

18TH JULY, 1921.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR, SIR REGINALD EDWARD STUBBS, K.C.M.G.

H.E. MAJOR-GENERAL SIR GEORGE MACAULAY KIRKPATRICK, K.C.B., K.C.S.I. (General Officer Commanding the Troops in China).

HON. MR. CLAUD SEVERN, C.M.G. (Colonial Secretary).

HON. MR. J. H. KEMP, C.B.E., K.C. Attorney-General).

HON. MR. C. MCI. MESSER, O.B.E. (Colonial Treasurer).

HON. MR. E. A. IRVING (Director of Education).

HON. MR. S. B. C. ROSS, O.B.E. (Secretary for Chinese Affairs).

HON. MR. T. L. PERKINS (Director of Public Works).

HON. MR. H. E. POLLOCK, K.C.

HON. MR. LAU CHU PAK.

HON. MR. P. H. HOLYOAK.

HON. MR. HO FOOK.

HON. MR. H. W. BIRD.

HON. MR. A. G. STEPHEN.

MR. S. B. B. MCELDERRY (Clerk of Councils).

Minutes

The Minutes of the last meeting of the Council were approved by the Council and signed by the President.

Finance

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table Financial Minutes Nos. 53 and 54 and moved that they be referred to the Finance Committee.

THE COLONIAL TREASURER seconded, and the motion was agreed to.

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table the Report of the Finance Committee (No. 8) and moved that it be adopted.

THE COLONIAL TREASURER seconded, and the motion was agreed to.

Papers

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table the following papers:—Report on the General Post Office for the year 1920; Report of the Director of Education for the year 1920; Return of excesses on sub-heads met by savings under heads of expenditure for the second quarter of 1921; and a Report on the Fire Brigade and proposal for increasing its efficiency.

The Rents Ordinance

THE COLONIAL SECRETARY presented to the Council the following petitions:—From Mr. Mok Lai Chi representing Chinese tenants of the Colony; and a further petition asking that they might be represented by Counsel; from certain proprietors of boarding houses; from the proprietors of domestic tenements praying to be represented by counsel on the second reading; and a petition from Chinese domestic tenants in Hongkong which he asked the Secretary for Chinese Affairs to explain.

THE SECRETARY FOR CHINESE AFFAIRS—Sir, I received a petition on behalf of tenants of Hongkong which is signed by 10,142 persons, by chop, and 326 by signature. They ask me to represent that this was a sort of attachment to the petition which Your Excellency has already received from the Colonial Secretary. It is to prove that the tenants of this Colony wish to thank Your Excellency for this Ordinance. They asked that they might be permitted to bring it to my office with a band, but

I thought the band would not be necessary. They assured me this was the best law they had ever read. Amongst other bodies the Chinese Chambers of Commerce in this Colony, numbering 15, have signed this petition on behalf of 70,400 members. It is very difficult to find out how many people are represented by this petition. I am told to-day that it is 230,000. I dare say a lesser number might be correct, but I think 136,000 is the minimum figure. Also, 103 guilds of masters and workmen, representing 79,800 men, wish to offer this petition to Your Excellency and the members of this Honourable Council, and in presenting it to the Council they beg me to ask you not to listen to evil advisers but to tell you, Sir, that having read this Bill, they find that you, the Governor, holding justice in your hands, have decided to deal with the people of this Colony as though they were "your little red babies." It is a very voluminous petition.

THE ATTORNEY-GENERAL—I beg to move the second reading of a Bill intituled An Ordinance to amend the law relating to the recovery of possession in certain cases and to restrict the rents of certain domestic tenements.

The need for some legislation on this subject has been widely recognised. The main objects are to protect tenants from unreasonable increases of their rent and from arbitrary termination of their tenancies; in other words, to keep a roof over the heads of present occupiers and to protect them from excessive exploitation. It has been pointed out, Sir, that the Bill will also have another subsidiary effect in that it will tend to check the recent rash speculation in house property which must, if continued, have led to constant increases of rental, resulting in increased cost of living and discouragement of trade. The Bill has been very widely discussed and much help has been derived by the Rents Committee and the Government from the various letters, petitions, reports and other communications received. I would like to say that concrete proposals such as were received on this present Bill are always welcome. I would like to acknowledge too, the very great assistance I have received in the drafting of the Bill from the hon. member who represents the Justices of the Peace.

The Government, Sir, are fully alive to the

general and theoretical objections to legislation of this kind, the undesirability of interfering with the ordinary working of economic laws, and the danger of discouraging new buildings, and that is why—as you yourself have said, Sir—the Government held their hand for a considerable time. But the situation has become so acute that it has been decided that some action is necessary. As a matter of fact I do not think the Bill ought to discourage new building because any new buildings finished after the Ordinance comes into operation will be entirely outside its scope.

I would like, Sir, if I may—it will not take more than a few minutes—to refer again to the policy of the Bill and show how it proposes to work. The two possible causes, I suppose, of the present shortage of housing accommodation are, first of all, the influx of strangers—refugees—into the Colony and, secondly, the failure on the part of builders and property owners to keep pace with the normal development of the Colony. I do not know how far that second cause affects the result, or whether it is an appreciable cause at all, but I will assume, for the moment, that it is one of the causes of the present shortage. The situation created by the working of these two causes has been aggravated and made intolerable by two subsidiary factors—one, the speculation in house property, which tends to drive up rents all the time, and, secondly, the greed of certain landlords. The Bill attacks these two subsidiary factors without which the position created by the two main causes would not have been felt so severely. The two weapons which it uses are the provision of a standard rent and the principle of no ejection. While the Bill remains in force the standard rent alone will be payable, and as long as the tenant pays that rent, and complies with the other terms of his tenancy, he cannot be turned out. With regard to the influx of strangers from elsewhere, the Bill provides that the present occupiers, who are permanent residents of the Colony, shall not be turned out of their houses to make way for people coming in from outside. It is not possible to attack the other main cause, *i.e.*, the failure of the property owners to keep pace with the regular normal development of the Colony, because, of course, we cannot

create houses by Ordinance but we hope we have encouraged new building by providing that any houses built after this Ordinance comes into force shall be entirely unrestricted as to rentals and they will thus get preferential treatment over existing houses. Certain proposed amendments have been published in the *Gazette*, but the general principle and scheme of the Bill remain unchanged.

