

FUTURE OF HONG KONG ADVANCE COPIES *to* (5)

63

PS
PS/PUS
PS/MR LUCE
~~MR DONALD~~
ED/HKD
ED/FED



COPY TO:
MR COLES, No. 10 DOWNING ST
Mr Roberts, News D.

~~RESIDENT CLERK~~

SECRET

IMMEDIATE

FM PEKING 200730Z DEC 83

TO IMMEDIATE FCO

ADVANCE COPY

TELEGRAM NUMBER 1378 OF 20TH DEC 83

See para. 4 overleaf.

INFO IMMEDIATE HONG KONG

MIPT: DINWER WITH JI PENGFEI

1. THE CONVERSATION CONTINUED OVER DINNER. JI BEGAN BY ASKING HOW WE SHOULD TACKLE THE SECOND ITEM ON THE AGENDA, NAMELY THE TRANSITION PERIOD. SOME OF THE MATTERS WHICH WE WERE ALREADY DISCUSSING AFFECTED THIS ITEM. I SAID THAT WE HAD TO KNOW EXACTLY WHAT HONG KONG WAS TRANSITING TO BEFORE WE COULD TACKLE THE TRANSITIONAL PERIOD. WE WOULD, HOWEVER, BE ADDRESSING THE QUESTION OF THE CENTRAL ADMINISTRATIVE ORGANS FOR HONG KONG IN A WORKING PAPER SOON.

2. I REVERTED TO THE QUESTION OF THE ELECTION OF JUDGES, WHICH I SAID WOULD BE BAD AT ANY TIME. WE NEEDED TO KEEP THE JUDICIARY SEPARATE FROM THE LEGISLATIVE AND EXECUTIVE ORGANS. JI SAID THAT IT OUGHT TO BE POSSIBLE TO HAVE A SYSTEM WHEREBY CANDIDATES WERE RECOMMENDED BY THE JUDGES THEMSELVES TO PARLIAMENT WHO WOULD THEN CHOOSE THEM. I REPEATED THAT WE SHOULD HAVE NO CHANGE, FOR THE SAKE OF CHANGE, SINCE SUCH CHANGE WOULD GIVE A GENERAL IMPRESSION OF INSECURITY. JI OBJECTED THAT IF WE ESTABLISHED A SYSTEM WHEREBY THE LEGISLATIVE ORGANS WAS THE HIGHEST ORGAN OF STATE AND THE EXECUTIVE AND LEGISLATIVE ORGANS WERE ELECTED THEN THE PRINCIPLE JUDGES WOULD HAVE TO BE ELECTED BY THESE ORGANS. BUT IF CANDIDATES WERE RECOMMENDED BY OTHER JUDGES THIS WOULD ENSURE THAT THE RIGHT TYPE OF PEOPLE WERE PUT FORWARD. HE ADDED THAT THE BASIC LAW WOULD STIPULATE THAT THE LEGISLATIVE, EXECUTIVE AND JUDICIAL ORGANS WOULD BE SEPARATE. I OBSERVED THAT THIS WAS VERY IMPORTANT. JI SAID THAT FOR THIS REASON IT WOULD NOT DO FOR THE EXECUTIVE ORGANS SIMPLY TO APPOINT PRINCIPAL JUDGES. ONLY THE LEGISLATURE COULD APPOINT THEM AFTER RECOMMENDATION BY OTHER JUDGES.

3. I ASKED WHY THE CHINESE DID NOT ACCEPT THE PROPOSAL IN OUR WORKING PAPER. AN INDEPENDENT COMMISSION WOULD PUT FORWARD THE NAMES AND THEN THEY WOULD BE FORMALLY APPOINTED BY THE GOVERNOR. JI SAID THAT HIS PROPOSAL THAT CANDIDATES SHOULD BE RECOMMENDED BY JUDGES WAS NOT VERY DIFFERENT FROM THIS BUT THAT IT WOULD NOT BE APPROPRIATE FOR THE HEAD OF THE SAR TO APPOINT THEM, SINCE THIS WOULD CONFUSE THE EXECUTIVE WITH THE JUDICIARY. THE HEAD OF THE SAR COULD NOT HAVE THIS FUNCTION. WE SUGGESTED TO JI THAT THE MAIN SOURCE

HAVE THIS FUNCTION. WE SUGGESTED TO JI THAT THE MAIN SOURCE OF DIFFICULTY WAS THE CONCEPT OF ELECTION. BY THE END OF THE CONVERSATION HE SEEMED TO BE REFERRING MORE TO A FORMAL APPOINTMENT BY THE LEGISLATURE OF CANDIDATES PUT FORWARD BY THE JUDGES THEMSELVES. YAO GUANG OBSERVED THAT THE PRESENT JUDICIAL COMMISSION IN HONG KONG WAS A RELATIVELY NEW BODY.

