

14TH JUNE, 1923.

PRESENT:—

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

COLONEL C. W. DAYY, C.M.G., D.S.O. (temporarily Commanding the Troops).

HON. MR. A. G. M. FLETCHER, C.M.G., C.B.E. (Colonial Secretary).

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

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

HON. MR. E. R. HALLIFAX, C.B.E. (Secretary for Chinese Affairs).

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

HON. MR. H. T. JACKMAN (Director of Public Works).

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

HON. MR. P. H. HOLYOAK.

HON. MR. A. G. STEPHEN.

HON. MR. A. O. LANG.

HON. MR. R. H. KOTEWALL.

HON. MR. CHAU SIU-KI.

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

New Member

HON. MR. A. O. LANG took the oath and his seat as a member of the Council in place of the Hon. Mr. E. V. D. PARR.

Minutes

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

Papers

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table the following papers:—

Sanitary Report.

Report of the Captain Superintendent of Police.

Report of the Superintendent of Prisons.

Finance

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table Financial Minutes Nos. 27 to 34 and moved that they be referred to the Finance Committee.

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

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid on the table the Report of the Finance Committee (No. 4) and moved that it be adopted.

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

The Rents Ordinance Amendment

THE ATTORNEY-GENERAL formally moved the second reading of the Bill intituled, An Ordinance to amend the Rents Ordinance, 1922.

THE COLONIAL SECRETARY seconded.

Petitions relating to the Bill were laid on the table.

HON. MR. POLLOCK said: — Sir, as I have to address this Council on matters of principle in connection with this Bill I think it would be advisable that I should make my remarks now upon the motion for the second reading. In connection with this I was pleased to read a leading article in the *Hongkong Telegraph* of June 8th, that the Government is prepared to consider suggestions when the Bill comes up for the second reading, and I desire that in a matter of this importance the Government, though necessarily it has had to consider this Bill to a certain extent in certain of its bearings, will for the purposes of this Council retain an preserve and open mind. First of all, Sir, I should like to begin by reminding this Council of the latter part of paragraph 8 and the first part of paragraph 9 of the Objects and Reasons which were attached to the first

Rents Bill—that of 1921. These Objects and Reasons were read by the Attorney General on the first reading of this Bill and to a great extent are repeated by him on the second reading of this Bill. The net result was that the Government in passing the Rents Bill had two objects in view. The first object was to keep a roof over the heads of present occupiers and the second object was to protect them from excessive exploitation *i.e.* from having to pay more than the fair rents. Now, Sir, in order to make it clear that these were the objects which the Government had before them when the Ordinance for 1922 was passed I propose to read to this Council some extracts from the Objects and Reasons which were read out on the first reading of the Rents Ordinance, 1921. The remarks of the Hon. Attorney General, which I am going to refer to in the first place, will be found in page 79 of Hansard and I begin with a quotation from paragraph 8 and the first part of paragraph 9 of the Objects and Reasons of the Rents Ordinance 1921. That part of the Objects and Reasons is stated as follows: "Tenants cannot be turned out so long as they pay the standard rent. Immigrants who wish to acquire a residence in Hongkong will have to build for themselves. Tenants now in occupation will practically have their tenancies extended on the old tenancy terms so long as they pay the standard rent and if they are turned out it will be due either to fault of their own or to their failure or inability to pay the standard rent. There is one exception to this statement, *i.e.*, that when the landlord requires the premises for his own occupation (see clause 4 (1) (c), but even in that case the tenant will not be turned out unless the Court is satisfied that alternative accommodation reasonably equivalent as regards rent and suitability in all respects is available." So much, Sir, for the Objects and Reasons read out by the Hon. Attorney General on the first reading of the 1921 Bill. On the second reading of that Bill the Hon. Attorney General said:—I am quoting from Hansard half down the first column, page 85 of Hansard for 1921—"The need for some legislation on the subject has been widely recognised. The main objects are the power to protect tenants from reasonable increases of their rents and from arbitrary termination of their tenancies. In other words to keep a roof over the heads of present occupiers and to protect them from

excessive exploitations." And again in the second column of page 85 the Hon. Attorney General, after referring to the shortage occasioned by the influx of strangers, says: "The two weapons which it (the Bill) provides are the provision of standard rent and the principle of no ejection. While the Bill remains in force the standard rent alone will be payable, and as long as the tenant pays that rent and complies with the other terms of his tenancy he cannot be turned out. With regard to the influx of strangers from elsewhere the Bill provides that the present occupiers who are permanent residents of the Colony shall not be turned out of their houses to make way for people coming from outside." And again the Hon. Attorney General says in the middle of the first column of page 87: "The object of the Bill is to keep a roof over the heads of existing occupiers, to give them somewhere to live and sleep." The same principle is stated in the speech by your Excellency declaring that an emergency exists for dispersing with the standing orders. I read from page 97 Hansard 1921: "The grounds for this declaration are that as the object of the Bill is to protect the tenants of domestic tenements from unreasonable increases in their rentals and from arbitrary termination of their tenancies, and as rents have been and are being raised unreasonably and as attempts have been made and are being made to eject tenants who are unwilling and unable to pay such increased rents, it is desirable to pass the Bill immediately so as to afford relief to as many as possible of the classes which the Bill proposes to protect." The above quotations, Sir, I think are amply sufficient to show that it was the clearest intention of the Government to protect tenants, the existing occupiers, in their then holdings absolutely and completely and without exception so long as they pay the standard rent. Unfortunately, Sir, clause 4 (1) (f) slipped into the Bill. It is referred to by the Attorney General in page 88 of Hansard: "It is proposed to add a further paragraph to sub-clause 1 of clause 4 providing that if a lessor bona fide requires possession of a domestic tenement to pull it down or reconstruct it so as to make it a new building under the Public Health Ordinance then he shall be

entitled to turn the tenant out on giving three months' notice." This new clause was not commented on further by anybody, but was formally inserted on the motion of the Attorney General (*see* Hansard p.97.) And indeed this particular clause 4 (1) (f) seemed to have given no trouble whatever so far as can be ascertained whilst the Rents Ordinance of 1921 was in force. In the middle of last year the Rents Ordinance of 1921 was superseded by the Rents Ordinance of 1922 and so far as I can gather even a few months after the Rents Ordinance of 1922 was passed this clause 4 (1) (f) practically occasioned no trouble at all. It is only during the last few months—since, I think, the beginning of this year—that events on the mainland of China, coupled with the glut of easy money and a rather wild spirit of land speculation, have caused the present deplorable state of affairs. Let us consider now briefly the position which exists at the present time.

