

*3rd July, 1947.*

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**PRESENT: —**

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT (MR. D. M. MACDOUGALL, C. M. G.)

THE HON. THE OFFICER COMMANDING THE TROOPS (BRIGADIER F. H. C. ROGERS, C.B.E., D.S.O., M.C.)

THE COLONIAL SECRETARY (HON. MR. R. R. TODD, *Acting*).

THE ATTORNEY GENERAL (HON. MR. J. B. GRIFFIN, K.C.)

THE SECRETARY FOR CHINESE AFFAIRS (HON. MR. B. C. K. HAWKINS, O.B.E., *Acting*).

THE FINANCIAL SECRETARY (HON. MR. C. G. S. FOLLOWS, C. M. G., *Acting*).

HON. MR. T. MEGARRY.

HON. MR. V. KENNIFF (Director of Public Works).

HON. DR. I. NEWTON (Acting Director of Medical Services).

HON. MR. D. F. LANDALE.

HON. MR. CHAU TSUN-NIN, C.B.E.

HON. MR. LO MAN-KAM, C.B.E.

HON. MR. LEO D'ALMADA E CASTRO.

HON. MR. R. D. GILLESPIE.

HON. DR. CHAU SIK-NIN.

HON. MR. M. M. WATSON.

MR. ARTHUR GRENFELL CLARKE (Deputy Clerk of Councils).

**MINUTES.**

The minutes of the meeting held on 19th June, 1947, were confirmed.

**MOTIONS.**

THE FINANCIAL SECRETARY moved: —

Resolved pursuant to the proviso to section 3 of the Note-issuing Banks Extension of Powers Ordinance, 1939, as modified by the Law Amendment (Transitional Provisions) Ordinance, 1946, that this Legislative Council hereby extends the powers of all the note-issuing banks to make, issue, re-issue and circulate notes until and including the 12th day of July, 1948.

He said: Under section 3 of Ordinance No. 21 of 1939, the note-issuing banks were only authorised to continue to make, issue, re-issue or circulate notes up to the 12th July, 1940, but it was provided that Legislative Council could, by resolution, extend those powers for any period not exceeding twelve months at a time. By a resolution on the 15th August, 1946, these powers were extended until 12th July, 1947, and it is now necessary to extend them for a further period of one year up to the 12th July, 1948.

THE COLONIAL SECRETARY seconded, and the resolution was adopted.

THE FINANCIAL SECRETARY moved that Schedule No. 2 of Supplementary Expenditure for the year ended 31st March, 1947, be approved. He said: The Special Warrants set out in this schedule have already been approved by Finance Committee, and it is now necessary to obtain by resolution the formal sanction of the whole Council. Subject to anything unforeseen which may arise from the completion of the examination of the Crown Agents Accounts, the present return covers all the remaining supplementary expenditure incurred during the financial year just ended, with the exception of an excess in respect of pensions and one on the Transport vote for which final figures are not yet available. There will also be the usual omnibus Special Warrant which covers excesses of a routine nature which were not apparent until all accounts, including the London accounts, had been dealt with. The greater part of the expenditure shown in the present return has been met from savings either under the same Head or under some other Head of the Estimates,

THE COLONIAL SECRETARY seconded, and the motion was carried.

**CHINESE COLLABORATORS (SURRENDER) BILL, 1947.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to provide for the surrender of subjects of China who, during the war period, have, in China, collaborated with

the Japanese.” He said: Sir, to the Bill is annexed "Objects and Reasons" which, I think, sufficiently explain the object of the measure now before Council. It does not appear to me, therefore, to be necessary further to detain Council in explanation of the Bill.

THE COLONIAL SECRETARY seconded, and the Bill was read a First time.

### **Objects and Reasons.**

The "Objects and Reasons" for the Bill were stated as follows: —

1. The Chinese Collaborators (Surrender) Ordinance, 1946, Ordinance No. 7 of 1946, was enacted on the 17th May, 1946. Section 14 of such Ordinance provided that the Ordinance should continue in force until the 30th April, 1947.

2. Subsequent to such date it has been considered desirable that provision made by said Ordinance should continue in operation for a further period of six months from the 1st May, 1947.

3. The object of this Bill is to give effect to such purpose by enactment of an Ordinance entitled the Chinese Collaborators (Surrender) Ordinance, 1947, which Ordinance would reproduce unchanged sections 2-13 inclusive of Ordinance No. 7 of 1946.

### **TRADING WITH THE ENEMY AMENDMENT BILL, 1947.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Trading with the Enemy Ordinance, 1914."

He said: The Trading with the Enemy Ordinance, 1914, which is the Ordinance under amendment, was itself amended in 1939 so as to make it coincide with the Trading with the Enemy Act, 1939, of the United Kingdom. As the war progressed, the Trading with the Enemy Act of the United Kingdom was amended from time to time and amendment in Hong Kong kept pace until 1941. Thereafter, of course, this process could not continue; but in 1944 the English Act was amended by Defence Regulations so as to provide for an extension in effect of the definition occurring in that Act, which definition, without such amendment, precluded the application of the Trading with the Enemy Act to enemy countries which had become or would become in the occupation of His Majesty or of an Allied Power. It has now been revealed that this change, which I have described as having taken place in England in 1944, was not effected in Hong Kong in relation to our Trading with the Enemy Ordinance. It is therefore necessary by this Bill to make such change so that it is confirmed that the Trading with the Enemy Ordinance now extends to enemy countries which are in the occupation of His Majesty or of a Power allied with His Majesty. Upon the enactment of the Bill it will become possible for orders to be made, if and when necessary, by the Governor, which progressively will restore trade relations with enemy countries.

THE COLONIAL SECRETARY seconded, and the Bill was read a First time.

### **Objects and Reasons.**

The "Objects and Reasons" for the Bill were stated as follows: —

1. Section 2(1)(e) of the Trading with the Enemy Ordinance, 1914, the principal Ordinance, defines the term "enemy territory" as "any area which is under the sovereignty of, or in the occupation of, a Power with whom His Majesty is at war, **not being an area in the occupation of His Majesty or of a Power allied with His Majesty.** Consequently any area in Germany or Japan ceased to be subject to the provisions of the principal Ordinance on being occupied by His Majesty or a Power allied with His Majesty".

