OFFICIAL REPORT OF PROCEEDINGS

Meeting of 26th September 1962

PRESENT:

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

SIR ROBERT BROWN BLACK, GCMG, OBE

HIS EXCELLENCY LIEUTENANT-GENERAL SIR REGINALD HACKETT HEWETSON, KCB, CBE, DSO

COMMANDER BRITISH FORCES

THE HONOURABLE CLAUDE BRAMALL BURGESS, CMG, OBE

COLONIAL SECRETARY

THE HONOURABLE MAURICE HEENAN, QC

ATTORNEY GENERAL

THE HONOURABLE JOHN CRICHTON McDOUALL

SECRETARY FOR CHINESE AFFAIRS

THE HONOURABLE JOHN JAMES COWPERTHWAITE, OBE

FINANCIAL SECRETARY

THE HONOURABLE ALEC MICHAEL JOHN WRIGHT

ACTING DIRECTOR OF PUBLIC WORKS

DR THE HONOURABLE DAVID JAMES MASTERTON MacKENZIE, CMG, OBE

DIRECTOR OF MEDICAL AND HEALTH SERVICES

THE HONOURABLE DHUN JEHANGIR RUTTONJEE, OBE

THE HONOURABLE FUNG PING-FAN, OBE

THE HONOURABLE RICHARD CHARLES LEE, OBE

THE HONOURABLE KWAN CHO-YIU, OBE

THE HONOURABLE KAN YUET-KEUNG, OBE

THE HONOURABLE FUNG HON-CHU

MR ANDREW McDONALD CHAPMAN (*Deputy Clerk of Councils*)

ABSENT:

THE HONOURABLE KENNETH STRATHMORE KINGHORN

DIRECTOR OF URBAN SERVICES

THE HONOURABLE PETER DONOHUE

DIRECTOR OF EDUCATION

THE HONOURABLE WILLIAM CHARLES GODDARD KNOWLES

THE HONOURABLE SIDNEY SAMUEL GORDON

MINUTES

The minutes of the meeting of the Council held on 12th September 1962, were confirmed.

OATHS

MR A. M. J. WRIGHT took the Oath of Allegiance and assumed his seat as a Member of the Council.

HIS EXCELLENCY THE GOVERNOR: —We welcome you to our deliberations, Mr WRIGHT.

PAPERS

THE COLONIAL SECRETARY: —Sir, I rise to lay on the table certain papers copies of which are already in the hands of honourable Members. I shall be referring to one of these papers, the rental study by the Commissioner of Rating and Valuation, at a later stage in the meeting.

Subject	*GN No*
Sessional Paper, 1962: —	
No. 18—Annual Report by the Commissioner for Cooperative Development and Fisheries for the year 1961-62.	
Annual Report of the Sir Robert Black Trust Fund Committee for the period from Vesting Day, 18.12.61 to 31.3.62.	
Report of the Kadooric Agricultural Aid Loan Fund Committees for the year 1961-62	
Rental Study by the Commissioner of Rating and Valuation, 1962.	
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re -registration) (No. 13) Order, 1962	A 96
Buildings Ordinance, 1955.	
Building (Planning) (Amendment) (No. 2) Regulations, 1962	A 97

SUPPLEMENTARY PROVISIONS FOR THE QUARTER ENDED 30TH JUNE, 1962

THE FINANCIAL SECRETARY moved the following resolution: —

> Resolved that the Supplementary Provisions for the Quarter ended 30th June 1962 as set out in Schedule No 1 of 1962-63, be approved.

He said: Sir, the schedule before Council is the first list of supplementary provisions on 1962/63 account. The total supplementary vote required amounts to some $4½ million; recorded savings are negligible. Re-votes of funds which lapsed on 31st March 1962 account for just under $2 million of this total.

All the items in the schedule have been approved by Finance Committee and the covering approval of this Council is now sought.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

TENANCY (NOTICE OF TERMINATION) (AMENDMENT) BILL, 1962

THE COLONIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to amend the Tenancy (Notice of Termination) Ordinance, 1962."

He said: In a sense, Sir, my remarks on this Bill must begin where I left off six months ago. On the 18th April in this Chamber I used these words:

> Finally, there remains one question which will probably be stimulating the hopes and the despairs of landlord and tenant alike. "Six months, they will say, is all very well—but the $64,000 question is, what happens after that?"

The Bill now before Council provides the immediate answer to that question.