Thousands of tenants who are perfectly willing and able to pay the standard rent have been evicted or are being threatened with eviction through no fault of their own and even in cases where fresh premises are available they are compelled, I should say in practically all cases, to pay a higher rent than they have been paying hitherto. Another factor in the present situation is that hundreds of persons at the present moment are sleeping in the streets. Well, Sir, I have heard the observation made that it is a nice, healthy thing to sleep out in the open air in the street, but I think that observation hardly applies to weather such as we are experiencing at the present. Another drawback of these reconstruction schemes is that they have the immediate effect—and nobody can help them from having that effect—of reducing the existing housing accommodation and they thereby increase the housing shortage. The fourth point to be considered in connection with the schemes of reconstruction is that they induce competition for skilled labour and building materials, thereby increasing both the difficulty and cost of carrying out one of the main objects the Government has at heart for the purpose of relieving the present shortage *i.e.*, the erection of new buildings upon sites that have not been previously built upon.

There can be no doubt, Sir, that this craze for reconstruction has hit the people of all races in the Colony. It has hit the Chinese working man, it has hit the Chinese clerk, it has even hit the Chinese business man carrying on an old

established business. It has hit members of the Portuguese community, who find themselves being displaced from premises which they have occupied for very many years past and it is beginning to hit, and in the near future unless some steps are taken, it will very seriously hit, numbers of British residents over on the Kowloon Peninsula, for it is common knowledge that several properties in the middle of the central part of the Kowloon Peninsula have, during the past few months, changed hands at very high prices. There is one well-known property, practically in the middle of the European residential area on the Kowloon Peninsula, which, I believe, has changed hands at soaring prices something like seven times during the past three months.

Now, Sir, I should like to give a few instances to this Council, of the way in which this reconstruction which is going on is affecting different classes of the Chinese community. I will mention certain instances. Of course, I do not pretend to say that these instances are exhaustive, but I think that they are very significant and they show that there is a certain class of reconstruction going on which ought not to be allowed to take place because the premises sought to be reconstructed—although old in some cases—are reported by the Building Authority as being either in a good condition or in a fair condition, as the case may be. Let me take first of all the instances which affect the Chinese business man. The first case I will take is that of 216 to 234, Des Vœux Road Central, nearly opposite the Wing On premises. These buildings were erected in the year 1904 and they are stated by the Building Ordinance officer to be in a fair condition. These tenants have sent in a letter to me quite recently—on the 8th June—with the chops of 17 firms upon it. The letter reads as follows:—

"Sir,—We have the honour to inform you that we, being householders of ten premises, No. 216 to 234, Des Vœux Road Central, have been notified to remove on the 13th inst., which date is drawing very near. We have pleaded with the Chinese Protector to do what he can to protect us,—but yet with no result. It is quite evident that these ten premises have no reason to be rebuilt

as they were established in the year 1903 in modern fashion of three storeys. We have even tried our best to find suitable premises to move into but to our great difficulty we are unable to find even one. If these houses are really to be rebuilt it will cause hundreds of us to suffer ruin, starvation and homelessness. We beg of you to do what you can for us and the hundreds of us will thank you and never forget your kindness. Thanking you in anticipation and awaiting your esteemed good news, we have the honour to be."

This case, Sir, was also referred to in the columns of the *South China Morning Post* on 5th June. It would appear, Sir, and I think this is an important point to bear in mind—that this petition which has been forwarded to me in the last few days is by no means the first appeal that these people have made for assistance, because a petition (it appears from this article in the *South China Morning Post*) chopped by the firms occupying the ground floors, was brought up and submitted to the Hon. Secretary for Chinese Affairs on 13th April for transmission to your Excellency. The petition sought the intervention of the authorities and in it the tenants mentioned the suitability of the houses for continued occupancy. It also appears from the same article that the tenants interviewed the Hon. Secretary for Chinese Affairs several times, but they could not receive from him any assurance of protection. That is a case, Sir, where a number of business firms will have to be turned out unless they are afforded some relief, and I understand many of those firms are of several years' standing. I submit to your Excellency that it is a very great hardship that these people should be put in this position. No doubt we shall be told by the Government in reply that there are more storeys going up on the reconstructed plan, but that affords very little satisfaction indeed to men who are being turned out of their business premises and under the conditions now prevailing in this Colony have nowhere to go to.

Another case, Sir, is that of a block of houses partly in Des Vœux Road and partly adjacent, a block of houses on marine lot 325—317 to 321 Des Vœux Road Central, 2, 2A and 2B, Morrison Street, and 159 to 161 Connaught Road Central. The Building Officer reports that these buildings were erected in 1905 and that the condition of the property is good. There, again, Sir, is a question of disturbing people in their businesses, turning them out of premises reported to be in good condition, and apparently the only reason or object for turning them out

which can be discovered is that a plan has been submitted for erecting a Chinese residential hotel. Now, Sir, that seems to me a case which is exactly contrary to the Objects and Reasons put forward by the Government in 1921. It is a case of turning out present occupiers, who wish to stop on and who are willing to pay their rent, for the purpose of the premises being erected into a Chinese residential hotel for the use of all and sundry, including any persons from outside who many desire to come and reside in that hotel. It seems to me, Sir, it is quite contrary to the idea expressed in the Objects and Reasons of the first reading of the 1921 Bill to keep a roof over the heads of existing occupiers so long as they continue to pay their rents.

The third case, Sir, is the case of 23 Amoy Street, Wanchai. I received a letter from the occupiers of 23 Amoy Street, Wanchai, on the 30th of last month as follows:

"Sir, We, the undersigned, have the honour to approach you and respectfully beg that the proposal initiated by the owner of the above mentioned houses to rebuild such premises as per copy of letter from Mr. Hewlett, the architect, be rescinded on the following grounds: (1), That the said premises is still in its best condition, being only about seven years since its erection. There is no necessity for such action just at this critical moment when the Government is confronted with a housing problem. (2), The present owner, who just purchased the house about one and a half months ago, for speculation, has up to the present, not been able to show the plan of proposed new house, although he claims that it can be inspected at any time at Mr. Hewlett's office. (3). With our present means coupled with the fact that there is a shortage of houses at the present time, we are not able to find any accommodation elsewhere. With the foregoing reasons we sincerely hope the Government will give due consideration to the plight of the people affected should this action be put into effect. Thanking, you in anticipation". Then follow the chops.