4. JI WENT ON TO SPEAK ABOUT THE LARGER QUESTION OF DEMOCRACY. HE SAID THAT THE FIRST GOVERNMENT OF THE SAR MIGHT BE PRODUCED BY CONSULTATION RATHER THAN ELECTION, BUT THERE WOULD HAVE TO BE A STIPULATION IN THE BASIC LAW THAT AN ELECTORAL SYSTEM WOULD BE INTRODUCED. I SAID WE DID NOT SEE ANY GREAT DIFFICULTY IN HOLDING ELECTIONS IN HONG KONG. IT COULD BE DONE BEFORE 1997. JI INTERJECTED IMMEDIATELY THAT THIS WOULD NOT DO (NA BU XING). IN ANSWER TO MY QUESTION HE SAID THAT THIS WAS BECAUSE THE TIME WAS NOT YET RIPE; IT WOULD CREATE CONFUSION. I SAID THAT IF THE CHINESE SIDE WAS SAYING ELECTIONS WERE DESIRABLE AND WE THOUGHT IT COULD BE DONE BEFORE 1997, THEN SURELY IT SHOULD BE DONE. IF DEMOCRACY WAS A GOOD THING THEN THE SOONER IT WAS BROUGHT IN THE BETTER. JI RETURNED NO DIRECT ANSWER. HE SAID ONLY THAT HAVING SOLVED THE PRINCIPLES IN THE TALKS THE NEGOTIATIONS COULD NOW PROCEED MUCH MORE EASILY.

5. JI SAID THAT AFTER A GENERAL AGREEMENT ON HONG KONG OUR DISCUSSIONS WOULD HAVE TO CONTINUE. THE CHINESE SIDE WERE APPROACHING ALL THESE DISCUSSIONS WITH A FRIENDLY ATTITUDE IN THE HOPE OF REACHING A FULL SOLUTION. WHEN WE HAD SIGNED AN AGREEMENT WE WOULD BE ABLE TO ACCOUNT TO OUR TWO PEOPLES. HOWEVER ON DETAILED QUESTIONS DISCUSSIONS WOULD HAVE TO CONTINUE THEREAFTER. THESE DISCUSSIONS SHOULD BE PURSUED TO A SUCCESSFUL CONCLUSION SO AS TO MAINTAIN COOPERATION. THE CHINESE DID NOT THINK THAT WE SHOULD CEASE DISCUSSIONS AT THE POINT OF SIGNING AN AGREEMENT. BRITAIN WOULD BE RESPONSIBLE FOR HONG KONG UNTIL 1997, AND CHINA WOULD NOT INTERFERE IN OUR ADMINISTRATION OF HONG KONG. BRITAIN WOULD HAVE FULL RESPONSIBILITY UNTIL THEN. AFTER CHINA RECOVERED SOVEREIGNTY IN 1997 THERE WOULD STILL BE MUCH TO DO BY WAY OF MAINTAINING STABILITY AND PROSPERITY AND CHINA HOPED TO HAVE BRITISH COOPERATION. THEY WOULD COOPERATE WITH BRITAIN IN TURN. BRITISH INTERESTS WOULD BE WELL PROTECTED.

6. I SAID THAT OUR MAIN INTEREST WAS IN SEEING HONG KONG FLOURISHING, SINCE THERE WAS NO POINT IN HAVING INTERESTS IN A DEAD CITY. JI SAID THAT THIS WAS ALSO A CHINESE INTEREST. I SAID THAT WE TOO WANTED A GOOD AGREEMENT, AND IF IT WAS SATISFACTORY WE WOULD GIVE OUR FULL COOPERATION. THERE WAS STILL MUCH TO BE DISCUSSED AND SETTLED: THE PROCESS WOULD COST CHINA NOTHING BUT WOULD BRING MANY BENEFITS. OUR WORKING PAPERS WERE ALL DEALING WITH MATTERS OF PRINCIPLE, AND CERTAINLY NOT EXCESSIVE DETAIL. I AGREED THAT WE SHOULD NEED TO GO ON TALKING FOR A CONSIDERABLE TIME TO COME.

CRADOCK

NNNN