Various suggestions have been made for carrying out the object of the Bill which the Rents Committee and the Government have been unable to accept. One was a proposal that the standard rent should be the prewar rent with the addition of a certain percentage. That I have dealt with in paragraph 3 of the Objects and Reasons of the original Bill; I would only repeat that it would be extremely difficult, in fact it would be impossible, to fix one percentage for the whole of the Colony. It would have to vary in various districts and for different classes of property.

A Rents Board has been suggested, and possibly that would be the fairest method if the Rents Board were omniscient and were permanently sitting and could work sufficiently quickly, but there would be great uncertainty, the delay would be great, and there would be great expenditure of public and private time. I should very much doubt whether the decisions of that Board could be made so uniform as to be equally fair in all cases. At all events, it is not a scheme which we felt could be produced at such short notice.

Again, it was proposed that one of the subsidiary factors which I spoke of just now, *i.e.*, the greed of certain landlords, and chiefly of farmers of house property, should be checked by providing that farmers of house property should be allowed to collect from the tenants below them only a certain percentage of what they themselves pay to their superior landlord. We found that that was unworkable; different rates would have to be fixed for different parts of the Colony and different kinds of property in the same district. Some property would be perfectly safe; I do not suppose that tenants on the Peak or Bonham Strand often abscond without paying their rent, but in other parts of the Colony it is a real danger.

Another proposal which was made in the very able report of the Chinese Chamber of Commerce was that the second subsidiary factor, that of speculation in land, should be checked by providing that no rent should be raised for one year after the purchase of house property. That would be a much greater and longer interference with ordinary economic laws than the interference proposed by this Bill, because it would last, in some cases, for nearly two years. It would be also very difficult to keep track of the rents charged because, under the scheme which it is a part of it is proposed that landlords should still have power to evict in certain circumstances. When a tenant was turned out and a new tenant came in the latter might not know what the late rent was and he might be charged a much higher rent. It would be impossible to keep track of all these rents, and the provision, I have no doubt, would be very largely evaded.

It was suggested, also, that the collection of "shoe money" should be prohibited, but we felt that in a Bill already rather exceptional it would be unwise further to disturb existing practices by prohibiting a custom which, bad as it may be, is certainly widespread. While the Bill remains in operation there is no reason why anyone should be forced to pay any excessive "shoe money" because the weapon in the past for the exaction of "shoe money" has been the threat of eviction, and if a man pays the standard rent, as long as the Bill remains in force, that man cannot be turned out. I hope the publicity given to the Bill will result in tenants realising this fact.

Another proposal was that buyers of property for their own occupation should be able to obtain possession even if no other accommodation could be found for the tenants who were ejected. I tried to draw up something to meet this, but found it very difficult in detail. I also think it is not necessary. The buyer, if he is buying a house to live in, is either a resident here already or he is someone from outside. If he is a resident, he has a house in which he is living now and can continue to live. If he is a stranger, then I would say the permanent residents have a greater claim to our consideration. Again, if the purchaser is buying in order to acquire

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premises, it is either for an old business or for a new business. If it is an old business, the purchaser has his old premises in which he can remain, or, if it is a new business, then I say, again, that the old established businesses have the greater claim on us than any new businesses. But the rock upon which the proposal would split is the difficulty of providing against bad faith. The buyer would always say that he intended to start a business but failure to secure capital, or arrange credits, or other circumstances over which he had no control had prevented his doing so and he would proceed to let the house to somebody else.

The suggestion has been made that the Bill should not apply to existing leases containing a clause to the effect that on sale of the property the landlord shall be entitled to turn out the tenants by giving a certain length of notice. We are told there are many of these cases. If there are, I think that any provision of this kind would cause very great hardship. For example, it would result in what is known as the "Broadwood Terrace case" being taken out of the scope of the Bill altogether.

It is also proposed that the Bill should be extended to the case of offices and godowns. That case depends on entirely different considerations from the case of domestic tenements. The object of the Bill is to keep a roof over the heads of existing occupiers, to give them somewhere to live and sleep; it is not to protect trade generally but merely domestic tenements.

The tenants' petition asks for schools and club-houses to be included. If they are used for human occupation, they are included; if not, they are outside the scope of the Bill.

It has also been suggested that the Bill should provide that tenants should be required to give six months' notice in the case of shops, and three months' notice in the case of purely domestic tenancies, if they wish to terminate their tenancies. I submit that that is outside the scope of the Bill. The object of the Bill is to protect tenants, not landlords. In the present shortage, I think, that it is no hardship to landlords if tenants leave on giving the usual notice. I see no reason whatever for altering the terms of the tenancies to which the landlords have agreed. The Bill will only be in force during the house shortage, and during the house

shortage a landlord will have no difficulty in getting fresh tenants.

It has also been proposed to prohibit *tong* names in new leases. This subject has been discussed for many years here and has always been found too difficult for solution. We could not make a provision of this kind apply to old leases and in new leases the landlord can always refuse to accept a *tong* name and demand an individual name.

Another proposal was that tenants should not be allowed to transfer or sub-let without the consent of the landlord. I find it rather difficult to discover the object of this proposal. The new tenant cannot legally be required, if the old tenant transfers his tenancy, to pay any more than the old tenant. If the object of this proposal is that the landlord may get any "squeeze" or illicit gain, which is contrary to the spirit of the Ordinance, then I submit that we ought not to help the landlord to get that. There is always a danger that a tenant may hand over to someone else in return for premium, or an increased rent, and risk the tenant taking advantage of the Ordinance. I submit we ought not to help the landlord to get that illicit gain and that there is no reason for this proposal.