The letter was sent to me but it was addressed to the Hon. Unofficial Members of the Legislative Council of Hongkong.

Now, Sir, that is a case where the premises are only seven years old. There cannot be any reason as far as the condition of the premises is concerned for having them reconstructed.

I now go to other blocks of premises, also Chinese, Nos. 198-202 Hollywood Road and 11, 13 and 15 Taipingshan Street. These premises are stated to be very old and it is only fair to state that they are also stated to be in a dilapidated condition — not dangerous but dilapidated. In the case of these premises one naturally looks to see whether there is any good object for turning these tenants out, and also one would like to know in the case of these premises and the others I have referred to, what is to happen to the displaced tenants. In answer to my enquiries to the Building Authority on the subject of whether a plan had been sent in or not, I got this answer: "No plan has actually been submitted but enquiries have been made by Messrs. Palmer and Turner regarding a proposed cinema on this site," that is the site of these two blocks 198-202 Hollywood Road and 11, 13 and 15 Taipingshan Street. Apparently it is proposed to turn the people, who must number some hundreds, out of these premises to make way for a cinema theatre.

Another case, Sir, to which I wish to refer is that of No. 349 Shanghai Street. This house was erected in 1921. The condition of the premises is stated by the Building Ordinance officer as "O.K." and his remark with regard to the plans for this house is that the plans have been submitted for rebuilding and the adding of an additional storey in conjunction with the rebuilding of the adjoining houses.

Well, Sir, although it may possibly be a praiseworthy thing to rebuild the other houses, I submit it is nothing short of criminal in the present state of housing accommodation to sanction any scheme which involves pulling down a house which was erected as recently as the year 1921.

Now I come to the last Chinese case with which I shall trouble the Council. It is the case of 18 to 24 Des Vœux Road West. These houses are reported by the Building Ordinance officer as being old but in fair condition. In this case plans have been submitted but not yet approved. Now, Sir, I think that I have stated quite sufficient to show that these cases which I have cited are cases which do inflict a very considerable hardship on existing occupiers, some of them old

established business firms, persons who ask nothing more except that the pledge which the Government gave in the Objects and Reasons of the 1921 Ordinance should be maintained: that is to say, that existing occupiers so long as they continue to pay the rent shall be allowed to stop in possession of the premises.

Now I have already, in connection with British people, referred to the imminent danger which there is in Kowloon unless some steps are taken by the Government, of numbers of British residents being shortly turned out of the central part of the Kowloon Peninsula. The remaining case which I will cite to this Council is that of the Portuguese in Belilios Terrace, but before doing that there is one which I have so far omitted to mention and that is in regard to the tenants of Rutter Street, who are Chinese working men. The Rutter Street houses are certainly old but they are stated by the Building Ordinance officer to be in fair condition. Plans have been submitted for rebuilding them. There again, Sir, it is a question of displacing a number of tenants, many of whom are of the poorer class. There are various other cases I have before me, but I think it will be sufficient from the Chinese point of view to quote only those I have mentioned.

Then there is the case of the Portuguese in Belilios Terrace. Now, Sir, I cannot help thinking that that case also is a case of considerable hardship. These tenants, or many of them, have for very many years been residing in Belilios Terrace and all that they ask is to be let alone. They do not see, any more than the Chinese in the cases I have mentioned are able to see, why they should without any fault of their own and so long as they are willing to pay the rent, be turned out and it is no satisfaction at all to them to tell them they are being turned out for the general public good. What is proposed to be done with them? I have made some rather searching enquiries in connection with that matter. So far as I can see no accommodation has been offered to them which is within the means of all of these displaced tenants. Belilios Terrace consists of four rows of houses and the average rent—except for certain corner houses and the houses which are of better construction on the topmost terrace—is between \$73 odd and \$85 a month. It is rather necessary, in connection with the question of hardship, to

bear these figures in mind. These people have been offered two flats, I understand, at Beaconsfield at \$35 a month. A flat consists of one room, which flat can be divided by a partition into two rooms. The rent at Beaconsfield is a comparatively moderate one but it is \$35 for only one room divided by a partition into two, as against a house with four rooms with a rental of \$73 to \$85. Therefore, in a cheaply rented place like Beaconsfield there is certainly no advantage to be got by the tenant. Furthermore, there are tenants in Belilios Terrace who occupy these four roomed houses at \$73 and who sublet lower part for \$33 and so the rental for the remaining two rooms only amounts to \$40.

Various propositions were made to these tenants, some of which I understand have been accepted in regard to Kowloon. Now I will first of all take the case of premises offered to tenants at Kowloon, opposite Palermo. The rental which was asked for those—two small rooms, smaller than at Belilios Terrace—was \$80 a month, for two instead of four—a hundred per cent. increase of rent. In addition to that there are various extra expenses, ferries for the tenant and his children to go over to school at St. Joseph's and the Italian Convent, possibly totalling another \$20 a month, an increase of 150 per cent on the rent. I think the Government have got these rents of the flats opposite Palermo Buildings, reduced, Originally the landlord asked \$80, \$70 and \$60 a flat, and now the rent is reduced to \$50, but even with such a reduction there is no doubt that the tenant will have to pay a great deal more than he does at present and he will be in a far less convenient situation for his children to go to school, the schools being on this side.

Then there was a question of housing some of these Belilios Terrace tenants in the new Italian Mission premises which are being built near Robinson Road. Well, Sir, I have got a list of the rentals proposed to be charged for those houses. I understand there are only three rooms instead of the four in Belilios Terrace and in some cases the rental given amounts to \$40 to \$60 more than in Belilios Terrace, whereas you have three rooms instead of four. So that cannot be considered a satisfactory exchange by any means. Furthermore, as I understand, these tenants have to turn out at the end of October and I gather that it is impossible for these Italian Mission premises to be ready by that date.