Perhaps honourable Members would bear with me if I recall a further short extract from my speech on that occasion. I said:

> That there have been increases—and in some cases very steep increases—in the rents of uncontrolled premises is clear enough from the instances which have recently been brought to Government's attention. What is not so clear is the general pattern of these increases; whether, for example, they are restricted to certain more prosperous districts or whether they are widespread throughout the Colony; whether the rate of increase is uniformly high or whether it is the exceptional cases only that come to notice. A great deal of careful investigation and analysis over a period of time is necessary before we can reach conclusions on these and other more theoretical aspects of the problem; and it is only on a basis of firm conclusions that Government would be justified in imposing an artificial level of rents—however limited the field of intervention.

The interval between the 18th April and today has, in fact, been occupied with a careful and intensive examination of the whole rental situation. In the first place we have given much thought to what I previously described as the "more theoretical aspects of the problem", and in the second place we have studied and analysed the practical aspects.

The material for this latter study was derived very largely from returns to a form of questionnaire organized by the Commissioner of Rating and Valuation. This questionnaire related both to the current and developing rental situation and to the effect of the April legislation—the Tenancy (Notice of Termination) Ordinance, 1962.

An analysis of these returns was amongst the papers which I tabled earlier in this meeting. On both the theoretical and the practical aspects we have taken the best and most experienced advice available to us—and that advice has ranged as widely as was practicable in the circumstances.

I must first make it clear that all our deliberations have confirmed us in the view, not only that the solution of the rent problem lies solely in the provision of sufficient accommodation, but also that accommodation of certain types is still far from sufficient and that it cannot be made sufficient by any act of policy operating in the short term.

We have, of course, re-examined related aspects of our own policy—such as Land Policy, Rating and Taxation Policy, and policy in regard to the renting of privately owned premises for Government purposes—to see whether these have, in any way, aggravated the present rental situation.

This necessitated, perhaps, Government being a judge in its own cause, but no Government worth the name shrinks from that invidious task when the occasion demands. We believe, and this is supported by well-qualified advice, that Government's policies in these respects are correctly and properly devised and applied, and that the overall public interest does not require any change in them from this point of view.

We believe that Government's renting in the field of privately owned properties is not a material factor in the present rental situation.

We have considered, too, the scale of accommodation that has been provided in recent years by the various forms of enterprise that operate in this Colony, both Government and private, and the extent to which this is meeting the demand. There are good grounds for thinking that the housing situation is likely to improve over the next three or four years provided that nothing is done that would seriously discourage private development—private development which during the last five years has provided roughly 75 per cent of all domestic accommodation built, if Resettlement Estates are excluded.

I need hardly add, however, that this expected improvement is entirely contingent upon our ability to restrain our population increase to an acceptable level. While accommodation is being provided for the upper income groups at a reasonable level by private development, and while the lower income groups are being provided for by Government and Government sponsored housing bodies up to the probable limit of our capacity, it does appear that the middle and lower-middle income groups cannot maintain their present standards of accommodation without some temporary assistance.

Government is of the opinion that the reports and surveys produced by the Commissioner of Rating and Valuation give a fair picture of the recent developing rental situation, subject to the expressed limitations.

The figures show that, in the case of tenement floors, 39.8 per cent of all cases tabulated have been or are being affected by rent increases; the corresponding figure for small flats is 55.3 per cent and for medium flats 48.1 per cent. Also, applying the average overall increase between 1961 and 1962 to that proportion of cases where increases have in fact been made, the indication is that the average increase effected in this period in tenement floors is of the order of 15 per cent; in the case of small flats, 12 per cent; and in the case of medium flats, 14 per cent.

The rental situation is, therefore, not quite as bad as would appear if one were to judge the matter solely on a basis of publicized complaints; but nevertheless Government is of the view that the facts before it, and the dangers inherent in the impact of a further wave of rent increases upon the existing shortages of accommodation in the domestic sector, do justify some extension of control.

There is a danger that, unless action is taken, (and it must be immediate action), to control rent increases and to provide some security of tenure for the tenants of domestic premises, the situation might deteriorate comparatively rapidly in present circumstances.

Having once decided in principle that a further period of restraint in respect of domestic rents was necessary, we considered very carefully the various forms that control might take. I don't think I need burden honourable Members with a detailed account of all the various methods that have been examined and rejected.