Certain persons have asked as to farmers' leases. They are not extended by the Bill. No lease that covers more than a single building is extended by the Bill.

Another proposal was that the Bill should provide that rent should be recoverable only in respect of calendar months. When the Republic was founded the attempt was made to introduce the Gregorian calendar but I understand that the Chinese generally use the old calendar, except in dealings with Europeans, and I think it would be a mistake to deal with such a very widespread custom as the use of the Chinese moon instead of the calendar month.

The only other proposal I want to mention is that the standard rent should be the rent on the 30th June provided it is not more than 10 per cent. over the rent on the 31st December. We found that the rents last December were so high and have been increased so much since then in many cases that the fairest course seemed to be to take the rent on the 31st December.

I would like to mention shortly the principal amendments which I will propose in the Bill. The first one appears in paragraph (b) to clause 2 and the effect of it is to bring within the Bill every hotel and boarding house falling within the boarding house rules. There are six classes of boarding houses affected: Chinese hotels, 1st and 2nd class boarding houses, emigrants' lodging houses, places where employers of labour lodge their *employés*, and Chinese seamen's boarding houses. We propose to include these because they are used not merely by visitors but by permanent residents as well, and also by persons whose presence here is essential to the trade of the Colony. It is proposed to add a further paragraph to sub-clause 1 of clause 4 providing that, if a lessor *bonâ fide* requires possession of a domestic tenement to pull it down or to reconstruct it so as to make it a new building under the Public Health Ordinance, then he shall be entitled to turn the tenant out on giving three months' notice. An amendment to sub-clause 6 of clause 4 is intended to provide that nothing in this Ordinance is to affect the operation of the sections of the Public Health Ordinance which give power to turn tenants out of a house, without any notice at all, when it has become dangerous. The proposed new sub-clause 5 of clause 4 is taken from the English Act and provides that if the lessor has obtained possession and it is made to appear subsequently that the order was obtained by concealment or misrepresentation the Court may award such damages to the tenant as it may think fit.

It is also proposed to add six clauses to the Bill, Nos. 12 to 17. Clause 12 will give the assessor power to alter the valuation where the present valuation is based on rents higher than the rents last December. It is only fair that if a landlord has returned a higher figure on account of increased rent and is now going back to the December rent his assessment should also be reduced.

There are two drafts of Clause 13: the clause which it is now proposed to move is the second draft. It provides that:—

If the rent recoverable from the tenant in actual occupation of any domestic tenement on the 31st day of December, 1920, (a) was a rent which had been agreed upon in writing at some date before the 1st day of January, 1918,

or (b) was not higher than the rent recoverable from the tenant in actual occupation on the 1st day of January, 1918, it shall be lawful for the lessor of such tenement to apply to the court to fix such other rent than the standard rent as the court shall think fit as the rent to be paid in respect of such tenement during the continuance of this Ordinance, provided that nothing in this section shall affect any rent which became due before the commencement of this Ordinance, and provided that nothing in this section shall entitle any lessor, during the currency of any written lease of any domestic tenement for a definite and unexpired term, to any rent higher than the rent reserved in such lease.

The 1st January, 1918, was taken because that was just before the rents of property began to go up. We understand that the rents of Chinese property began to rise early in 1918 and of European property not materially till after that, —the middle of the next year. But we felt that it was impossible to discriminate between the two classes of property.

Clause 14 provides that the Court may allow the lessor to charge a higher rent if he has spent or spends \$500 or upwards in improvement of the property which would have the effect of increasing the rateable value.

Clause 15 provides, in effect, that if a man is lessee of two or three houses and keep one or two floors himself for his family and servants, and his lease expires, he shall not be entitled to keep possession of the whole of the property. The bulk of it goes back to the landlord, and the former lessee is only entitled to retain possession of the part he occupies himself, so that any advantage of increased rents will go to the landlord and not to the lessee. That is only fair, because the tenant's lease is only for a definite term and that term—in the case I have put—will have expired.

Clause 16 deals with "shoe money." It does not prohibit it generally, but provides that no person shall, as a condition or a pretended condition of the grant, renewal or continuance, by himself or any other person, of a tenancy of any domestic tenement, demand payment of any sum

of money whatsoever in addition to the rent. Anyone who does so is liable to a fine of \$1,000.

Clause 17 provides that any rent not payable under the Ordinance which has been paid by mistake can be recovered from the landlord and stopped out of the next rent payable.

I beg, Sir, to move the second reading.

THE COLONIAL SECRETARY seconded.

THE ATTORNEY-GENERAL formally moved, and the COLONIAL SECRETARY seconded, that certain interested persons who desired to be heard by Counsel should be so heard.

The motion was agreed to.

MR. C. G. ALABASTER said—May it please your Excellency and members of the Council, I am instructed by 31 proprietors of domestic tenements in Hongkong, who represent between them many millions of dollars of invested money, to present their petition, copies of which are, I think, in the hands of all the members of this honourable council, and to represent their views on this matter. I do so at the risk of being described, as I have already been described in a petition in anticipation, as a "counsellor of evil"; for it is a principle of that British justice, which is represented by the law and is to be found in those institutions, such as this, where the law is made, that all sides are entitled to a hearing and all sides are entitled to be represented by spokesmen. Now this Bill is opposed by those I represent, and many more who have not had time to prepare or sign petitions, because it is a bad Bill. It is a Bill which, as confessed in the memorandum of Objects and Reasons, was prepared in a hurry, which does not carry out the suggestions on which the Committee appointed was instructed to act, and which attempts to meet a situation which is not a sudden emergency but which is the result of a number of contributing causes which have operated during the last 10 or 15 years and which this Bill does nothing to remove—in fact which this Bill does much to accentuate. The chief of these causes has been the policy of the Land Sales Department of this Colony. The harassing restrictions which are placed in the way of every applicant for land, in whatever part of the Colony he may be, has forced people who are desirous to build to go as far as