Then, Sir, I come to another offer made to the tenants that was altogether outside their means—four roomed flats in Jordan Road at \$150—practically double. They are also practically offered some flats opposite Orient Buildings, three rooms at \$120—obviously beyond their means.

In making these comparisons I do not wish it to be thought for a moment that I undervalue the heroic efforts, the very strenuous efforts that have been made by the acting Colonial Secretary in the matter of the re-housing of the Belilios Terrace tenants. To my knowledge he has taken an enormous amount of trouble in this matter. But the point I wish to make in connection with these tenants is that there is no accommodation available for them at Kowloon—all of them I mean—I do not say that some of them may not manage to pay the rents in the houses opposite Palermo Buildings. But at all events there is a certain limit to the accommodation there. The Beaconsfield flats are not very well adapted to residential purposes—certainly not so much as Belilios Terrace—and are the only flats that can be considered in any way cheap. The Jordan Road flats and the flats opposite Orient Buildings cannot be considered as at all within the means of the tenants.

I expect, Sir, that by and by we shall be told that there are numbers of flats in Kowloon that are unoccupied. That is no real answer to the matter at all. It is quite true you may be able to get a flat at Kowloon, but, after all, the question of rent must in the case of persons of limited means form a very important factor. Even those premises which some of the tenants are willing to go into will involve a considerable addition to their rent. I should like to draw the attention of this Council to the somewhat remarkable difference between the language of section 4 (1) (e) and that of (f) of the Rents Ordinance, 1922. In the case of 4 (1) (e) where the lessor requires the premises for his own occupation for himself or his family or any person *bona fide* residing with him he cannot turn the tenant out unless he shows that alternative accommodation reasonably equivalent as regards rent and suitability in all respects is available. In section

4 (1) (f) there is nothing of that sort at all. There the tenant simply has three months' notice to quit given to him and he is left apparently to find for himself regardless of whether alternative premises are suitable in all respects and also regardless altogether of the fact whether they are reasonably equivalent as regards rent.

Therefore, Sir, there can be no doubt that the case of these tenants—I refer to Chinese and Portuguese—is a really hard one. It so happens, absolutely without any fault of their own, that their particular premises happen to have been pitched upon by some wealthy purchaser who has taken it into his head that he would like to go in for a scheme of reconstruction. These people only desire is to be left where they are and to continue to pay their rent. And I do submit, Sir, most earnestly, that their case deserves every attention from the hands of this Government. As I said just now, I am quite aware that the acting Colonial Secretary is doing his best in the matter, but I think it is time that some alteration of the law should be made to prevent these hardships from being legalised in the future. And it is with that end in view that I shall move a new clause to be inserted after clause 6, of which I have handed a copy to Your Excellency.

I shall move the amendment that the following new clause be inserted, after clause 6:—

Section 4 of the principal Ordinance is hereby amended:—

(i.) by the insertion after sub-section (1) thereof of the following sub-section, to be numbered (2). (2) Notwithstanding anything contained in paragraph (f) of sub-section (i) of this section a Committee of three persons, appointed by the Governor in Council, may, in its absolute discretion, postpone the operation of the notice to quit and also the demolition and reconstruction of domestic tenements (in cases in which plans for reconstruction have not been received by the Building Authority on or before the 14th day of June, 1923) from time to time for a period not exceeding 18 months in all from the date of the receipt of such plans by the Building Authority.

All plans for the demolition or reconstruction of domestic tenements which are received by the Building Authority after the said date shall be referred by the Building Authority to the said Committee.

(ii.) By renumbering sub-sections (2), (3), (4), (5) and (6) respectively (3), (4), (5), (6) and (7) respectively.

I think there can be no doubt, Sir, that this revision of the law is required in order to protect tenants from being arbitrarily turned out. I should have liked, myself, to have made that revision even more wide. I should have liked in the above suggested amendment to have substituted the word "approved" for the word "received" and in the second paragraph instead of "are received" to have substituted "not being approved," and instead of "after" have substituted the words "prior to." But, Sir, in these matters it is desirable to have unanimity among the Unofficial members. The matter has been threshed out and for the sake of unanimity I am simply moving what I consider the less strong clause, and indeed I may say quite frankly the less advisable clause. At all events this clause, even in the shape in which I propose to move it, will have, I am persuaded, a good effect in regard to reconstruction. It will give the Government a Committee to refer to, which will have power to postpone reconstruction from time to time for a period not exceeding 18 months in all. Of course, 18 months is put as a maximum period, but it by no means follows that the Committee would recommend any such long period as that. It is only put in by way of protection as a maximum period. I think it is certainly advisable that in any legislation which the Government are now making they should protect the tenants in this way from the operation of the notice to quit, and also that there should be a Committee able to postpone demolition and reconstruction of premises within their discretion.

It seems to me a monstrous thing that these unfortunate tenants, without any fault of their own, should be turned out in the way I have described. And, Sir, may I point out that this clause is really to carry out one of the fundamentals expressed in the original Objects and Reasons of the 1921 Bill, that existing occupiers shall not be turned out as long as they are willing to pay the rent. Sub-section 3 of section 4 of the Rents Ordinance, 1922, does give a certain power of suspension of turning out, but unfortunately

it gives it at such a late stage as to be practically of little use to the tenant who, of course, has to make his arrangements for new premises at a very greatly increased rent.

In asking the Government to accede to the amendment which I shall move in Committee I am not asking them to adopt an entirely new principle, because the principle of postponement of delivery of possession is recognised by sub-section 3 of sub-section 4 of the Rents Ordinance, 1922. Unfortunately, it is recognised at so late a stage—at a stage when judgment has been recovered against the unfortunate tenant—that practically it is of very little use. It is necessary, I submit, for somebody like a Committee of three persons to have the power at an earlier stage to intervene in the interests of the tenants.

Now, Sir, I come to the second amendment, which it is proposed to move in Committee, that is that clause 9 of the Bill be amended as follows:—

(i.) By substituting "sections are" for "section is" in the first line thereof: and

(ii.) By inserting at the end of clause 9 of the following:—

29.—Every lessor who demands or receives more than the standard rent for any domestic tenement shall, unless he proves to the satisfaction of the Magistrate that he acted *bona fide*, be liable upon summary conviction to a fine not exceeding one thousand dollars.