2. In these circumstances it is necessary to amend the principal Ordinance to provide that areas which are now in the occupation of His Majesty or of Powers allied with His Majesty shall be enemy territory for the purposes of the Ordinance and permit the making of Orders by the Governor regulating progressively the re-establishment of trade relations with such areas.

### **MIDWIVES AMENDMENT BILL, 1947.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Midwives Ordinance, 1910."

THE COLONIAL SECRETARY seconded, and the Bill was read a Second time.

On the motion of the ATTORNEY GENERAL, seconded by the COLONIAL SECRETARY, Council then went into Committee to consider the Bill clause by clause.

Council then resumed.

THE ATTORNEY GENERAL reported that the Midwives Amendment Bill, 1947, had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded, and the Bill was read a Third time and passed into law.

HON. MR. D. F. LANDALE moved:

That this Council notes with grave concern and disappointment from the Hon. the Colonial Secretary's statement on 19th June, 1947, the lack of progress in solving the housing problem after nearly two years of the British re-occupation, and is of the opinion that:

(1) Government should regard the solution of this question as one of the utmost urgency.

(2) Government should, without delay, plan and vigorously pursue a policy of rapid and extensive building, both domestic and office, for its own use, and

(3) Government, in addition to fostering and, if necessary financing, building schemes for Civilian use, should actively encourage private building to the utmost extent possible and, with this end in view, remove all unnecessary Government impediments to private enterprise, and in particular modify its present unfair and repressive policy in regard to the renewal of 75-years Crown Leases.

He said: Your Excellency, I bring this motion before Council because it is the opinion of all my Unofficial Colleagues, and a considerable body of the public, that progress in rebuilding as opposed to rehabilitating the Colony is not as rapid as it could be.

Rehabilitation, as my Hon. Friend the Colonial Secretary said in his statement on the 21st November last, and repeated in his statement at our last meeting, has proceeded at a steady rate, and it is my opinion that a stage will be reached fairly soon when all the buildings capable of being rehabilitated will have been done and yet the needs of the Colony are nowhere near being met. It is therefore rebuilding as opposed to rehabilitation that is the theme song of this motion. In this respect I consider the answer given by my Hon. Friend the Colonial Secretary to Mr. M. K. Lo's question as unsatisfactory and, in some cases, complacent and misleading. In paragraph 8 of his reply reference is made to inducements offered by Government to owners to build new property, and particular reference is made to three inducements; The Inland Revenue Ordinance of 1947; The Landlord and Tenant Ordinance of 1947, and the present terms for the Renewal of 75 Year Crown Leases. As to the first, I admit this is a small inducement, but a very small one. As to the second, it is only a negative inducement as new buildings are excluded from the Ordinance. And as for the terms of Renewal of 75 Year Crown Leases, so far from being an inducement I submit they are a deterrent to rebuilding. I will say more of this later. Complacency is again displayed in paragraph 10 of my Hon. Friend the Colonial Secretary's statement when he says one or two building schemes are under discussion with private companies. I would like to know for how long these discussions have been going on? There is a tendency nowadays for them to be unduly protracted. I have just said the statement in some cases was misleading. It is misleading to attribute the slow progress so far made in rebuilding to a shortage of materials. While I admit we have nothing like all the materials we will want, we have enough here and on the way to the Colony to keep us going for some time and, if other factors allowed us to use them, a considerable degree of relief to the housing shortage could be achieved in a comparatively short time.

I would now like to refer to my motion. Paragraph (1) is merely an exhortation not, I trust, borne of wishful or hopeful thinking. Paragraph (2) is, in my opinion, the crux of the problem and although

I have not specifically included the Services in the motion, my remarks apply equally to them as they do to Government.

My Hon. Friend the Colonial Secretary in his November statement referred to a reluctance on the part of landlords to build at present high costs, and that they preferred to wait in the hopes that costs would come down. That situation prevails to-day. In view of this I consider it incumbent on bodies, official and unofficial, who have large staff commitments to equip themselves with accommodation, both domestic and office, to meet their own requirements, thus releasing premises for the general public.

Government, I admit, are doing this to a very small extent; I am, however, disappointed to see that the Leighton Hill project has now shrunk from three 9 storey blocks, capable of accommodating 51 families, to two blocks accommodating 26 families. I am prompted to ask whether Government are applying their own policy, which I do not necessarily agree with, to this scheme; one that has so frequently been thrown at private enterprise. I quote from the Government June statement with regard to the Renewal of 75 Year Crown Leases:

"The adequate development of the leased area, in accordance  
"with the needs of the community, would be a condition precedent  
"to the grant of any new Crown Lease."

This Leighton Hill shrinkage seems to indicate that they are not.

Turning to office accommodation; Government now occupies something over 60,000 square feet of leased premises, scattered throughout the Central District. What are they doing about providing themselves with their own centralized administration building capable of housing all their departments? Such centralization must lead to greater economy and efficiency besides releasing accommodation for commercial use.

I have no recent figures of civilian premises occupied by the Services, but I submit they are taking undue advantage of the powers of requisition they used to enjoy, and by now they should be beginning to provide their own accommodation for their own requirements.

I should now like to refer to the 3rd paragraph of the motion. I have just said that official and unofficial bodies with large staff commitments should provide themselves with their own accommodation. As far as unofficial bodies are concerned, I know of a number of projects for implementing this, but they have been held up for periods varying from two months to one year while discussions go on with Government on the terms of renewal or granting of 75 year Leases. Government's attitude to this problem, so far from being an inducement to rebuild is, in fact, a deterrent. Government have admitted that building costs are uneconomical, yet they demand fantastic building covenants to be executed in absurdly short periods. No latitude is allowed a prospective builder to average his cost by putting up gay half a building now and the balance later. They demand a building covenant on certain large lots of millions of dollar

to be completed in eighteen months or two year's time at very high Crown Rents. I do not know on what basis Government fixes the building covenants and Crown Rents, and upset prices. If the former is on Government building costs for like buildings I would suggest that somebody looks into Government building costs, as they are altogether out of line with private costs. As to Crown Rents and upset prices, Government seems to be stimulating inflation.