possible into the market and buy private land in preference to Government land. They will rather pay more and be sure they get the land they ask for than take months and months of trouble, resulting in the land being purchased by someone else. This is one of the causes, and perhaps the main cause, of the situation which has brought this Bill about. The second cause is the fact that the military authorities own large sections of land in the centre of the town which they do not require and which they do not put to use. That has caused a congestion which is inevitable and led to the law of supply and demand of private property soaring to great heights. And the third and more temporary cause is the general trade slump which started about a year ago. After the war there was a trade boom and money was locked up in trade, but the trade slump has caused money which would otherwise be invested in commercial enterprises being devoted to the purchase of shares, or the acquisition of landed property, with the result that both shares and land in this Colony have recently boomed. The money was legitimately invested and invested on the faith that the investors would get an adequate return for the money invested. Properties have changed hands in the last few months, not only on the basis of the rents then paid but on the basis of the return the landlord expected to get for his money, the law allowing him to increase his rents, and that is why a Bill such as this, which destroys the sanctity of contract, and which is retrospective, will destroy that very confidence on which all trade and all investment is based. So far from leading to further building it will make further building in this Colony almost impossible, for once the Government sanctions the principle of retrospective legislation there is no limit to the amount of retrospective legislation which may be subsequently introduced. and no one will know what return he may get upon his money. Clause 3 of the Bill states that "notwithstanding any agreement to the contrary, whether made before or after the commencement of this Ordinance, and whether oral or in writing, no rent shall be recoverable" except the standard rent and that rent was fixed as the rent of last December. One of the results of this will be that persons who have, with the assistance of the law, evicted the tenants of last year by offering to pay a higher rent to take their place will now

be protected and permitted to pay only the rent that was paid by the people that they themselves dispossessed. I think the greatest possible objection to this Bill is the clause which fixes the 31st December last year as the date at which the standard rent should be fixed. If it is necessary to fix a standard rent surely the rent of the 30th June would be a better one, for at that date it was known that the Government contemplated such a Bill and subsequent purchases of property, if any, have been made on that understanding. With your Excellency's permission I will read the petition and make comments as I go.

TO HIS EXCELLENCY SIR REGINALD EDWARD
STUBBS, K.C.M.G.,

Governor and Commander-in-Chief of the Colony of Hongkong and its Dependencies and Vice-Admiral of the same and to the Several Honourable Members of the Legislative Council of Hongkong.

The Humble Petition of Li Wai Po, Chung Ting Chiu, Wong Sing Fai, Tang Hung, Tsui Kin Kwok, Tung Wai, Leung Hing Ip, Chiu Wai, Leung Wai Nam, Leung Shiu Kap, Fung Im, Chin Wong Shi, Sz To Shun Cho, Cheng Yuen, Leung Ying Chi, Pan Cheong Lam, Chan Hoi Lam, Ho Cheuk Ting, Leung Sai Chun, Yu Wai, Chan Wing Sing, Yuen Sam, Lau Kut Choi, Luk Choi Ting, Tam Chai Yat, Pun Cheung Shi, Yeung Ho, Wong Ping Tong, Chan Ka Ming, Chan Ka On, and Chau Shing Lee, all of Victoria in the Colony of Hongkong, Property Owners.

Sheweth:—

1.—That your petitioners are proprietors of domestic tenements in Hongkong and desire to point out to Your Excellency and Honourable Members of the Legislative Council certain objections to the proposed Ordinance to amend the law relating to the recovery of possession in certain cases and to restrict the rents of certain domestic tenements and to amend the Rating Ordinance, 1901 (hereinafter called "the Bill").

2.—Your petitioners verily believe that their views as expressed in this petition are shared by a large majority of the owners of domestic tenements in Hongkong.

3.—That your petitioners view with alarm

the principle of the whole Bill as unduly interfering with the law of supply and demand and as tending to prevent the free development of the Colony. That notwithstanding the exceptions contained in the Bill as to newly erected property your petitioners do not believe this will lead to the erection of any considerable number of domestic tenements seeing that there is no guarantee contained in the Bill that a similar Bill will not be passed in the near future bringing such newly erected property within its provisions. Your petitioners, therefore, humbly beg to submit that a provision be added to the Bill providing that all buildings now in course of erection or hereafter to be erected shall be excluded from the provisions of this or any Bill to the like effect for a period of at least 15 years.

4.—Your petitioners also humbly beg to submit that this Bill if passed will cause a serious fall in the value of domestic tenements and that a considerable loss will fall on those persons who have recently purchased property on the basis of the rentals now prevailing in the Colony.

5.—Your petitioners further humbly submit that the Ordinance should not be made retrospective but that the standard rent should be the rent payable on the coming into force of the Bill which should not be a date earlier than the date upon which the Ordinance receives the assent of His Excellency the Governor for the following reasons:—

- (a) That purchasers of property since the 31st day of December, 1920, have purchased the same on the basis of the rentals payable at the time of purchase and on the basis of the rents which your petitioners knew the tenants were willing to pay in respect of the properties occupied by them.
- (b) That mortgagees have lent money on such properties the amount of loan being based upon the value of the property calculated on the rents receivable at the time of the mortgage and on the saleable value of similar property in the open market which value was based not only upon the rentals then paid but on the demand for domestic tenements in Hongkong.

6.—That in many instances property sold since the 31st day December, 1920, if the standard rent is fixed at the rent on the 31st day of December 1920 would not be sufficient to pay rates insurance repairs and interest on mortgages and give a fair return on the purchase money.

7.—Your petitioners further humbly submit that in respect of domestic tenements which require extensive repairs necessitating a large outlay the passing of the Bill will make it impossible to execute such repairs and obtain a fair return on the money expended.