I submit that clause is a very useful and a very necessary one. I would remind the Council that a lessor includes not merely the first landlord but the principal tenants of premises or the lessor of two or three cubicles; the lessor of any portion of the building from the whole building down to bedspace, and that person it is proposed to make liable to a penalty if he demands or receives more than the standard rent for any domestic tenement, which I have explained includes every kind of lessor and every kind of division or subdivision of a domestic tenement. It makes the lessor liable to a penalty for demanding or receiving more than his due under this Ordinance. What, Sir, can be fairer than to

subject a man to a penalty under the Ordinance for demanding more than the standard rent? What sympathy can possibly be extended to anybody who says to a tenant—who perhaps has been a tenant for some years—"I am going to raise your rent"? The tenant objects that he is a poor man and cannot pay more and is then told "Well, if you do not want to pay more, there is someone round the corner who will pay it." What is the position of the lessor under the law as it stands at present? Although the law says he cannot receive more than the standard rent he can bluff more rent out of the old tenant or get more rent from the new. He knows that he has no right to demand more rent, but yet he bluffs it out because it is a safe proposition to do so. There is absolutely no penalty. If the bluff comes off he gets so much more rent, but if it does not come off he gets off scot free without any penalty. Surely, Sir, that is not just, and it is with a view to remedying an injustice like that that we consider this clause should be put in.

It is to be hoped, Sir, that when this clause is inserted, as we trust that it will be, that it will be made widely known by the Secretary of Chinese Affairs, and that the tenants who have this kind of bluff tried upon them—of demanding higher rent as a penalty of their leaving the premises—will go to the Secretary of Chinese Affairs and that he will then put the proper machinery in motion to prosecute in any such cases. It is useful also from another point of view, and that is for emphasising this question of standard rent. I think it would be a very good thing if we widely published in this Colony, in Chinese as well as in English, the definition of standard rent as it appears in 2 (f) of the Rents Ordinance, 1922, because it certainly is not understood that a tenant of an old building need only pay the rate at which the premises were let on the 31st December, 1920. The idea seems to prevail in circles which one would expect to be better informed, that if the landlord can only get the old tenant out and get a new tenant in that in some mysterious way the landlord is free of the restrictions of the Rents Ordinance. There cannot be a more erroneous opinion than that. In the case of an old building any tenant, whether old or new, has the same right only to be charged the standard rent and I think it is a pity, Sir, that that is not

more widely understood than it is at the present moment. I have been very much struck, as Chairman of the Housing Commission, in finding out that people are extraordinarily ignorant of the protection accorded to them by this Rents Ordinance, even as it stands at present in their favour.

There is another subject, Sir, which I should like to refer to and that is the question of the establishment of a Fair Rents Board. In connection with this subject I should like to point out that as regards new buildings, which have had an occupation certificate granted since the passing of the Rents Ordinance 1921 they are entirely outside the Rents Ordinance. That was pointed out by the learned Attorney General in the first reading of the 1921 Bill, when he said, on page 79 of Hansard: "Such new buildings will be entirely free from the restrictions of the Ordinance and the owners will be entitled to charge whatever rents they can obtain." Therefore as regard new buildings which have received occupation certificates since 19th July, 1921, it is quite clear that the Government have definitely taken up that position. Then comes the question of new buildings to be built in the future. What is to be done with regard to them? Well, Sir, this question has engaged my earnest attention, and I must confess that in view of the extreme need which exists for new buildings being erected on fresh sites that it might be doubtful policy for the Government to create a Rents Board for such new buildings. It might create a certain check upon what undoubtedly is the main thing which the Government wishes to accomplish, and that is the production of new buildings upon sites which have not been previously built upon.

With regard to reconstructed buildings I think there are considerable difficulties in the way of the establishment of a Fair Rents Board. One of the difficulties that I see is that if the return is to be eight per cent upon the total outlay we might possibly, in these boom times, find that the fair rent amounted to rather a staggeringly high figure. I am afraid that some tenants are disposed to interpret "fair rent" as amounting to a low rent, or fair to the pocket of the tenant. Of course it has no meaning of that sort in ordinary parlance. If you are going to have a Fair Rents Board you would have to have a Board which would assess the rent as

being fair all round. It would have to be fair, amongst other things, from the point of view of the outlay which the landlord had expended, first of all in buying premises and secondly in reconstructing the building at the high prices which prevail at the present time. Therefore, I must confess, Sir, although I have taken a great deal of trouble considering this point, that I think it would be a doubtful policy if a Fair Rents Board were established, and I have only come to that conclusion with the very greatest reluctance, because my sympathy in this matter is entirely on the side of the tenant.

Another kind of difficulty, perhaps, which might be created by a Fair Rents Board, if established, is that you might cause a certain amount of dissatisfaction in the mind of a landlord of an old building. You might have all sorts of inequalities. Of course, if you were to adopt the suggestion I have seen given of making the fair rents of reconstructed buildings the same as the rents of any other building in the same block, that would be a very simple rule of thumb to go by, but it would hardly give an equitable return to the person reconstructing his building, I thought perhaps, as I have considered this matter at some length, it would interest the Council to hear my views on that point. I must apologise for having taken up so much of the time of the Council.

HON. MR. KOTEWALL — Sir, during the last fortnight my Chinese colleague and I have received numerous communications from Chinese property-owners and tenants in regard to the working of the Rents Ordinance, the former complaining that the measure has wrought hardship on a large number of good landlords, and the latter urging more stringent provisions for their own protection. I need not trouble the Council by repeating what these people call each other. As regards the suggestions embodied in the communications my Chinese colleague and I have brought to the notice of the Government, through the Honourable Secretary for Chinese Affairs such of them as appeared to be worthy of consideration; and I have also seen the Honourable Attorney-General about one or two points having a legal aspect. The Hon. Mr.

C h a u S i u K i a n d

I have given all the suggestions that have been brought to our notice our careful consideration; and if we are not advocating more amendments than those mentioned by the Honourable Senior Unofficial Member, it is because we realise that the Ordinance is, after all, a purely temporary measure, at which it would be undesirable to tinker more than is absolutely necessary.