Your Excellency, I submit that if Government's predecessors of the middle of last century had adopted the Land policy at present being pursued by Government, this Colony would never have been developed, and I go further; if it is persisted in it will prolong indefinitely the rebuilding of the Colony.

Government, as the monopolistic Crown Landlord, has a big responsibility to the community. Consider carefully where the present policy will lead you.

No one denies the right of Government to charge an "economic relit" for its land. My contention, however, is that Government is now charging exorbitant rent on the renewal of Crown Leases. Here we have a case of a monopolistic power being used detrimentally to the public interest. Usually, when monopolistic power is abused the Public look to the State to rectify the position by repressive legislation; but in this case I submit it is Government itself which is abusing its position. That is why I say it should look into this matter very carefully.

Private monopolies have rightly been attacked in the past. Anyone with an elementary knowledge of economics must realise that the present inflationary trend in world economy must be arrested or chaos will ensue. Our hopes are that as world production gets back to normal and the era of scarcity comes to an end, inflation will be retarded. In other words, the laws of supply and demand should, with proper controls, tend to right the present serious position over the next few years.

Yet here we have Government, as the possessor of a vital monopoly, "the natural and indestructible powers of the soil", as Ricardo once defined rents, proposing to assist inflation by high and restrictive Crown Rents and Covenants, which will continue for 75 years.

I urge Government to reconsider their policy before it is too late.

HON. MR. LO MAN-KAM: Your Excellency, I second the motion.

After nearly two years of British re-occupation of the Colony some residents are still prevented from returning to the Colony for lack of accommodation, and have perforce to put up with cramped quarters in hotels and boarding houses, or impose themselves on their friends or relatives to the acute discomfort of all concerned, because their own properties are still under requisition: many more still cannot find reasonable accommodation for themselves and their families;

and most of them, having found so-called accommodation, are in truth herded together in tiny cubicles and bed-spaces, with no amenities whatever.

The continued requisition of premises further restricts the availability to civilians. Up to May this year less than 3,000 premises have been constructed or reinstated. It is not surprising therefore that there should be, as there are, such strong feelings of disappointment and resentment on the part of the general public in regard to the existing housing question.

The Colony's "number one problem" is admittedly one of great intricacy and is one which is not capable of facile solution. But I hope and believe that some useful purpose will be served by a full ventilation of this subject in this afternoon's debate.

Various aspects of this question have been dealt with by my Honourable friend, the mover of this Motion, and other aspects will, I hope, be dealt with by other speakers. In order not to take up too much time of this Council I propose to confine my remarks to Government policy in regard to the renewal of 75-year Leases—a subject which, in my submission, is of great importance to the community generally and, as I venture to assert, has in fact had a depressive effect on private enterprise.

Sir, what is this question, and what is Government's policy in regard thereto?

The question is simply whether holders of 75-year Crown Leases which are expiring should or should not be given the right of having their leases renewed.

Now, this question is not a new one. Before the war it was the subject of prolonged discussions and negotiations between Government and interested parties. I believe the Hong Kong General Chamber of Commerce took a prominent part in these discussions.

Why some Crown Leases were issued for 75 years, some for 75 plus 75 years, some for 999 years and some for other periods is one of those mysteries which we must content ourselves to accept as mysteries. It is, however, an historical fact that it had been assumed by holders of 75-year leases that their leases would be renewable.

I now come to the most crucial point of this matter. My information is that the negotiations with Government, to which I have referred, were actually brought to this stage before the war: that the right, or concession, or indulgence, or whatever you will, on the part of leaseholders to have their leases renewed was definitely conceded by Government: that the terms of renewal suggested by Government were agreed to except on one point, to which I will refer: that these agreed terms included the payment of a premium on renewal, a reassessment of the Crown rent, and the usual building covenants for the maintenance of buildings during the renewed term. The only point which remained in dispute as to which Government

had not pronounced its decision, was the claim by the leaseholders that it was unfair for Government to impose a premium at all on renewal. The only burden or liability imposed on leaseholders in regard to building on the site was limited to that imposed by the building covenants in the expiring leases.

I understand, Sir, that the officials who took part in these discussions were principally the then Financial Secretary (now Sir Sidney Caine) and the then Attorney General (now Sir Grenville Alabaster, K.C.). I understand further that Mr. Richardson, the Valuation Officer, was also one of the officials who attended these meetings. I suggest that it would be a simple matter to refer to Sir Sidney Caine, who now occupies the high position of Deputy Under-Secretary of State for the Colonies, as to the accuracy or otherwise of my statement.

Sir, I do most respectfully urge that Government should take immediate steps to ascertain and verify what the real position was at the outbreak of the war. In any case I submit strongly that a policy, based on the terms I have suggested as having been agreed to, together with the requirement of the payment of a premium, is the only right and sound one. In the meantime I propose to proceed on the assumption, which I have every reason to believe is justified, that the position is as I have stated.

It should be appreciated that from the beginning to the end there was never any suggestion that the renewal of a Crown Lease would mean otherwise than what this term implies: in other words, it was never suggested that Government would grant a renewal of merely a portion of the leased land, or that Government would refuse to grant a renewal at all, unless the leaseholder agreed to erect on the land further and additional buildings totally unrelated to the building covenants in the expiring leases.

At the second meeting of this Council after the return of Civil Government (16th May, 1946) His Excellency Sir Mark Young, in his presidential address, made only the following reference to expiring Crown Leases:

"I have already had under consideration the question of the renewal of Crown Leases which are due to expire in the near future. The Committee (meaning the Housing Committee) has rightly asked that a speedy decision may be reached on this important matter, and I hope that a public announcement will be made in the very near future."

There was no hint in this statement that there would be any violent alteration in the policy adopted before the war, and the public rightly assumed that the terms to be offered would certainly not be less favourable merely because the Colony had gone through a destructive Japanese occupation. In their view, the only substantial point to be decided was the question of premium, apart from any special concessions which Government might make on account of the war.

