -1.0 |
| Beverages | 167.5 | 167.5 | -0.1 | -0.0 |
| Tobacco manufactures | 518.2 | 657.3 | -139.1 | -21.2 |
| Textiles (including knitting) | 14,222.8 | 14,895.8 | -673.0 | -4.5 |
| Wearing apparel, except footwear | 12,138.5 | 11,848.5 | +290.0 | +2.4 |
| Leather and leather products, except footwear and wearing apparel | 414.9 | 370.9 | +44.1 | +11.9 |
| Footwear, except rubber, plastic and wooden footwear | 15.2 | 50.1 | -34.9 | -69.6 |
| Wood and cork products, furniture and fixtures | 76.7 | 91.8 | -15.2 | -16.5 |
| Paper and paper products, printing and publishing | 2,400.0 | 2,206.6 | +193.4 | +8.8 |
| Chemicals and chemical products | 2,071.0 | 1,985.6 | +85.4 | +4.3 |
| Products of petroleum and coal | 7.3 | 5.9 | +1.4 | +23.5 |
| Rubber products | 17.8 | 30.0 | -12.2 | -40.6 |
| Plastic products | 1,240.9 | 1,289.2 | -48.3 | -3.7 |
| Non-metallic mineral products, except products of petroleum and coal | 123.5 | 164.0 | -40.5 | -24.7 |
| Basic metals and fabricated metal products | 2,515.7 | 2,388.8 | +126.9 | +5.3 |
| Machinery, equipment, apparatus, parts and components | 10,670.8 | 8,361.7 | +2,309.1 | +27.6 |
| Consumer electrical and electronic products | 8,242.1 | 8,379.7 | -137.6 | -1.6 |
| Transport equipment | 39.9 | 4.5 | +35.4 | +793.5 |
| Professional and optical equipment | 4,339.3 | 3,909.1 | +430.3 | +11.0 |
| Other manufacturing industries | 3,288.9 | 3,562.5 | -273.5 | -7.7 |
| Total | 63,179.4 | 61,044.8 | +2,134.6 | +3.5 |

Notes : 1. Individual entries of a column may not add up exactly to the corresponding total due to rounding. All percentage changes are calculated from unrounded figures.

2. The statistics presented in the above table are derived by re-grouping the merchandise export items (except gold and specie) under the external trade classification system according to the industries in which these items are normally produced. As from 1992, the Standard International Trade Classification, Revision 3 (SITC R3) has been adopted in place of the Revision 2 (SITC R2) for the classification of trade statistics. The above statistics may not be strictly comparable with those published for earlier years due to the change in trade classification.

General Economic Surveys Section
Census & Statistics Department
Hong Kong

Tel. : 2805 6642

November 1995

End/Thursday, November 16, 1995

Sheltered employment plays important role

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Sheltered employment plays a very important role in enabling persons with disability to integrate into the community and share equal chances with others, said the Director of Social Welfare, Mr Ian Strachan.

Speaking at the opening ceremony of the Society of Homes for the Handicapped - Leung King Adult Training Centre today (Thursday), Mr Strachan said the White Paper on Rehabilitation published in May also aimed to provide equal opportunities and full participation for people with a disability and to provide a better tomorrow for all.

"With our changing economic structure in recent years some sheltered workshops have been unable to secure sufficient job orders from the traditional manufacturing type of business," Mr Strachan said.

He said a working party was therefore set up in May 1994 to review the training and employment of people with disabilities.

"During the review we have conducted a survey on the profile of 4,180 workers in 40 sheltered workshops and found out that the earnings of most sheltered workers were low.

"Only 2.3 per cent earned more than \$1,000 a month and about 23 per cent could move on to open or supported employment but about seven per cent were considered not suitable for sheltered work because of advanced age, deterioration in health or work ability," he added.

Based on these findings and other observations and statistics, Mr Strachan said that a report by the working party recommended that future sheltered workshops could have four components including training, production, upward movement pre-discharge and integrated work extension for older, less productive workers.

"It was also emphasised that an adequate monitoring system should be introduced to focus on output performance indicators," Mr Strachan added.

At the moment, members of the public were being consulted on the recommendations and the views of those concerned about sheltered employment were most valuable, he said.

End/Thursday, November 16, 1995

Temporary closure of Queen's Pier

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The Marine Department announced today (Thursday) that the centre set of landing steps at Queen's Pier in Central will be closed to marine traffic from 1 pm to 5 pm on Sunday (November 19) when the 1995-96 Fire Prevention Campaign Launching Ceremony is held at Edinburgh Place.

During the period of closure, a fireboat will berth at the set of landing steps.

The department advised owners and operators of small craft to use landing facilities at Sheung Wan and Wan Chai during the period.

End/Thursday, November 16, 1995

Royal Observatory Almanac 1996 published

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The Royal Observatory Almanac 1996 has been published and is now on sale at \$24 a copy at the Government Publications Centre, Low Block, ground floor, 66 Queensway, and the Royal Observatory Headquarters, 134A Nathan Road, Tsim Sha Tsui.

This bilingual booklet contains the traditional Chinese Calendar and times of daily sunrise, sunset, moonrise, moonset, high and low tides, arranged on a month-by-month basis.

The times of meridian passage, rising and setting of the planets are graphically illustrated in the almanac.

The duration of twilight, details of equinoxes, and solstices and eclipses in 1996 as well as climatological normals of Hong Kong and other selected major cities for each month of the year are also given in the booklet.

End/Thursday, November 16, 1995

Hong Kong Monetary Authority money market operations

| | \$ million | Time (hours) | Cumulative change (\$million) |
|--------------------------------|------------|-----------------|-------------------------------------|
| | ----- | ----- | ----- |
| Opening balance in the account | 1,575 | 0930 | -105 |
| Closing balance in the account | 1,458 | 1000 | -100 |
| Change attributable to : | | 1100 | -104 |
| Money market activity | -117 | 1200 | -104 |
| LAF today | Nil | 1500 | -117 |
| | | 1600 | -117 |

LAF rate 4.25% bid/6.25% offer TWI 122.2 *+0.2* 16.11.95

Hong Kong Monetary Authority

| EF bills | | EF notes | | | | |
|-----------|-------|----------|-------|--------|--------|-------|
| Terms | Yield | Term | Issue | Coupon | Price | Yield |
| 1 week | 5.45 | 2 years | 2711 | 5.60 | 99.79 | 5.79 |
| 1 month | 5.46 | 3 years | 3810 | 6.15 | 100.39 | 6.09 |
| 3 months | 5.53 | 5 years | 5009 | 6.95 | 101.56 | 6.67 |
| 6 months | 5.57 | 5 years | M502 | 7.30 | 100.60 | 7.28 |
| 12 months | 5.59 | | | | | |

Total turnover of EF bills and notes - \$16,921 million

Closed November 16, 1995

End/Thursssday, November 16, 1995