We strongly support the proposed amendment for giving power to a Committee, to be appointed by the Governor-in-Council, to postpone the operation of notices to quit, and the demolition and reconstruction of domestic tenements for a prescribed period. The amendment which has just been read by the Hon. Senior Unofficial Member is so framed as to obviate any possible imputation of bad faith on the part of the Government in regard to reconstruction, because it is to affect only future applications therefor. It will also obviate any fear that hardship may be inflicted on some landlords, or that a good opportunity of having old and insanitary houses rebuilt would be lost, because the proposed Committee is to be allowed absolute discretion in the exercise of its power. While on this subject of reconstruction, I wish to say that I am deeply indebted to the learned Attorney-General, to whom I went to seek enlightenment, for the opinion that a domestic tenement reconstructed under section 4, Sub-section 1 (f) of the principal Ordinance is not necessarily an "entirely new building" within the meaning of Section 9, Sub-section 2 of that Ordinance, unless it is, in point of fact, an entirely new building; and that, therefore, a building reconstructed under the former Section, but not coming within the latter, is subject to the Rents Ordinance. Whether the standard rent of such a building would be the rent on the 31st December, 1920, or the rents at which the building was first let after the reconstruction, would probably depend upon whether the reconstructed house was or was not substantially identical with the former house. I have ventured, Sir, to repeat this important opinion here in order to give wide publicity to a point of law which probably is not generally known to the public.

My Chinese colleague and I also support the proposed amendment for imposing a penalty on any lessor who, of *mala fide* intent, demands or receives more than the standard

rent. We trust that this amendment will be accepted by the Government so as to give a check to the machinations of the unscrupulous landlord, and the iniquitous intermediate tenant.

Turning now to the complaints of the landlords, we, that is my Chinese colleague and I, are aware that the operation of the Ordinance does entail hardship on some, especially on those to whom their rent constitutes their sole source of income; but such a condition of affairs is unavoidable in special legislation of this kind. We can only hope that the demand for houses will soon be met to such an extent as will justify this Council in repealing the measure which, whatever good it may do, does not, after all, get to the root of the evil. But, Sir, while the shortage exists, the continuation of the Ordinance appears to us to be necessary, and we will, therefore, vote for its extension for another twelve months. (Applause.)

THE COLONIAL SECRETARY—In view of the numerous points which have been raised, I am afraid I must ask the patience of the Council while I traverse a rather wide field. But before I begin I may take the opportunity to express the obligation of the Government and my own personal gratitude to the Senior Unofficial Member for his assistance in investigating numerous cases of hardship and in exploring all avenues which might possibly lead to an adequate solution of this most difficult housing and rents question. I would like to add my thanks for the excellent work done by the hon. members representing the Chinese community on behalf of their compatriots. The matters most immediately before this Council are petitions from the tenants of Belilios Terrace and the residents of Rutter Street, to the latter of which I will refer later. Regarding Belilios Terrace there are forty-two families, numbering about 200 souls, housed in the 27 buildings of these three terraces, and it undoubtedly is, as the Senior Unofficial Member has said, a very great hardship that this sheltered, self-contained community should be evicted at such short notice; but it must be remembered that, they owe it to the generosity of the Belilios family that their rents have not been appreciably increased over a long period of years, while during the same period their

salaries, and consequently their rent-paying capacity, have been considerably augmented, with the result that they are now in a much more favourable position than the neighbours who surround them. The matter came to my attention some time before the Petition reached me. On the very morning on which I first heard of it I got the option of 34 flats at West Point—two-roomed flats of European style. I had not seen them at the time, but I sent the Committee of the tenants to investigate and they reported that they were not suitable, partly on account of the sanitary arrangements, and partly on account of danger from fire, and also because they were in a Chinese locality. I went down personally and looked at them. The rent was \$45 for a two-roomed flat, but by putting two flats into one they would get a four-roomed flat for \$90. I agreed with the tenants that they were not suitable. At the same time the Belilios Terrace houses, which I also visited, struck me as being in the last stage of decay and literally tumbling to bits. I invited the assistance of Mr. J. M. Alves, who has rendered me very great assistance in this matter, and we went over together to Kowloon and visited blocks containing altogether some 130 new flats, and I also visited the new hotel. When I returned I sent for various landlords, including the landlord of the hotel, and got the option on a number of buildings at rentals varying from \$70 to \$150 I consulted the owners of Belilios Terrace, who met me more than half way, and have been most considerate. I put these flats before the tenants. At the same time I got in touch with Bishop Pozzoni, who put at my disposal ten flats for these tenants in Robinson Road, which will be ready at the end of the year. With regard to the Senior Hon. Unofficial Member's reference to Palermo Buildings the landlord very kindly reduced the rents from \$80 to \$50, and I put this offer to the tenants, but they came to me with a refusal to take the ground floors because they were tiled. I hope I may not give offence when I say that the attitude of some of these tenants—by no means the majority of them—but the attitude of some of them is in accordance with Mr. Micawber's maxim of "waiting for something to turn up," rather than in accordance with the more strenuous proverb that "God helps those who help themselves." I am satisfied that satisfactory arrangements will eventually be made for getting all these people into new

homes. With regard to the Senior Unofficial Member's remarks about the Beconsfield Arcade property, I may mention that these flats have been, and are tenanted, by Sanitary Inspectors and other Europeans in the Government service. Some of them have been there a considerable time.

Now, coming to the European aspect of the question, I have been directly approached by one family, and in that case I went over the same afternoon to Kowloon, found a flat, and I was able to arrange with the landlord next day for them to be put in. Various representations were made relating to persons employed in the Naval Yard. That is an Admiralty affair, and all I need say is that these men have a house allowance which adequately meets the rent of available flats in Kowloon. I have also been approached regarding two private hotels,—Kingsclere and a private boarding house, consisting of four houses in MacDonnell Road. It is proposed to put 25 houses on the Kingsclere site, and to substitute for two houses of the boarding house, and one other independent house in MacDonnell Road, eight or ten houses. I am afraid I could do nothing in this case except to propose blocks of flats in Kowloon, and I was met by various objections more or less valid—rather more valid than less. I also suggested taking the new hotel in Kowloon on which I had at the time an option, and I now repeat that suggestion. Hon. Members have no doubt seen an advertisement in the papers that this hotel is to let and I suggest that those having experience of European hotel management might get together and rent this building as a boarding house for European occupation—by those persons who may be evicted from their present tenements.