On the 16th June, 1946 Government made an official announcement of its policy in regard to the renewal of 75-year Crown Leases. Clauses 2, 3 and 4 relate to renewal generally: Clause 5 sets out certain special concessions in respect of applications made within one year of the announcement, for the early rehabilitation of premises that had suffered war damage, or with a view to the early full development of the leasehold premises, the chief concession being assessment of Crown rent as at a date prior to the war and reduction or remission of the premium to the extent of one half of the necessary costs of rehabilitation.

Clause 2 states:

“While it is not intended that the Government should insist upon its strict legal rights, which would include delivery up of the premises without any compensation for structures or development on the expiration of the terms of the lease, the adequate development of the leased area, in accordance with the needs of the community, would be a condition precedent to the grant of any new Crown Lease.”

On the strength of the words "the adequate development of the leased area in accordance with the needs of the community" in clause 2, and of the words "the early full development of the leasehold promises" in clause 5, Government has taken up the attitude that before a renewal would be granted it is for Government to say how many buildings should be put up and on what portions of the land, irrespective of the building covenants in the expiring leases. I should have thought that unless the word "development" were to be construed as being synonymous with "building" every site must be fully developed in accordance with the needs of the community when the building covenant was complied with when the original Crown lease was issued.

Government may say that the special terms under clause 5 are very generous, and even unduly generous, at the expense of the taxpayer. This claim, as I say, may be made by Government. Opinions, however, may equally differ. For instance, since the pre-war policy was merely to insist upon a covenant to maintain the existing building, and since that building has been destroyed by a war for which the leaseholder cannot be more responsible than Government, it is certainly arguable that the concessions do not err on the generous side when it is remembered that the burden of replacing the destroyed, or reinstating the damaged, building is thrown on his shoulders. However, the merits of these concessions are not relevant. However generous these concessions may be, the sole relevant point is this: Is Government justified to refuse to renew a Crown lease unless the lessee, in addition to replacing the destroyed, or reinstating the damaged, building in accordance with the building covenant, were to agree to put up such additional buildings on such other portions of the land as Government in its sole discretion should think fit? I submit, Sir, the answer is emphatically "No".

The Hon. the Colonial Secretary's replies to my questions in this Council on the 19th June, 1947 are rather illuminating. Since just over a year ago 80 applications have been made to Government for renewal which "are being dealt with"! In only 40 cases have terms been communicated to the applicants, and of these only 18 have accepted. Why? What is the explanation? I should like to give to this Council two cases by way of examples of what I venture to characterise as the unjust and unreasonable attitude taken up by Government.

*Case 1.* This concerns a Rural Building Lot on the Peak. It has 3.87 acres which consist of a lot of hilly and unusable land. It has three level sites, one being a tennis court.

Before the war, on one of the level sites, a detached building was erected for the use of one family. This building was totally destroyed. To replace such a building would now cost between 2 to 3 lakhs.

The applicant in this case submitted a plan which contemplated the substitution of the one house for one family, by the erection of a big block of flats to house 6 families, at a cost of over half a million dollars, and with foundations for the addition of another 4 flats for another 4 families.

The scheme further contemplated that the tennis court would be available to the residents of the flats, and that the other piece of land would be used by the children of the tenants as a playground.

Government refused to renew the Crown lease unless another building were to be erected on one of the other two level sites.

*Case 2.* This case also concerns a Rural Building Lot on the Peak, belonging to a Company of which I must disclose my interest as a Director.

In April 1937 Government agreed to renew the Crown lease at a certain premium, with a revised Crown rent and with a building covenant of \$250,000, but without any limitation as to the period within which it had to be complied with. This offer incidentally bears out what I have stated above as regards pre-war Government policy.

In May this year an officer of the Public Works Department, writing on behalf of my Honourable friend the Director of Public Works, informed the applicant that he would recommend to Government a renewal on the terms set out "subject to certain special conditions which are now being formulated". The terms set out included a building covenant of 5 million dollars and the requirement that the building must be completed within 18 months, 30 per cent. of the accommodation to be available for occupation within 12 months. The premium amounts to \$2.45 per square foot, and the building covenant is *20 times* that asked for in 1937.

I have no doubt and, indeed, it would be unfair to doubt that Government from 1st May, 1946 has realised the extreme urgency of the housing problem in general, and of the imperative necessity of planning and rebuilding Government quarters in order to lessen the pressure of civilian accommodation in particular. And yet, after more than one year of civil government what achievement can Government claim in the sphere of new buildings? This is what the latest announcement says:

“Work *will* begin in the near future on the construction of two blocks of flats at Leighton Hill providing accommodation for 26 families. Plans for a further 2 large blocks on other selected sites are *well advanced*”.

If Government has not been able even to begin a new building for Government quarters after the lapse of over a year, is it or is it not ridiculous to expect a civilian concern to be able to plan and complete a 5 million dollar building within 18 months, 30 per cent. of the accommodation to be made available within 12 months? Can one say more—need one say more—on the unreasonableness of Government's attitude in this matter?

Under the present policy a Crown Lease holder is entirely at the mercy of Government as to how many buildings he has to build and on which parts of the land, and as to how much he has to spend on the buildings, and without any relation to the building covenants contained in the expiring leases.

If, because of the terms offered, a Crown lease holder cannot obtain a renewal and therefore cannot proceed with the rehabilitation before the Crown lease expires, what will happen upon the expiry of the Crown leases? Will the Crown leases not be renewed at all?

Sir, I have already said enough to show that the present policy, so far from acting as an inducement to rehabilitate, is having a grave deterrent effect on private enterprise. I happen to know of several cases in which actual rebuilding, which is so desperately needed, has been held up on account of Government's attitude in this matter.

I submit that Government should review its policy regarding the renewal of 75-year Grown leases, and that in so far as the question of buildings is concerned the right and fair policy is to grant a renewal if buildings were put up or reinstated in accordance with the building covenants contained in the expiring leases.

HON. MR. CHAU TSUN-NIN: In rising to speak in support of the motion now before Council, I do so with the deep conviction that the housing question is one of the most vital facing this Colony to-day. It is nearly two years since Hong Kong was liberated, yet the position is no better to-day than it was 24 months ago.

At a meeting of this Council on the 19th June last, we had a long statement on the subject of housing. Government no doubt intended it to be a complete answer to criticisms and accusations.