8.—Your petitioners, therefore, humbly submit that a provision should be added to the Bill allowing the standard rent to be increased by 15 per cent. per annum on the amount expended in such repairs and not 8 per cent. on and above \$500 as in the proposed amendments to the said Bill.

9.—Your petitioners further humbly submit that unless the 15 per cent. mentioned in paragraph 8 of this Petition be allowed one of the consequences of the passing of the Bill will be that owners of property in a poor state of repair will refrain from executing repairs and will allow the property to be condemned under the provisions of the Public Health and Buildings Ordinance 1903 while new buildings not subject to the provisions of the Bill will be erected and the tenants of the buildings so condemned will be forced to go into such new buildings and new buildings not subject to the Bill will thereupon be built on the site of the condemned buildings.

10.—Your petitioners further humbly submit that the definition of domestic tenements contained in Section 2 (b) of the Bill is worded so as to include shops and they desire that the sub-section shall be altered so as to exclude shops.

MR. ALABASTER—It is stated in the Objects and Reasons that it does not include shops unless the man or his employer live on the premises. But I am unable to accept that as a true reason of the clause which states that a domestic tenement includes every building which is subject to a separate letting and which is used wholly or in part for human habitation, for it is common knowledge that in this Colony the upper floors of premises which are used as domestic premises are

employed and let out as shops on the ground floor.

11.—Your petitioners further humbly submit that in addition to the case in which notice can be given to a tenant under the Bill a provision should be inserted to 4 (1) (e) allowing lessors to give notice to tenants in cases where they desire to provide accommodation for their own families or relatives upon the same conditions as are provided in Section 4 of the Bill. In addition your petitioners beg to submit that the procedure in Section 4 (1) (c) (d) and (e) of referring to the Court the right of a lessor to give a notice to quit is cumbersome and likely to cause much discontent and litigation and beg to suggest that in addition to the above procedure an alternative should be provided allowing the lessor to give 4 months' notice in the case of domestic tenements without reference to the Court and without the necessity of providing suitable accommodation.

MR. ALABASTER—It is a common practice among wealthy Chinese to house their relatives and it is reasonable that the causes which entitle them to recover from a tenant should be extended in order that their families and relatives be provided with accommodation upon the same conditions as are provided in Section 4 of the Bill.

12.—Your petitioners further beg to submit that the suitability of the accommodation to be provided by a landlord on being allowed to give notice to a tenant should be more strictly defined.

Your petitioners therefore humbly pray that Your Excellency and the several Honourable Members of the Legislative Council will be placed to take into consideration the foregoing submissions of your petitioners with a view to the rejection of the said Bill or the amendment thereof in order to meet your petitioners' submissions.

And your petitioners will ever pray. etc.

MR. ALABASTER added—There is another petition which is, I believe, being signed at the present moment. The landlords have been in this difficulty as against the tenants with regard to this Bill: It is

easy to draft a petition which requires all praise and no amendment, but the Government inserted in the *Gazette* on Saturday a number of proposed amendments all of which had to be considered in the criticising of the petitions which were being drafted, and the petition I have just read has had to be entirely re-drafted since Saturday. The other petition, which will probably be presented to-night or to-morrow, whenever it is signed, contains certain arguments which, with your permission, I will incorporate as part of my argument.

In this case the petitioners humbly state:—

(a) That such Ordinance is not necessary, is uncalled for, and is an unwarranted interference with the right of free contract; (b) That rents generally are not unwarrantably high, having regard to the cost of building and repairs; (c) The proposed Ordinance is a gross interference with the law of supply and demand—the wording of this petition is not mine); (d) A law such as that proposed will undermine the confidence of the Chinese generally in the Government of this Colony; (e) That large properties in this Colony have been recently purchased by your petitioners and others based on the present rentals of such premises; (f) The present influx of people from China does not consist of people of the poorer classes but of the wealthy classes who bring much wealth to the Colony. If accommodation is not found for these people, the money of whom will stay permanently in the Colony, the Colony will be deprived of many benefits it would receive; (g) That the proposed Ordinance is in derogation of the Crown leases wherein no provision is made for the restriction of rent; (h) That had more easy facilities been given for the granting of Crown land, less harsh restrictions imposed, and less official obstruction, the present position would never have arisen. Your petitioners further state that if an Ordinance such as proposed is indispensable in the interests of the Colony then it should be on the following basis: It should be enforced for a period of one year and no more, with a guarantee that it will not be renewed. The standard rent should be on the basis of rent payable on the 1st July, 1921, but, if rents had been increased more than 20 per cent. since the 31st December, 1920, then the standard rent should be equivalent to the

rent paid on the 31st December plus 20 per cent. That legal authority for notice to quit premises should be three months in the case of residential and six months in the case of shop property. If longer periods are required they can be arranged by agreement. In the Ordinance no provision is made for uncompleted contracts for sale. One can anticipate a great deal of litigation arising out of this Bill. There is little or no protection against sub-letting. I should like to say a few words about that. I can see nothing in this Bill which will prevent the greatest extortion which exists in this Colony and that is the rent charged by —it is generally a woman—the principal tenant of the floor who rents out cubicle spaces and bed spaces. It would have been better, I submit, to have adopted a standard rent as from to-day as a temporary measure to permit of persons who have had their rents raised since the resolution increasing the rates to submit their case to a board of three who could decide whether the rent was raised in consequence of that resolution or otherwise justified, and to abolish all the other clauses of this Bill. But this Bill as I have said before, does not attempt to meet the evil, which is that if the public is to be restrained from charging too much for this private land it can only be by releasing more public land for private use.