But the root of the matter goes deeper than that. It goes right down to the question of European reservations. I do not propose to deal with this somewhat thorny subject, except from the aspect of the economic pressure which is gradually driving the Europeans out of the districts in which they have lived for many years. A number of persons have been persistently crying "stinking fish" against the Government and some of those who have cried loudest have the least cause to do so. It may interest Honourable Members to know that a year or two ago the Government initiated a proposal to make a European reservation in a

large area round the lower part of the Peak Road. It was essential, of course, that all the owners of houses in that district should agree that their houses should only be let or sold to Europeans. Many conferences took place and most of the owners accepted the proposal. Some stood out saying "No, we want a free market for our houses. We want to know certainly that we shall be able to sell when we leave the Colony and are ready to go home after ten or fifteen years and we may be unable to find a buyer under 'this reservation scheme.'" The other owners took the attitude that they could not come in unless everybody agreed. Not long ago a sale in this area has put the final nail in the coffin of the scheme.

Quite recently a number of persons have approached me on this subject of a European reservation, but there has always been the objection that while they are willing to rent they are not prepared to build, for the reason that when leaving the Colony they will not find an open market. In conversation with a well-known resident recently I reminded him of the story of Abraham when the Angel announced to him the intended destruction of Sodom. Abraham pleaded for the city, saying "Peradventure ten shall be found there," and the Angel answered "I will not destroy the City for ten's sake". And I said: "Find me ten—or—I will reduce it—find me five who will build houses in this reservation, and I am sure the Government will meet them more than half way." He went out and has not returned.

Now, there is no racial question in all this. We are prepared to make a similar proposition to any community which may wish to live separately among its own kith and kin. We have, in fact, recently leased without auction to Chinese an area on which they propose to build fifty houses for the permanent residence of members of the Chinese community.

I now come to the case presented to us by the Chinese. I will read the Petition from the Hongkong Tenants Protective Society, which has 4,000 subscribing members representing, approximately, 40,000 members of families. The petitioners say:—

A great number of cases have occurred in which tenants have been forced to vacate possession of their tenancies under Section 4 (1)F of the Rents Ordinance, 1922, which

allows the ejection of tenants in cases which the landlord intends to rebuild domestic tenements so as to make them new buildings within the meaning of the Public Health and Buildings Ordinance 1923 and it has been subsequently ascertained that possession has not been obtained in accordance with the provisions of the Ordinance.

In these cases the deterrent contained in Section 20 has been insufficient to prevent the evil while the tenants have lost all protection granted by the Ordinance.

Your Petitioners further desire to call the attention of the Several Members of the Legislative Council to the case of the persons now housed in 26 domestic tenements situated 13 in Upper Rutter Street and 13 in Lower Rutter Street. These houses are about to be pulled down by the landlords and approximately 2,000 persons will be dispossessed mostly employed as Conservancy coolies. It is feared that these persons who discharge a necessary service will not be able to find other suitable accommodation and will be unable to continue their work satisfactorily.

Your Petitioners therefore humbly pray that the several members of the Legislative Council, will be pleased:—

(1) To consider an amendment to the Rents Ordinance 1922 with a view to making provision for the protection of tenants wrongfully dispossessed, by adding to Section 20 of the Rents Ordinance, the words.

"And the Magistrate may order the lessor to allow the lessee possession of such domestic tenement."

(2) To consider measures for the relief of persons employed in necessary duties.

I may say that I have been over all these properties which are to be demolished. The case of the Conservancy coolies is being dealt with by the Government who are making arrangements to house them in temporary quarters on a large piece of ground immediately adjoining. Among other cases quoted is that of McGregor Street. That is the first which came immediately to the notice of the Government. 900 persons are being dispossessed by re-construction of these very old and undesirable tenements.

The Government considered the case and was satisfied that reconstruction was necessary and desirable. Efforts were made to transport the tenants to Sham Shui Po, and the question of housing them in matsheds was also considered — but they disappeared. I can state from personal investigation that the Rutter Street property which is to be demolished is a most undesirable property, and the Building Ordinance Officer who accompanied me said that he would be thankful to see it come down.

This Colony has a somewhat startling capacity for absorbing Chinese, as has been exemplified time and again in periods of unrest at Canton. Now this certainly results in most undesirable overcrowding, but for the purposes of the present argument I merely state the fact that homeless people do find accommodation somehow. I have a list of a considerable number of empty tenements with which I will not now trouble Honourable Members, but they may be interested in the figures relating to tenements under construction. Between the 1st of January and the 31st of May, 51 European and 321 Chinese houses were certified for occupation. The European houses consisted of 162 and the Chinese of 997 storeys. Between now and four months' time there will be 29 new European houses; 374 European flats; and 472 Chinese houses containing 1,594 storeys. And there is also the new hotel of some 90 rooms in Kowloon. As against that, the number of houses which have been or are to be demolished is 417. Therefore, it will be seen that there is new building considerably in excess of what is disappearing. It takes only some six months to pull down and reconstruct these Chinese tenements, so the hardship does not last for a very long period. The question is to be looked at from a wider point of view than that of the individual tenant. In the year 1894, the great plague year, we paid the penalty of our evil rat-infested slums, and Sir William Robinson wrote: "The remedy, as your Lordship will see, is a very drastic one. It may result in the destruction and re-building of one-tenth part of Hongkong. It will necessitate the extension in every direction of houses fitted for Chinese occupation on improved sanitary principles." Since that day we have had the Public Health and Buildings Ordinance which, with all its imperfections, is a great advance on those days, and the