That it was by no means even a partial answer is apparent from the fact that this resolution is before the Council to-day. It was obvious from that statement that Government was approaching the problem from the wrong angle, that because the straight road to a solution was blocked it was not exploring the by-passes and the alternative routes. Official publications since the war have shown us how the Allies overcame difficulties and shortages, found alternatives and adopted temporary expedients when faced with problems that could not be solved in the ordinary way. I suggest that Government would do well to adopt a similar attitude of mind to Hong Kong's housing problem.

What then should Government do? The answer to this question is implied in the terms of the resolution itself.

Quite apart from any building schemes which Government may decide to engage in itself, it should also do everything it can to encourage private enterprise. I suggest that Government should not only remove all unnecessary impediments but should also offer favourable—even special—terms for the lease of new land for development.

HON. MR. LEO D'ALMADA E CASTRO: The Honourable Colonial Secretary, I think it was, who, at a recent meeting of this Council, in answering a question on the subject germane to this motion, said that Government was deeply conscious of the urgency of attending to this problem. The exhaustive criticism and the critical analysis which the mover and seconder of this motion have brought to bear upon the case against Government leads one to ask immediately, how deep is Government's consciousness and conscience? And I venture to think, Sir, that although the epithet 'unfathomable' is often applied to acts of Government, the same cannot be said of its consciousness or its conscience, if all these criticisms which, in my submission are very real and well-founded, are, as I think, unanswerable. I have very little to add to what they have said. I endorse their remarks. But I would like to mention a subject which was referred to by them only in passing, and that is the thorny question of requisitioning.

Has it ever occurred to Government that one way of providing genuine old residents of Hong Kong with a small measure of accommodation is to retain control of premises as they are de-requisitioned—that is to say, when they are no longer required by the particular Service for which they were requisitioned—and then turning over the particular premises in question to its tenant in December, 1941, at present day rates? Should that tenant no longer be here, should he be otherwise accommodated, should he not want the accommodation, then could not these premises be offered to some other person resident here in December, 1941, who now requires to be housed?

A measure like this I submit, Sir, though not carrying the solution of the housing problem very far, would assist to some extent and so earn the gratitude of your genuine Hong Kong resident. An objection

to this course would be this, I suppose, that you would then be interfering with the freedom of contract between landlord and tenant. The answer, I say, Sir, is that by adopting this course you forestall what is even now, despite our new Landlord and Tenant Ordinance, the ability of a large number of rapacious landlords to drive a hard bargain either by blatantly asking even now for key money, or by asking for some exorbitant sum which they allege must be spent on repairs, so that freedom of contract is in effect reserved for wealthy Chinese refugees coming into Hong Kong, or other wealthy newcomers, against whom priority surely must be given to old Hong Kong residents.

This suggestion may also draw the retort from Government that something along these lines was considered by the Tenancy Committee appointed by Government some time last year, and if my memory serves me right—I was a member of the Committee—rejected by the Committee. My answer, Sir, to such a retort would be this: In my opinion, the Landlord and Tenant Ordinance is not the proper place for provisions of this kind. In that Ordinance you have certain regulations limiting the right of a landlord to recover his premises, and it would be the wrong place wherein to find provisions for the recovery of his old premises by a tenant, because to begin with the argument would be advanced that the tenant has no longer any estate or interest in the property concerned and therefore has no right to regain possession.

It is a matter, I submit, Sir, very much more for a special legislation apart altogether from the Landlord and Tenant Ordinance, and possibly of the exercise of powers under Emergency of Defence Regulations. There is still a very large number of houses in Hong Kong under requisition and from time to time, though all too slowly, these houses are being de-requisitioned. Cannot Government adopt some scheme such as I have suggested? —a scheme which would benefit very largely the genuine resident of Hong Kong without in any way doing injustice to landlords, because what you would in effect be doing is merely to present the landlord with a tenant upon terms such as are allowed by the Landlord and Tenant Ordinance, that is to say, a monthly tenancy which could not be terminated by the landlord except in those conditions set out in the Ordinance, and which would ensure to the landlord in return what Government considers to be a fair return for the use of his premises—that is, the 1941 rent plus thirty per cent. in the case of dwelling houses and forty five per cent. in the case of business premises, increases allowed since the passing of the Ordinance.

A measure like this, Sir, would have this added advantage, a slight one perhaps, but not unworthy of consideration, that it would give pre-war residents some satisfaction in that they would not feel that Government is leaving them in the lurch—a feeling which is very much theirs at the moment.

HON. MR. R. D. GILLESPIE: Your Excellency, I should like to say a few words in support of the motion.

The Honourable the Acting Colonial Secretary's statement in this Council on June 19th—"that Government was deeply conscious of its obligations to the citizens of this Colony in the present prolonged housing crisis" —would have been laughable had the subject not been so distressing.

Not only has Government failed to do anything to relieve the housing situation, but through procrastination and lack of decision has in several cases to my knowledge stopped private enterprise from building houses. I would mention a few instances of this: —

In May, 1946 a small non-profit making syndicate enquired, through its architects, as to whether Government would be prepared to lease a certain area of land near Repulse Bay for a building scheme, and if so on what terms. No reply having been received up to the 17th June, and the matter being urgent, a letter was addressed to Government asking for a decision.

On June 21st, and again on June 26th, notes were received to the effect that the Director of Public Works hoped to submit Government terms and conditions in the near future.

On July 25th the Syndicate's architects received a letter from the Deputy Director of Public Works stating that he was experiencing some difficulty in co-ordinating the terms required by the various Government offices, and he suggested a meeting. The architects called upon the Deputy Director of Public Works, who stated during the meeting that he was prepared to recommend 35 cents per square foot as a fair price for the land. Although this was more than expected, the Syndicate was prepared to accept it, as homes were urgently required.

Nothing further was heard about the application, and on the 24th October I asked in this Honourable Council if Government was aware that the delay in recommencing the disposition of Crown Lands was seriously retarding building development in the Colony. Government replied to the effect that it was not aware that it was holding up building operations, but that a decision on the disposition of Crown Lands was to be expected shortly.