I can, however, assure honourable Members that a great diversity of methods was studied before we arrived at the specific proposals that I shall shortly explain. Perhaps the best way that I can lead into these proposals is to outline some of the general considerations by which we were guided in our examination of the method and extent of control.

In the first place, I cannot emphasize too strongly the extent to which we depend, and must continue to depend, on private enterprise in the whole field of construction—both of domestic and business premises. Much has been said on this subject in this Chamber in the past, and the percentage figure which I gave a moment ago will perhaps come as no surprise to honourable Members. The plain fact of the matter is that, if we introduced controls which seriously deterred the private developer, there is no question whatever but that the community as a whole would have to pay an intolerable price for the limited benefits accruing to those who were directly helped by the controls.

Partly with this consideration in mind and partly on our own assessment of the temporary nature of the current problem, we have consciously sought for minimum and temporary measures related directly to the present situation. We rejected the idea of legislation that *could* be terminated in due course, and sought rather legislation that *would* automatically spend itself of effect on a prescribed date.

We do not believe that the present situation calls for absolute rigidity in rent levels or indeed that rigidity could fail to add to the dangers inherent in any system of control. We therefore came to the conclusion that provision must be made for some flexibility in rent during any period of security of tenure, subject to certain safeguards.

Second, we considered the special question of business premises. The legislation enacted in the Spring of this year covered, as honourable Members are well aware, both business and domestic premises; and I think that Members are equally well aware that the former category was included with some reluctance. There is, as I said at the time, something unrealistic in seeking to protect one business against another.

Government has never sought to minimize the dangers that lie in any form of rent control, particularly in the economic and political circumstances of Hong Kong. I think our aim has been, and must still be, to limit our intervention to "the principle of alleviating immediate and demonstrable hardship"; again I quote from my speech on the 18th April.

I confess that one of our most formidable difficulties has been to devise a satisfactory and workable system of differentiation between business and domestic premises—particularly in the tangled variations of user which are a characteristic of our society. Whether the practical difficulties have deterred us unduly from a strict application of principle, whether expediency has pushed us beyond the limit of "immediate and demonstrable hardship", I would not venture to say.

But it is Government's belief that business premises are particularly sensitive to the ebb and flow of private incentive; that they are seldom, very seldom, amenable to the strict definition of "hardship" which we

are bound to apply; and that, in respect of business premises, rental stresses are localized and perhaps capable of self-correction, rather than general and necessarily inherent in the present situation.

We have legislation which distinguishes between business and domestic premises not unsatisfactorily, and we propose to attempt a distinction in the legislation to which I shall shortly refer. But I must emphasize, however, that the desire to draw this distinction arises out of our belief that future restrictions should not extend beyond the category of domestic premises.

Third, we have had in mind particularly the necessity of keeping administrative and judicial costs and complexities to a minimum. We are dealing with legislation and administrative arrangements which can affect the life and livelihood of humble people. It is important that they should understand their rights, and that they should know where their remedies lie, and that those remedies should be available to them cheaply and without undue delay.

It is important, too, that such temporary controls as this Council may approve should not be of such complexity that they require an involved and expensive administrative machine to keep the wheels moving.

I have mentioned these general considerations, Sir, to give some idea of the very complicated background against which our proposals have been formulated. I now turn to the proposals themselves.

Briefly we envisage a system of rent-increase control (rather than rent-control), with appropriate security of tenure, for existing periodic tenancies of domestic premises and tenancies of such premises for fixed terms of less than three years. The system would provide for moderate and justifiable rent increases, would be gradually limited in its application, and would become finally spent of effect on 30th June 1967.

Business premises would be excluded from this system of control, and on all first lettings the rent would be freely negotiable and the tenant would have two years' security of tenure.

Before I attempt to explain some of the particular intentions that we have in mind, I must make it clear that the actual legislative provisions covering our intentions are likely to involve an intricate task of legal draftsmanship, and to require detailed study and discussion. It will be necessary, therefore, to provide a bridge between the thirteenth day of next month, which is the first day on which a six-months' notice to quit given under the Tenancy (Notice of Termination) Ordinance, 1962, would be effective, and the time when the new provisions for the future can be brought into effect.

The purpose of the short Bill now before Council is to provide such a bridge. Its effect will be, in simple terms, to give tenants of premises held under tenancies covered by the principal Ordinance security of tenure up to 30th June 1963, at their existing rents, and so provide an adequate interval during which the succeeding legislation can be drafted and enacted.