MR. F. C. JENKIN—I am in the fortunate position of appearing, on the instructions of Mr. Wilkinson, for the tenants, and therefore am not in the same category as my friend, Mr. Alabaster. I am here merely to voice to Your Excellency the enthusiasm and gratitude of the tenants, as witnessed by the petition the Honourable Secretary for Chinese Affairs has put in this afternoon, and their gratitude at the reception accorded their petition by the members of this Council and the Committee appointed by this Council. There is only one matter in connection with which I would ask your Excellency's indulgence and that is with regard to one of the sections of the Bill and an amendment which was proposed in Saturday's *Gazette* under sub-section (d) of section 4. I do not know whether it would be more appropriate that I should address myself to that in Committee or—

HIS EXCELLENCY—I think the Council would prefer you to deal with the matter now.

MR. JENKIN—This section deals with the restrictions on the right to possession and the protection of tenants against ejection. The proposal is to put in after the words "to quit" in the first line the words "or has or shall have agreed in writing to quit." The proposed addition was, in common with the rest of the section, retrospective in effect and would mean that the Court would be entitled to make an order of ejection against any tenant who, prior to the coming into force of this Ordinance, had agreed in any shape or form in writing to quit. That would work considerable hardship in certain cases and as I am instructed it has done so already. The circumstances are these. The tenant is notified by his landlord that he must quit the premises he is occupying. He arranges with his landlord for a period of grace during which he may find what is called alternative accommodation. Assuming he has found alternative accommodation, and, if subsequent to that, the knowledge of this intended Ordinance caused the offer to be withdrawn, what is his position? He has agreed with his previous landlord to quit his premises and therefore the Court can make an order of ejection, whereas he has had the alternative accommodation to which he thought he was going withdrawn from him. The tenants are not asking for much because they have met with considerable consideration from this Council. They are asking, in so far as it is the desire of the Council to give the right of ejection where agreement to quit shall have been made, that that right shall not be retrospective and that that sub-section shall read so as to make it operative only from the passing of this Ordinance. A case of that kind has been brought to the notice of Mr. Wilkinson—and I am instructed it is a bad case—where a man having agreed to quit has been left, as it were, out in the cold by reason of the enforcement of the agreement and the withdrawal of the alternative accommodation. Therefore, I ask you when in Committee, to consider the possibility of making that portion read as from the operation of the Ordinance and not retrospective. There is a provision in the New Territories Law to the effect that where at the time of taking over the Territories a person had agreed to a sale of land, that, when a certain Ordinance was put into operation, it was agreed that this agreement for sale should not be operative unless the person came in and confirmed his previous agreement of sale. To what extent I have properly stated the facts I cannot say, but, if that is so, it is a precedent for the application of that principle here—that after

a man has made an agreement to quit it should be confirmed before the Court should make an order of ejection.

HIS EXCELLENCY — Does any hon. member desire to address the Council?

No member signifying any desire to do so,

H.E. THE GOVERNOR said—Gentlemen, I did not intend to speak on the second reading of the Bill, but it has come to my notice that in speaking previously of the necessity of some such measure I, by an unfortunate slip, confined myself to dealing only with one case of gross extortion. I was carried away rather by the side issue of "farming" and did not give you the other information. I should like to take this opportunity of amending that mistake. I am glad, as a matter of fact, that I confined my remarks to one particular case because the result of my doing so was to produce a letter in the newspapers from the Hongkong Land Investment Co. which afforded the best argument I have yet seen for the passage of such a Bill as this. I am not referring to the ingenious argument to show that an increase of \$33 is equivalent to one of \$11, or rather that it would have been if circumstances had been entirely different. Personally I am seldom impressed by arguments based on the model of the old French saying that "If my aunt had been a man she would have been my uncle." I think it is safer to look at the facts and regard \$33 as \$33 and not \$11. I am referring to a passage in the letter in which it was shown that as a result of the farming system, the Land Investment Company had received in respect of certain tenements an income representing 9.52 per cent. on their expenditure. Well, if 9.52 per cent. were the amount which the landlord was getting from his tenant I should say it was not entirely unreasonable. I should have accepted it with pleasure in those days when I was in the position of a landlord. One took risks of property standing vacant, but this 9.52 represents the net result to the Hongkong Land Investment Co. That is what is paid to them by the farmer. I contend that this is far too much. The rent is farmed by one man who probably

farms it to another, and possibly it is farmed by half-a-dozen, and by the time it gets down to the tenant he is paying not 9.52 per cent., but probably 19 per cent. Even if there is only one farmer and he confines himself to the very moderate rate of $\frac{1}{2}$ per cent. on his capital that would make 16 per cent. the tenant is paying on the property. That is too much. This is one of the evils of the farming system which is a matter, I consider, that ought to be dealt with and requires dealing with at once. I suggest to the Council that in the letter before us we have overwhelming reasons for dealing with the farmer at an early date. Let me give you other instances. The first is a case in Irving Street—it is a case in which a farmer is concerned. The rent was raised from \$12 to \$16 last year. In May it was proposed to raise it from \$16 to \$20. I do not think it will be contended that the value of money has gone down 25 per cent. since the beginning of this year; so that appears to represent an increase for which there is no justification. This case is not an extraordinary one. On these facts being represented to the farmer he thought it better to compromise at \$17. The next case is from Nathan Road, Kowloon. The rent was raised \$30 a house—more than 25 per cent. increase. This is an interesting case because the ground given for the increase of rent by the landlord was that if he were to build now it would cost him \$20,000 and the land might be valued at \$6,000. Such an argument is entirely irrelevant. He is not building, but taking advantage of the shortage of houses to make a wholly unjustifiable increase of the rents paid by his tenants. Another case is in Austin Road, where the rent of one room began at \$7, then it rose to \$15 and then to \$17. The tenant having renovated the premises the landlord put up the rent to \$18.50. The next case is from Mody Road, Kowloon. The rent in March, 1919, was \$100; in March, 1920, it became \$105; in September, 1920, \$115; and in July, 1921, \$135. That is as good a case of extortion as I have yet met. The next case is from Hollywood Road, where the rent was raised from \$30 to \$70, and there was a case in Wanchai Road, where the original rent a few years ago was \$15, which was raised to \$20 in January, \$24 in April and recently to \$35. I think that is a sufficient answer to the suggestion that the rents fixed should be those of 30th June. In a case in Morrison