On the 6th December, more than six months after the original application was made, Government stated its terms, and instead of 35 cents per square foot it asked for 80 cents per square foot, and required the Syndicate to put in the main road and carry out other works which would raise the cost of the land, before building, to about \$1.60 per square foot.

This meant that for a virgin site for one house which before the war would have cost about \$4,000.00, Government now asked \$16,000.00, or four times the pre-war cost. The Syndicate decided this was exorbitant and dropped the scheme, and the Colony is now short of 15 houses, which could have been occupied long ago.

Another instance of procrastination and lack of decision which has probably deprived the Colony of 300 or more houses may be quoted: —

On the 13th May, 1946 a certain important firm, through their architect, enquired from Government whether it was prepared to lease about 180 acres near Jardines Look-out for building development, and if so on what terms.

The idea was to build houses, maisonettes and flats, together with a shopping centre, school, a Community centre and recreation grounds—in fact, a complete residential Colony.

To date, 15 months after the application was made to Government, no decision has been made as to whether the land is or is not available. The Colony has therefore been deprived of 300 or more houses which might to-day be fully occupied.

Other housing schemes have been considered by private interests, but proved to be too expensive because of the Buildings Ordinance.

During and after the war in England building regulations were relaxed to allow buildings of light construction to be erected and special materials to be used. Some relaxation of the building rules here to permit timber-framed bungalows faced with fire resisting sheeting, which could be erected for a reasonable cost, would partly solve the housing problem.

I am informed by architects and engineers that it is not shortage of materials which is delaying the building of houses in Hong Kong, but the excessive cost, and that bungalows of light construction as suggested could be erected in considerable numbers at a moderate price were the Buildings Ordinance to be relaxed.

The life of such bungalows would be 15 to 20 years at least, and anyone who has travelled in Canada or the U.S.A. will know how attractive these framed houses can be. There would appear to be no good reason why similar houses could not be erected in the Colony.

I understand that one contractor did apply to Government for permission to erect some wooden-framed houses, but was told that under the Buildings Ordinance it would be necessary for them to be placed 150 feet apart and not nearer than 150 feet to any other building. This rendered the scheme impracticable and it was dropped, with the result that further houses were lost to the Colony.

If Government is unwilling to take any part in rehousing the population of the Colony, it should at least encourage private enterprise to do so in every possible way; and instead of raising the cost of land to many times the pre-war level it should offer land at lower upset prices. Speedy decisions should be made when building schemes are submitted, and the building laws should be immediately relaxed to allow houses to be built at a reasonable cost to meet the emergency.

As regards the high upset prices fixed by Government recently, I doubt whether Government Valuers can justify such prices. When building costs are high, the tendency is for land values to drop—if both are very high, then building schemes are not economically sound.

The high prices being asked for land mean higher rent, and it is difficult to understand Government's policy in this connection. Maximum prices for so many things have been fixed, but Government is now itself profiteering in land, thus cancelling out the good it has done in attempting to keep down the cost of living.

Your Excellency, I submit that the examples I have quoted show that not only is Government not *deeply* conscious of its obligations to the citizens of this Colony in the present prolonged housing crisis, but is, in fact, not conscious of them at all.

I shall, therefore, vote in favour of the motion, and I cannot see how any member of this Honourable Council can fail to do likewise.

HON. DR. CHAU SIK-NIN: Your Excellency, it gives me great pleasure to support the motion just moved by my friend the Hon. Mr. D. F. Landale and seconded by my learned colleague the Hon. Mr. M. K. Lo. As both my colleagues have so well and fully submitted their arguments, there remains little which I can usefully add. I would, however, like to stress the importance and urgency of the problem forming the subject of the present motion.

While fully appreciating the handicap under which Government is working in endeavouring to relieve the existing acute shortage of houses, both domestic and business premises, it seems to me that something more may still be done to help ease the situation. Mr. Lo has already dwelt upon the 75-years Crown Leases, and has strongly urged Government to de-requisition more houses at present taken up by its various departments or by the Forces. There is, however, one important factor that does not appear to receive sufficient attention. I refer to the prices demanded by Government at its public land sales. Since the re-occupation, the prices demanded for land by Government at its land sales have been, in most cases, over three or four times those of pre-war figures. Apart from this, the obstacles placed by Government in the way of intending builders are such as to discourage any enterprising individual or concern from embarking on any large-scale building operation. It is my opinion as well as the opinion of many that the first step towards relieving the existing shortage of houses is for Government to remove all obstacles, and to give every encouragement and inducement to the public to build both domestic and office premises. Some of the present requisitioned premises, too, might be de-requisitioned and returned to their owners to be let to the public.

I therefore suggest that Government remove every obstacle in the way of irksome covenants governing the renewal of leases; reduce the price of land at its public auctions; finance intending builders who may require financial assistance; and lastly, as a special inducement,

offer the public leases on more liberal and attractive terms to encourage more building operations, but with the proviso that no more than a reasonable return may be expected from rent charged the tenants.

At the same time I would draw the attention of Government to the desirability of giving special attention to some of the points raised hereunder: —

- (1) Government might consider the advisability of letting out land on liberal terms to individuals or concerns who may desire to build upon it houses for their own use, with the proviso that such properties should not be disposed of within a prescribed period without the prior permission of the Government being obtained. In this way, intending builders who may desire to build for their own occupation may be given an opportunity to do so without incurring the extra expense in the purchase of land. The land offered by government should not be put up to public auction but should be granted to approved individuals or concerns who are prepared to abide by the terms laid down by Government. If necessary, Government might even assist such intending builders financially, holding their properties.
- (2) The history of the housing problem since the re-occupation tends to suggest that there is no person or department of Government charged with the power and duty to initiate measures for building and housing, and to co-ordinate departmental views and to reconcile conflicting ideas with the paramount policy of Government. There does not appear to be an adequate executive authority with power to override difficulties and adapt theoretical rules to special circumstances.
- (3) The building rules of the Colony are antiquated and completely out of harmony with present needs and circumstances. Were these rules in force in Europe or America, modern building programmes could never be carried out.
- (4) Buildings requisitioned by some of the Forces are sparsely inhabited, creating the impression that there is a dog-in-the-manger desire on the part of the requisitioning authorities to preserve a claim over far more than required so as to prevent undesirable incursion of civilians to any parts released.
- (5) Government servants on the whole are most inadequately housed. Families live in single rooms in hotels. Employees of the white-collar class are on the whole miserably accommodated in cubicles and bedspaces, and herded into congested buildings to the detriment of their health and that of the community, and their consequent inefficiency. Government, as an employer, should embark on an urgent building scheme for its own employees so as to release more accommodation to the public.