The opportunity has also been taken to include a provision whereby an owner of premises who intends to redevelop may give and enforce a normal notice to quit. The principal Ordinance relates to business premises as well as to domestic premises.

Since the Bill now before Council in essence extends the operation of the principal Ordinance, business premises will continue to be affected. However, as I have already indicated, it is the intention that the succeeding legislation should apply to domestic premises only.

I now turn to the details of that succeeding legislation, which we have in mind to introduce in the early part of next year. The general effect, as I have already indicated, will be to apply to certain domestic premises a measure of rent-increase control and a measure of security of tenure.

We intend to provide that any tenant of domestic premises whose tenancy is now subject to the Tenancy (Notice of Termination) Ordinance—that is one broadly speaking whose tenancy is for less than three years—that he should be given security of tenure until at least the end of June 1965, subject to the right of his landlord, in the interim, to obtain a fair increase, in the present rent on giving his tenant a minimum of three months notice of the increase.

I have already indicated that the effect of the Bill at present before Council is to freeze rents, with security of tenure up to 30th June 1963, of those tenancies now subject to the Tenancy (Notice of Termination) Ordinance. Where, after enactment of the proposed legislation, a landlord were to obtain a fair increase in his tenant's rent at any time before 30th June 1965, his tenant would be secured in his tenancy for two years from the date of the increase.

Perhaps the clearest way of explaining the position is by means of an example: at the end of October 1963 say, a landlord of domestic premises gives his tenant notice that he intends to increase his rent from the 1st February 1964; if the tenant agrees and pays the increase, or, in the case of disagreement, pays such increase as the Commissioner of Rating and Valuation certifies to be a reasonable increase, the tenant would be assured of security of tenure until the end of January 1966.

Once a landlord has obtained an increase in rent he would not be permitted to increase the rent again within two years unless the tenant agreed. The rent increase controls would cease at the end of June 1965,

but, in any case where the rent of a domestic tenancy subject to the controls were increased before that date, security of tenure would be assured for two years after that date that is to say after the date of the increased rent. The effect, then, would be that the proposed legislation would, as I said a few moments ago, become finally spent on 30th June 1967.

No doubt at this stage honourable Members are wondering what Government considers to be a fair increase in rent. We have made a very careful analysis of the reports and surveys produced by the Commissioner of Rating and Valuation, which I referred to earlier, and we have reached the conclusion that no increase in the rents of domestic premises subject to the controls should exceed 10 per cent except where a landlord and his tenant in any particular case agree to a greater increase, or in the special cases to which I shall refer in a moment.

Moreover, no increase agreed between the parties would become effective unless notified to the Commissioner of Rating and Valuation. Where the landlord wanted an increase not exceeding 10 per cent and the tenant did not agree, the landlord would have to apply to the Commissioner for a certificate of a fair increase, and the Commissioner would, unless there was a dispute as to facts, have power to certify a reasonable increase up to 10 per cent.

Where he certified less than the landlord wanted, the landlord would have the right of appeal to the District Court; and the Court would have power to determine an increase at any figure up to the 10 per cent limit. The tenant would have no right of appeal against an increase that had been certified by the Commissioner as being reasonable; though he would be able to apply for a review by the Commissioner, and in that case the Commissioner would be empowered to consult with members of a panel drawn from members of the public qualified and experienced in matters of this kind.

Now it may appear that on this limited question of right of appeal the proposals involve some discrimination as between landlord and tenant. I suggest however that the proposals are justifiable in that the whole effect of the legislation we envisage is to place a burden on landlords only, and that, if it were not for this legislation, the tenant would have no alternative other than to pay the increase demanded or to quit.

Where there is any dispute as to the facts the Commissioner would decline to deal with the case and the landlord would then have to apply to the District Court to fix a fair increase.

We realize that there may be cases where current rents of domestic premises that would be subject to the proposed controls are unreasonably low, and that it could be justifiable for the landlords of those premises to seek rent increases beyond 10 per cent. In such cases, if

the tenant was not agreeable to the increase proposed by the landlord, the landlord would have a right to apply to the Commissioner of Rating and Valuation for a certificate to the effect that his tenant's rent was unreasonably low.

This certificate, if given, would enable the landlord to apply to the District Court to fix a reasonable rent, and, if this resulted in an increase, then the tenant would have to pay or hand the premises back to the landlord. We envisage that the panel of members of the public, to which I have just referred, would assist the Commissioner of Rating and Valuation in any case where a landlord sought a certificate to the effect that his rent was unreasonably low.