Street the rent of \$175 was raised in the fourth moon to \$200, and now it is proposed to raise it to \$600. In Chatham Road land was leased in 1911 by the Land Investment Company at \$9. They then adopted the system of farming and the rent was raised to \$14, in the second moon it was raised to \$19, and at the same time "shoe money" of \$50 was demanded. There are three cases in Cross Street, Wanchai, in which the rent was raised in one case from \$14 to \$28; and in another from \$11 to \$28. In Graham Street a rent of \$30 was raised in August, 1920, to \$70, and it was now proposed to raise it to \$100. In Gough Street rent was raised from \$27 to \$30 last year, then to \$37 in March last and now to \$75. I think these cases supply all the comment that is necessary. They speak for themselves.

HIS EXCELLENCY then put the motion for the second reading of the Bill to the Council, and it was passed without a dissentient vote.

THE ATTORNEY GENERAL then moved that the Council go into Committee to consider the Bill clause by clause.

THE COLONIAL SECRETARY seconded, and the motion was agreed to.

HIS EXCELLENCY invited Counsel appearing for petitioners to remain if they so wished.

MR. ALABASTER remained to press the amendments he had indicated in his address.

On Clause 1, the ATTORNEY-GENERAL moved to amend the long title by the addition of "and to amend the Rating Ordinance, 1901."

The motion was agreed to.

On Clause 2, the ATTORNEY-GENERAL proposed to amend paragraph (2) as follows:

- (a.)—Insert after "habitation" in the fifth line, "and every hotel and boarding house falling within any one of the classes of boarding houses specified in Rule 1 of the rules made by the Governor in Council under the Asiatic Emigration Ordinance, 1915, and the Boarding House Ordinance, 1917, and published in the *Gazette*

of the 19th day of October, 1917."

(b.)—Amend paragraph (ii) by adding "or their families."

(c.)—Amend paragraph (iii) so as to read:

(iii.)—Any hotel or boarding house which does not fall within any one of the classes of boarding houses specified in Rule 1 of the rules made by the Governor in Council under the Asiatic Emigration Ordinance, 1915, and the Boarding House Ordinance, 1917 and published in the *Gazette* of the 19th day of October, 1917.

(d.)—Insert the following paragraph:—

(iv.)—Any part of any hotel or boarding house whatsoever.

(e.)—Re-number the present paragraph (iv) as paragraph (v).

(f.)—Add the following paragraph:—

(vi.)—Any building for the time being vested in the Custodian of Enemy Property, or any part of any such building.

H.E. THE GENERAL—Perhaps this may be a good opportunity to make it quite clear that property belonging to the Secretary of State for War cannot be subject to the operation of this Bill. The War Department have allowed some portion of the married quarters to be leased and so helped to relieve the pressure on the housing accommodation. Now, however, these quarters are required for the married families of troops, and, therefore, present tenants have received notice to quit. I should like to make it quite clear that this Bill does not limit the powers of the Secretary of State for War in that respect. I do not know whether this would be the place to propose an amendment to make that clear.

THE ATTORNEY-GENERAL—I think that the Ordinance will not bind the Crown. If the amendment were inserted, it might give ground for arguing that other Crown property would be affected. Obviously if the military require this property they must obtain possession of it. If the Ordinance prevents them, special legislation can be introduced.

HIS EXCELLENCY THE GOVERNOR—I

do not think it will be necessary.

MR. ALABASTER—On this clause, as pointed out in the petition, it is not clear whether shops are intended to be included or not. We know offices are not included and I think the clause should be made perfectly clear.

THE ATTORNEY-GENERAL said that if a shop were let separately and no part of it were used for human habitation, it would not come under the Bill, but in the case of Chinese shops they were so used.

THE SECRETARY FOR CHINESE AFFAIRS—The petitioners are quite satisfied and they do not doubt that a shop is included, having no doubt whatever that a shop is a domestic tenement. They could always prove, in case of need, that they do occupy their shops.

HON. MR. LAU CHU-PAK agreed.

MR. ALABASTER said that as the clause was worded now a "shop" was apparently governed by whether there were people upstairs or not.

THE ATTORNEY-GENERAL said that if a house were let as a whole and if any part of it were used for human habitation the Ordinance would apply to the whole house.

HIS EXCELLENCY asked if Mr. Alabaster desired to omit shops.

MR. ALABASTER said he did, and to put them in the same category as offices and godowns.

THE ATTORNEY-GENERAL — Even if they are used for habitation?

Several members remarked that all Chinese shops were used as human habitations.

THE ATTORNEY-GENERAL — The proposal would defeat the object of the Bill with regard to a very large number of dwelling-places.

HON. MR. LAU CHU PAK—Shop-keepers have suffered more than anybody else.

HIS EXCELLENCY — If no member desires to move an amendment, the clause, as amended, stands part of the Bill.

On sub-clause (f), of clause 2, MR. ALABASTER said the petitioners he represented desired that the standard rent should be the rent which obtained on the 30th of June.

HIS EXCELLENCY—That matter has been very fully considered. I feel that the Council is unanimously of opinion that the date should not be altered.

THE SECRETARY FOR CHINESE AFFAIRS—There are 200,000 petitioners who beg to put June 1st, 1914.

HIS EXCELLENCY—My own inclination was to go back to 1914, but the difficulties were too great and December, 1920, though not the best possible date, is the most convenient one.

Clause 2, as amended, was then approved.

Clause 3 was adopted with verbal amendments.

THE ATTORNEY-GENERAL moved several verbal amendments to Clause 4, and referring to para (c) he said the effect of the clause as it stood would be to make a man living on the ground floor liable for the conduct of tenants above. He could not turn them out, and it would be an unfair obligation to place upon him. If they misconducted themselves he might be turned out by the landlord, or it might be a collusive affair.