My friend Mr. Lo has drawn a graphic, picture of house-hunters who have to put up with all kinds of inconveniences. He has not exaggerated his statements. Exaggeration would have been impossible. To those used to a high standard of living before the war, and who, through no fault of their own, must to-day live or rather exist like herded animals, the present acute shortage of houses is felt more keenly than perhaps by those who do not have to put up with their discomforts. Unless Government takes a bold step forward and devise an effective programme of rebuilding or formulate a definite policy, these unfortunate sufferers must continue to suffer until such time as more houses are available.

Many resolutions and motions have been set before this honourable Council since the British re-occupation of the Colony, but none, in my opinion, has been of greater importance or urgency than the motion before us to-day. I therefore give it my unstinted and wholehearted support.

HON. MR. M. M. WATSON: Your Excellency, the origins of this motion lie in the profound dissatisfaction of the public with the housing situation in the Colony and, this is the important point, the apparent lack of effort to remedy or alleviate the situation.

This apparent lack of effort has in my submission become a patent one on reading the apologetic statement of the Honourable Colonial Secretary referred to in the motion now before the Council.

The difficulties of the situation are appreciated, and very much appreciated, by the members of the community who have considered the matter, but I am sure I am expressing their views when I say that they feel that there is a complete absence of any well formulated policy and the requisite offensive spirit behind it to bring results.

I am convinced that I am not exaggerating the general feeling, even in the somewhat sweeping manner in which I have referred to the matter.

The absence of any definite policy is to me the most striking thing which emerges from the statement.

I cannot believe that the concluding sentence of the statement, to the effect that Honourable Members can rest assured that the efforts to find a solution will not slacken in the months to come, can be regarded as a policy, particularly having regard to the dismal view of the situation that precedes it.

It is with some diffidence that I deal with the subject of a policy in this case, as I cannot pretend to any specialised knowledge on the subject, but I should be surprised if the ordinary person did not sum up the statement of the Honourable Colonial Secretary, as far as it can be called a policy, in the words "We will do something about the housing question when things get easier".

On the question of things getting easier, I would state that according to my information the difficulties of obtaining building materials mentioned in the statement are either out of date or, for some other reason, do not square with the facts.

I am informed by a well known firm in Hong Kong, who deal in building materials, for example, that well over 1,000 tons of reinforcing steel can be immediately obtained locally, and there is more on the way. A review of the position, I am informed, regarding basic materials required for the erection of houses, flats and other dwelling accommodation has shown that at the present time no immediate shortage of these is being experienced. My correspondent nevertheless concludes his summary of the position as follows:—"It would appear that as far as housing is concerned, the Government intends to leave the purchase and stocking of all building materials to the importers who are therefore expected to lay in such stocks as they may think will be required and to lay out expenditure on acquiring these stocks and in storing them locally until such time as they are called for by various building contractors. Obviously such an unbusinesslike arrangement has failed and will fail to commend itself to any sensible importer in the absence of any declared policy regarding rehabilitation of housing in the Colony".

I understand it is usual in Government contracts for materials to be supplied to the contractor. I am not aware of the reason for this policy, it may be connected with instructions from home, but if it interferes with an extremely urgent public need the position should certainly be reviewed.

Another aspect of the matter is the attitude of the Government towards the efforts of private enterprise to help in the situation. We all recognise that it is the duty of Government to guard the public and its purse from exploitation by the wicked but, as in all the affairs of a workaday world, there is always the middle and reasonable course.

It is not either reasonable or the middle course to endeavour to take advantage of the present apparent abundance of money to swell the coffers of the Government regardless of the effect on the future economy of the Colony.

Again I approach matters of policy with some diffidence, but if I err in, at least the effect, of the past actions of the Government on this point, I err in company with many other people in this Colony.

My Honourable friend, Mr. M. K. Lo, has dealt fully with the aspect of this attitude, that is in regard to the terms for the renewal of seventy-five year Crown leases.

It is unnecessary for me to refer to such renewals any further except with regard to the negotiations which took place prior to the war.

I was a member of the Sub-Committee of the General Chamber of Commerce which dealt with this question at very great length, amongst the members representing the Government at meetings we held were the gentlemen mentioned by my Honourable friend. I have unfortunately no records left, but to the best of my recollection the account of those meetings given by my Honourable friend is correct. It was, of course, understood and agreed that at the termination of the lease the lessee would be bound to deliver up the premises in accordance with the building covenant, that is to say buildings to the extent of the covenant in good order and repair. It was not, however, ever suggested that there was any further burden on the lessee. In practically every case there was already a building in good repair, and therefore the only thing present to the minds of the Committee, including the Government representatives, was the question of whether or not a premium should be paid on the renewal of the lease, and my recollection on this point is confirmed by another member of the Committee representing the Chamber of Commerce.

The matter seems to me to be concluded by the following quotations, the first of which is from a dispatch by the Officer Administering the Government, addressed to the Secretary of State for the Colonies, dated 27th June, 1940, and the other is from a memorandum by the Financial Secretary which accompanied that dispatch. These documents were transmitted by the Honourable Colonial Secretary to the Chamber of Commerce for their information.

The first quotation, which, as I have mentioned, is from the dispatch of His Excellency Mr. N. L. Smith, reads as follows: —

"Sir Geoffrey Northcote's opinion with which I agree was that the claim of a tenant, who has faithfully discharged his contractual duty, to favourable treatment should not be disregarded but that such treatment should not go so far as to negative one of the principal features of the lease, namely the complete surrender of the property in good order, which feature was undoubtedly taken into calculation when determining the consideration originally agreed on for the lease.