I have dealt, as yet, only with the proposed controls over increases in rent for existing domestic tenancies which are subject to the Tenancy (Notice of Termination) Ordinance. I will now turn to new domestic tenancies where the premises are vacant at the time of letting. Such tenancies would be freely negotiated as at present, but, wherever a tenancy was for less than three years and was entered into any time before the end of June 1965, the tenant would be afforded security of tenure at the agreed rent for two years, and the landlord would have no power to increase his tenant's rent during that period unless his tenant agreed.

We envisage that rent-increase controls of this kind will apply to every sub-tenancy where the principal tenancy is subject to the legislation we are about to draft. No principal tenant would be permitted to increase his sub-tenants' rents beyond the percentage increase obtained by his landlord.

It will be necessary to provide that any landlord of premises subject to the controls shall be able to regain vacant possession if he requires the premises for his own family use or for redevelopment. It goes without saying, that where there was a material breach of any tenancy agreement, whether the premises were subject to the controls or not, the landlord would be able to regain possession in the normal way as at present.

We intend that the legislation will further provide that, where any sub-tenant in a controlled tenancy causes unnecessary annoyance, inconvenience or disturbance to his principal tenant or to the other subtenants, and where, after due warning by the Secretary for Chinese Affairs, the sub-tenant continues to cause annoyance, inconvenience, etc., the principal tenant will be able to apply to the District Court for the summary eviction of the sub-tenant.

I now turn to the limited protection afforded by the Tenancy (Prolonged Duration) Ordinance of 1952 to certain types of oral tenancy agreements. We propose to introduce an amending Bill to this Ordinance

in the very near future which will have the effect of extending the period of protection afforded by the Ordinance to agreements made after the amending Bill comes into force. The period will be extended from three years, as at present, to five years.

I think, Sir, that the underlying intention of these proposals will be clear enough. We believe that, in the interests of the whole community, nothing should be done which would have the effect of deterring private enterprise from continuing to follow the course of expansion and development which it has gallantly and realistically chosen to follow in recent years.

Nevertheless we believe that there are areas of current hardship and potential danger in the sphere of domestic properties which demand our protection to a limited degree, and until such time as the present gap between the supply of domestic premises and the demand for them has been narrowed. The real problem before us is the reconciliation of these two requirements, the one an economic necessity and the other a kind of moral obligation, and the points of conflict that lie between them.

I do not think that it would be possible to devise any solution to a problem of this kind that would be devoid of risk. There are risks, indeed, in the proposals that I have just outlined. If private enterprise takes too gloomy a view of the limited controls that we propose, (and I emphasize that, in essence, the final decision here lies with individual members of our community who must and will make their own assessments), then there is little doubt that the benefit of the whole community will to some extent have been sacrificed for the benefit of a relative few.

But I would also emphasize that Government can see no justification for any such reluctance or hesitation on the part of private enterprise. The controls proposed are limited and temporary; they provide for moderate rent increases in due course; they do not apply to business premises; they do not apply to first lettings or to long-term agreements; they are governed by legislation that spends itself automatically in 1967.

I think that when these liberal factors are weighed against the limited area and quality of restraint, and the whole situation is seen against the background of the current economic and political situation, no man of enterprise and faith should lose heart.

The other partner in the field of construction and development is Government itself. I think that enough has been said in this Chamber in recent months of Government's achievements and plans in the housing field—both directly and through the Associations and Societies which it finances, and I do not wish to burden honourable Members

by repeating readily -available figures, but I think it is now accepted that we are working close to our capacity, and I can give the fullest assurance that Government will spare no effort to improve upon its record in those sectors where it can make the most significant contribution.

Nor do I think, Sir, that it would be possible to devise a solution that would not be open to some anomalies. The tenancy system in Hong Kong is singularly complicated, particularly in relation to sub-tenancies and to "mixed" premises. We shall of course do our best to avoid these—but some may be unavoidable without an unacceptably involved procedure.

There is one fundamental anomaly, however, that I must refer to particularly. It will certainly strike many people as odd that, while we are preparing for a scheme to control rent increases of certain post-war premises, —a scheme which will allow of moderate increases to rent levels which must already approximate to market or economic rent, —pre-war premises, subject to the Landlord and Tenant Ordinance, are allowed to remain at the artificially low level dictated by the permitted increases on pre-war rent.