HIS EXCELLENCY—On the other hand, ought not a tenant to be responsible for any person he puts in his house?

HON. MR. POLLOCK—They may be sub-tenants of his sub-tenants.

The sub-clause was allowed to remain as drafted.

On sub-clause (d) of Clause 4, HIS EXCELLENCY recalled Mr. JENKIN'S point as to the position of a man who had agreed to quit but who found that alternative accommodation had been withdrawn. He said it would be rather difficult to frame a clause so that inconvenience would fall impartially on the right person. The landlord would not be able to get an increased rent from anybody else and would probably agree to a compromise and prefer that the tenant he knew should remain.

HON. MR. P. H. HOLYOAK—I think the matter will adjust itself: such cases will be very few.

HON. MR. ROSS mentioned that a man subject to a fine of \$100 a day for every day he remained on certain premises after July 1st, had decided, when he heard of this Bill, to remain on and he (Mr. Ross) told him he thought he would be justified, and would be upheld by the Courts. The petitioners seemed to think the Courts would give the landlord damages but he did not think so, because the man was intimidated into giving that agreement, by which he was being charged \$100 a day, instead of \$200 a month before. Mr. Ross did not think the landlord would wish to get the tenant out, knowing that he would not get any more from a new tenant.

HON. MR. LAU CHU PAK thought the clause, as amended, was the most satisfactory compromise that could be arranged.

It was agreed that the sub-clause should stand part of the Bill.

On paragraph (e) of sub-clause 1 of Clause 4,

MR. ALABASTER said the petitioners would like the word "lessors" to be extended to include his families and relatives who should have the same consideration as was shown to his *employés*.

HIS EXCELLENCY — Are they not included?

MR. ALABASTER — Not necessarily, under the Chinese system of family life.

HON. MR. ROSS thought the Courts would hold that anyone of the same surname was a member of the family; it is the clan.

MR. ALABASTER — Should it not be limited to families?

HON. MR. POLLOCK — Perhaps Mr. Alabaster means his wives and children?

The Council adopted a suggestion of HIS EXCELLENCY that the words should be for "himself or for his family." HIS EXCELLENCY thought "relatives" too wide a phrase.

THE ATTORNEY-GENERAL moved to add the following paragraph after para. (e) in sub-clause 1 of Clause 4:—

(f.) — The lessor *bonâ fide* requires possession of the domestic tenement in order to pull down such domestic tenement or in order to reconstruct such domestic tenement to such an extent as to make such domestic tenement a new building within the meaning of the Public Health and Buildings Ordinance, 1903, and shall have given the tenant three months' notice to quit.

Subsequent amendments, and additional clauses, proposed by the ATTORNEY-GENERAL, were adopted without discussion.

On the Council resuming,

H.E. THE GOVERNOR—In this case, for the purposes of Rule 48 of the Standing Rules and Orders, I declare that an emergency exists, and that in my opinion it is desirable in the public interest that Rules 42 and 47 be suspended, so as to enable the bill to be carried through its remaining stages at this sitting of the Council. The grounds for this declaration are that, as the object of the bill is to protect the tenants of domestic tenements from unreasonable increase in rental and from arbitrary termination of their tenancies, and as rents have been and are being raised unreasonably, and as attempts have been and are being made to eject tenants who are unwilling or are unable to pay such increased rents, it is desirable to pass the bill immediately so as to afford relief to as many as possible of the class which the bill proposes to protect.

THE COLONIAL SECRETARY seconded and the suspension of the Standing Order was agreed to.

THE ATTORNEY-GENERAL then moved the third reading of the Bill.

THE COLONIAL SECRETARY seconded and the Bill was passed.

The Adjournment

HIS EXCELLENCY — The remaining business on the agenda we do not propose to take. In any case I fear these Bills will not be ready this week. I propose, therefore, that we should adjourn *sine die*. I should like, before we go, to express my thanks to members of the Committee and more especially, if I may say so, to the Attorney-General and his learned

colleague, the Hon. Mr. Pollock, for the immense trouble they have taken in producing this Bill, which I trust will be successful in attaining the object for which it was devised.

FINANCE COMMITTEE.

A meeting of the Finance Committee was afterwards held, the COLONIAL SECRETARY presiding:—

The Gap Rock Cable

The Governor recommended the Council to vote a sum of \$19,616 in aid of the vote Public Works, Recurrent, Communications, (8) Maintenance of telephones including all cables.

THE CHAIRMAN—This sum of \$19,616 is the amount required for repairing the cable to Gap Rock. We took advantage of the presence of the cable ship *Patrol* in the waters of the Colony to employ her in recovering the cable and finding out what was wrong. Fortunately the cable was recovered in about two days after the ship actually got to work and it was found that the cable had been clean cut across. By whom and how it was done was not clear. It may have been by a fishing boat recovering her anchor. It required half a mile of large cable and nearly $\frac{1}{2}$ miles of smaller cable to effect the necessary repairs. The hire of the ship cost £800, the half mile of large cable £338, the rest of the cable £1,098 and material £216—a total of £2,452, of which \$19,616 is the equivalent in local currency. It was a successful but rather expensive job.

Approved.

Kowloon Telephone Wires

The Governor recommended the Council to vote a sum of \$6,500 in aid of the vote Public Works, Recurrent, Kowloon, Communications, (27), Maintenance of Telephones.

THE CHAIRMAN — This sum is to lay underground a number of telephone wires in Kowloon. The poles are carrying so many wires between Kowloon and Hunghom that in a typhoon it is thought they may come down. So having a cable in stock we decided on laying these cables underground. It involved a cost of \$3,900 to the Public Works Department and \$2,600 to the railway. For simplicity it was decided to take a single vote and charge the whole to Public Works Recurrent.

Approved.