The concession which I now suggest is that the sitting tenant might be offered on expiry a new lease at full economic rent which would be calculated on the value of the land and of the building thereon. This privilege which would protect the sitting tenant from the speculative bidder at auction should only be given to the tenant who had properly carried out his bargain as regards payment of Crown rent, erection and maintenance of buildings. A concession on these lines, if approved, could be regarded as an alternative to the terms of renewal approved in Lord Arnold's despatch under reference which has been offered to present holders of seventy-five year non-renewable leases".

The second quotation, from the memorandum by the Financial Secretary, is as follows: —

"There remains the question of the method by which the Crown is to secure its reversionary rights, and this is complicated by the nature of rent in this Colony. For reasons not unconnected with the calculation of military contribution it has been customary to fix Crown rents at flat rates according to zones or districts and to confine competition for leases to a premium reached by auction from the upset price, in accordance with the instructions contained in Earl Grey's despatch No. 222 of 2nd January, 1851. Zone rent in itself in no way represents the value of the land. To charge only the current zone rent in respect of the second seventy-five years would mean a sacrifice by Government of its reversionary interest and of the full advantage of any future enhanced value of the land. It is a matter of comparative indifference to Government whether it obtains its reversionary rights in the form of annual rent or a lump sum premium or by a combination of both methods, and I see no objection to modifying the approved method set out in the enclosure if a lessee so desires by charging somewhat increased premium on renewal but leaving the Crown rent unchanged until the expiry of the original seventy-five years. As a further concession particularly in respect of leases on the Peak there would be no objection to the proposal in paragraph 52 of the Chamber of Commerce's report that unwanted portions of the site may be surrendered to the Crown provided the Crown's consent to the surrender is obtained in each case. Regarding the "anomalous position" referred to in paragraph 48 of the report, any disparity in Crown rents could, if necessary, be adjusted by capitalizing part of the increased Crown rent in the form of a cash sum payment to the Government".

Nowhere in the above quotations is any reference made to enhancing the building covenant which was already provided for in the expiring Crown lease, and I can confidently say that there was at that time no intention on the part of the Government to do so.

I think our general impression on the Committee was that the main reason Government were pressing for renewal premia was that they had already collected large sums in Kowloon which they would have to refund if the Chamber's contention was accepted.

In the third paragraph of the motion, reference is made to removal of unnecessary Government impediments to private enterprise.

I should like to refer to two questions which at the present time I include under the heading of impediments.

I refer to the stamping and registering of transfers of land.

Obviously the ready and easy acquisition of land is desirable if you wish to encourage people to build, and for years past the simplification of the transfer of land has in England been the constant subject of study and legislation. In this Colony we seem to be going backwards in this regard. Prior to the war there was no trouble in

putting through a land transfer; it could be done in a matter of days. Now any conveyance will take three or four months or even longer to complete.

The results of this on an intended transaction can be easily imagined, particularly where the purchaser requires to obtain mortgage facilities to complete the purchase.

One reason for this inordinate delay is the assessment of the excess stamp duty; architects' itemized certificates are often required, at the owners expense, of what it would cost to rebuild a building according to its 1938 state, when the owner is contemplating building something up-to-date and entirely different. After which delay and expense the matter is further considered by the Stamp Office.

I suggest that this tax has served its purpose and should be repealed. Any difference between the last sale before the war and the first since the re-occupation could be taxed at, say 3% instead of the clumsy excess profits tax, and subsequent sales be left to be stamped as before the war.

A further cause of delay and uncertainty is the apparent discovery by the Stamp Office of a section of the Stamp Ordinance as a source of revenue that seems hitherto to have been overlooked by the Inland Revenue officials in England, where it was enacted in 1910.

I am referring to recent claims by the Stamp Office to stamp duty on a consideration in excess of that actually paid and given in the deed. I will not go into technical details, and doubtless legal opinion has been taken on the question, but I have been unable to find any case in which in a *bona fide* conveyance on sale the Collector has acted in this manner in England.

This is doubtless one of those cases which arises out of the pernicious practice of legislating to enable the Collector to tax in accordance with his opinion.

Having overcome the difficulties of stamping, the transfer must then be registered. Again an inordinate delay seems always to result. There may be good cause for the delay. I think the Moratorium, which is another outdated obstruction, has something to do with it, but I may mention that my firm has not had one deed returned that has been sent in since the 23rd April last, nearly two and a half months. Another firm has the same experience, substituting the 17th April, and a similar state of affairs is the case with another firm who have had one returned since.

Shortage of staff may explain the matter, but whatever the reason it is another contributing factor if a minor one in the slow down of rebuilding, and therefore I submit it should be the subject of Government's attention as part of the general question we are discussing.

The principal thing that has mattered to the majority of people in this Colony since 1945 is the housing question and yet, if it is compared with any other form of activity or amenity in the Colony, it has never really got going and is still running a very bad last.

This Colony lives by its commercial community, it is not a District of Columbia or a Canberra, and it is all important that everything be done to enable the members of that community to carry on their businesses as efficiently as possible.

In conclusion, Sir, it seems to me that the future, the immediate future, of this question is very aptly covered if the saying that the office of Government is not to confer happiness but to give men the opportunity to work out happiness for themselves, is forthwith, and with energy, translated into deeds.

THE COLONIAL SECRETARY: I move that the debate upon the motion now before Council be adjourned.

All members of this Council, Official and Unofficial, have listened with great attention to-day to the speech made by the Honourable Mr. Landale in moving the motion standing in his name, to the speech of the Honourable Mr. Lo, who seconded that motion, and to the speeches made by other Honourable Members.

Not only do the matters which have been raised involve important questions of policy but they are of more than usual public interest at the present time. Government is in fact being asked to reconsider its attitude to the building of new domestic and office accommodation and to review its carefully formulated policy regarding the so-called renewal of seventy-five year Crown Leases. It is, I suggest, manifest that an adjournment of this debate should take place so as to enable full consideration to be given to the arguments so far adduced before the debate is continued and concluded. I would add that it is my present intention, upon such consideration and in the interval of the adjournment, to give notice under the standing orders of this Council of amendment of the motion before Council, since, in its present form, the motion is in my view unacceptable to Government.

THE ATTORNEY GENERAL seconded, and the motion for adjournment was carried.

#### **ADJOURNMENT.**

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT. — That concludes the business and the Council now stands adjourned one week from to-day.