I admit that, in one sense, this is a staggering anomaly. Nevertheless there are certainly some individuals who would regard it as equally anomalous if Government were to choose this particular occasion to authorize an increase in rent-levels in which they personally have become, I fear, somewhat entrenched since 1954, —1954 is the date of the last permitted increases under the Landlord and Tenant Ordinance.

I will make no bones about it that Government, for its part, has for many years been concerned about the maladjustment in one section of our economy that the retention of this particular Ordinance has brought about. However, we can at least take to our comfort the fact that the scope of the Landlord and Tenant Ordinance is gradually contracting as redevelopment proceeds; and the number of exclusion cases is still rising each month.

Government does not feel, in all the circumstances, that it would be politic to initiate action to permit further increases in the rent of controlled pre-war premises at the present time. I emphasize the words "at the present time"—because it is more the actual concatenation of present circumstances that deters us, rather than a belief that these rent levels should not be raised.

A more appropriate time for action may well come; but, until it does come, I am afraid that it must be accepted that there is an element in our community which is, how shall I say? —which is no longer merely being protected from hardship, but which is, in fact, being sustained in an artificially favourable position in relation to the general economic standards of the whole community.

We have this afternoon taken the not altogether usual course of announcing the provisions of legislation which we intend to introduce in some months' time. I have already explained why it would be difficult, and perhaps dangerous, to attempt to complete the drafting of this complex legislation at an earlier date.

The interval will, moreover, serve two very practical purposes: it will give honourable Members and the general public time to consider the detailed effect of these proposals, and it will give those directly affected by them some advance indication of prospects for the next few years. I would simply add this: after the most careful consideration Government has reached and announced certain conclusions. It will be very difficult indeed for it to yield on any point of principle in these conclusions.

There may, however, be matters of detail or of practical application in respect of which entirely beneficial adjustments can be made as drafting proceeds. Government will be very ready to consider any suggestions on these lines; —and to this extent also I very much hope that the interval of the next few months will, in fact, prove to be an advantage rather than a drawback.

I have one final word of explanation. I have tried to make my remarks on the proposed legislation intelligible to lay opinion as well as precise enough to give professional men a clear idea of the actual provisions that Government has in mind. I may well have failed in both aims.

As an insurance against this we propose to publish in a few days' time a dual statement of which one part will contain a more detailed account of the provisions that we intend to incorporate in the new legislation, and the other will contain a general summary in simple language of the effect of those provisions. This statement will be issued in English and Chinese and I hope that it will serve to remedy any inadequacies that members of the public may find in what I have said to this honourable Council this afternoon.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons

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

The object of this Bill is to extend the initial protection afforded to tenants by the Tenancy (Notice of Termination) Ordinance, 1962, up to the 30th day of June, 1963. This is to be done by amending

the Ordinance by the insertion of a new section which provides that notice given under the Ordinance up till the 31st December, 1962, shall not take effect prior to the 30th June, 1963. It is considered desirable however to permit owners to obtain possession where they intend to redevelop. Accordingly clause 3 proposes the addition of a new section 7 which would empower owners to give a notice to quit for this purpose, and to obtain an order for possession on satisfying a District Court Judge that they intend to redevelop and are in a position to do so.

STAMP (AMENDMENT) BILL, 1962

THE FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to amend the Stamp Ordinance, Chapter 117."

He said: Sir, during this year's debate on the Budget my honourable Friend Mr KNOWLES spoke on the subject of trade promotion in its broadest sense with particular reference to Government's share in the financing of it. In reply I said in part as follows: —

> "There has been one recent development in this field. In response to certain proposals made by these bodies, Government has asked the General Chamber of Commerce, the Federation of Industries and the Tourist Association to draw up joint proposals for the expansion of commercial public relations activities abroad and these are expected soon. At the same time we have expressed the view that the cost should be borne largely by those sections of the community who will benefit most directly; and the Trade and Industry Advisory Board has recommended that funds should be raised expressly for this purpose by increasing the stamp duty on Import and Export Declarations from $1 to $2. This would bring in about $800,000 a year. It is not clear yet whether this will be enough."

The Bill before Council to-day is designed to put into effect the recommendation of the Trade and Industry Advisory Board.

The organizations mentioned have, as requested, drawn up a general statement of their proposed policy for commercial public relations and have also suggested arrangements for co-ordinating promotion activities to ensure that there is no duplication or overlapping. As I suggested in March, they do not consider that the proceeds of the additional stamp duty will be adequate for the kind of programme they envisage and Finance Committee of this Council has agreed in principle, not only to make the proceeds of the additional duty available, but also to match them dollar for dollar from general revenue. Finance Committee has also approved supplementary appropriation of the appropriate amount for the remainder of this financial year.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons

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

The object of this Bill is to raise the stamp duty on import and export declarations from $1 to $2 in order to cover, in the absence of customs declarations, not only the cost of preparing the trade statistics for which the duty is designed at present, but to help meet also the cost of indirect trade promotion which might otherwise have to be borne by commerce and industry, the principal beneficiaries.

GRANT SCHOOLS PROVIDENT FUND (AMENDMENT AND VALIDATION) BILL, 1962

THE FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to amend the Grant Schools Provident Fund Rules, 1952, and to validate the crediting of certain sums to the reserve fund of the grant schools provident fund."

He said: Sir, the purpose of this Bill is fully explained in the Objects and Reasons attached thereto and I do not think that there is anything I can usefully add.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons

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

Prior to the coming into operation of the Grant Schools Provident Fund (Amendment) Rules, 1961, (hereinafter referred to as the amending rules), it was necessary that the reserve fund constituted under rule 11 of the Grant Schools Provident Fund Rules, 1952 (hereinafter referred to as the principal rules) should *inter alia* be—

(*a*) credited under rule 11(1)(*d*) with at least twenty-five per cent of the income from investments held by the provident fund; and

(*b*) credited under rule 11(1)(*a*) with any appreciation and debited under rule 11(2)(*a*) with any depreciation in the market value of investments held by the provident fund over the market value at the previous financial year.

2. Under the amending rules, which came into operation on the 29th day of September, 1961, a new rule 11 (hereinafter referred to as the new rule 11) was inserted in the principal rules, which *inter alia*—

(*a*) made it unnecessary for the allocation of such a high percentage of income to the reserve fund, and caused an increase in the amount of income available for distribution to contributors under rule 12; and

(*b*) made it no longer necessary that market fluctuations should be credited or debited to the reserve fund.

3. Although no retrospective effect was intended, the inclusion in the new rule 11 of the introductory words "There shall be constituted with effect from the year ending the 31st August, 1953, a reserve fund" gave the impression that the new provisions were to have retrospective effect from the year ended the 31st day of August, 1953.

4. In the preparation of the accounts for the year ended the 31st August, 1961, the treasurer of the provident fund attempted in good faith to achieve such retrospective effect by—

(*a*) applying the new rule 11(1)(*a*)(iii) in place of the old rule 11(1)(*d*) in respect of the income derived from investments during that financial year, and not applying the old rules 11(1)(*a*) and 11(2)(*a*) in respect of appreciation and depreciation in the value of investments during that financial year; and

(*b*) in respect of investments held by the provident fund on the 1st day of September, 1960, compensating the reserve fund for any credits and debits made under the old rules 11(1)(*a*) and 11(2)(*a*) from the year ended the 31st August, 1953, to the year ended 31st August. 1960, by crediting the reserve fund with an amount equal to the difference between the cost price of the investments and their market value at the close of business on the 31st day of August, 1960.

5. Doubts have arisen as to whether rule 10 of the amending rules, in so far as it purports to revoke and replace rule 11 of the principal rules, is good and valid law taking effect from the date of enactment of the amending rules, or whether it is wholly *ultra vires* and void as purporting to give retrospective effect to the new rule 11; it is clear however that the new rule 11 cannot have any valid retrospective effect and that the accounts prepared as described in paragraph 4 above have not been prepared according to the law.

6. It is considered, however, that the preparation of the accounts as described in paragraph 4 above has in fact been of benefit both to the contributors and to the administration of the provident fund in the manner intended. This Bill seeks therefore to reintroduce the amendments sought to be made to rule 11 of the principal rules by rule 10 of the amending rules with effect from the first day of September, 1960, and to validate the adjustments described in paragraph 4(*b*) above.

ADJOURNMENT

HIS EXCELLENCY THE GOVERNOR: —Well, gentlemen, that concludes the business for today. When is it your pleasure that we should meet again?

THE ATTORNEY GENERAL: —I suggest this day two weeks, Sir.

HIS EXCELLENCY THE GOVERNOR: —Council stands adjourned until this day two weeks.