condition of the town is much more satisfactory. But we still have most undesirable slums. I have been over all those that have been named in this connection and I am speaking from experience, when I say that Honourable Members would, if they saw them, be struck with amazement that the Colony is not swept from end to end every year by disease. In 1918 we had the Cerebro-Spinal Meningitis epidemic, and after the Olitsky report the Government had in contemplation the demolition and reconstruction of large areas in the heart of the Chinese quarters, but considered it more expedient to concentrate on the opening out and development of suburbs and the improvement of communications with the intention, when sufficient accommodation should be available, to enforce the law against overcrowding in order to put a stop to congestion in the City. Now, suddenly, we have our opportunity. The unrest in China has poured a flood of Chinese capital into this place and a large part of it is being used by private enterprise, on its own initiative, to do this very work which should have been done long ago. Year in and year out we have had preached to us the absolute necessity of removing this slum property. Now not only are others doing it for us but we are seizing the opportunity of widening streets, getting more open spaces, and effecting other improvements which are long overdue. Of course, the landlords are not doing this from philanthropic motives, but I think it is not true to make a general assertion that their guiding incentive is the evasion of the Rents Ordinance. There was one distinct case in February last, which unfortunately I did not hear of at the time, in which the landlord had rebuilt, solely for the purpose of evading the Ordinance. There was one other case, mentioned by the Senior Unofficial Member, No. 23, Amoy Street, in which, apparently the same object was in view. I sent for the architect and I think that nothing more will be heard of the matter. These are the only cases. Well, gentlemen, "one swallow does not make a summer" and one doubtful act on the part of a landlord is not necessarily a reason for legislating generally against all landowners. In all other cases the building officer assures me that he is satisfied that there will be more legitimate accommodation in almost every case and an improved type of building in every case. I will quote his

words: "In all other cases" (except the two referred to above) "houses built prior to 1903 are affected, most of them being insanitary and dilapidated. In most cases additional storeys are to be provided, but in some cases—13 houses in Rutter Street 13 houses in Upper Rutter Street and 19 houses in McGregor Street—the accommodation will be reduced owing to the provision of open spaces." This provision of open spaces is just what we desire. Supposing a committee was set up, as has been suggested by the Senior Unofficial Member, what standard could it adopt other than the standard of more accommodation and an improved type of house? You have to put in the balance on the one side a large number of very much improved dwellings holding more people, legitimately housed, and on the other a great temporary inconvenience to many tenants, and, I admit, a very great hardship to some business men. But supposing we had adopted this policy when the Rents Ordinance first came into operation, we should not probably have, as we have now, the fine Bank of China Building in Queen's Road, or the Asiatic Petroleum Building, or the large structure in Pedder Street in which the Senior Chinese member is interested, because these buildings did dispose a number of business people who could find no other accommodation, and therefore lost their livelihood. Allegations, somewhat vague in character, have been made regarding the rapacity of landlords and there has been a suggestion that a Fair Rents Board should be created to curb their extortions. I could tell tales of tenants who have sub-let their flats on the fiction of renting their furniture, which would put the tales regarding the landlords in the shade. But with regard to this rental question I think there has been great exaggeration. The Government has had in contemplation a scheme for building a large number of bungalows, semidetached, along the railway line in Kowloon. The idea was that these temporary bungalows should be of the simplest construction with wooden roofs covered with Malthoid roofing and no foundations except enough to keep them standing against typhoons. Allowing for amortisation, repairs, rates, and upkeep, and allowing also 8 per cent. on the investment, the minimum rental works out at \$130 a month. I will read from the estimate: "This is the minimum rental which could be charged,

notwithstanding the fact that the land would be leased for a period of ten years without charge. No provision has been made for vacancies, and consequently it is doubtful whether a lower rental than \$150 could be charged. This merely proves that blocks of residential flats are necessary with a view of obtaining cheap accommodation, and that cheaply constructed bungalows will not meet the case." These houses were as cheap and small as they could be, occupying 1,400 square feet and containing two bed-rooms, one sitting-room, one bath-room, and small servants' quarters. The cost for a quantity (400 was suggested) was estimated at \$6,200 each.

The Honourable Senior Unofficial Member mentioned the flats built by the Italian Mission in Robinson Rd., pointing out that they were too expensive for the residents threatened with eviction from Belilios Terrace. These buildings have been put up under the Government Loan Scheme and I am satisfied that the return on the cost of the buildings alone will not be more than six per cent, and if the value of the land is added the return will not be more than three, or three and a half per cent.

In a rapidly growing commercial community like Hongkong, rising values must result in the building over of the vacant spaces in the centre of the town with consequently rising rents. The same thing has happened in other cities. In London our grandfathers lived over their offices in the City, and their grandsons are now in distant suburbs. St. Martin's, which was formerly in the Fields, is now in a crowded district adjacent to Trafalgar Square. If the Council will excuse me in a digression for a moment, I may mention that the Town Planning Committee has laid out a very large residential area along the Kowloon foothills and the Government has initiated a new scheme which has been accepted by certain capitalists. The difficulty to be met has been the method of the sale of land. If we sell by auction, in boom times, prices are exaggerated. If we do not sell by auction the Government lays itself open to charges of bad faith by disappointed applicants. Also, if land is sold below its market value there is nothing to prevent the purchaser selling it the next day. In this new scheme, the Government will give land anywhere in the Colony without charge on a forty

years' lease. The Government and the essee will by agreement before operations commence, fix the value of that land. Suppose, for example, it is a plot of 50,000 feet at \$2 a foot, you agree before you start that the land is worth \$100,000. There will be imposed a building covenant, according to the locality, and in some cases there will be a restriction as to the type of tenant. When the buildings are completed the lessee is allowed at anytime that the value of the land is doubled to sell the whole property, as it stands, in the open market on the ordinary 75 years' renewable lease. The price realised goes firstly to pay back the cost of the buildings, and the proceeds are divided equally between the Government and the lessee who has had the enterprise to put his money into the concern. The Government is assured that it gets back at least the original value fixed upon the land and—here comes the important point of the arrangement from the point of view of the housing question—the lessee, directly he has sold, must take his original capital and re-invest it in a similar operation. Therefore, as long as the demand is so much in excess of the supply as to cause land to double its value, the lessee will go on building and selling with the result that new buildings will always be coming into being. While the original lease for forty years is running the lessee can only charge a sufficient net rental to bring, while per cent, and pay all expenses, including a sinking fund, and insurance, and repairs; but there will be no charge in the rent in respect of the value of the land.

The Senior Unofficial Member has asked the Council to put a brake upon the enterprise of persons who are willing to give us new houses for old. The Government does not propose to use the official majority to thwart the wishes of the Unofficial members in the matter, but I would ask them to give very serious consideration to the question whether the proposed remedy will not aggravate the disease. The only criterion upon which you can base your decision is the true interest of the community as a whole and I am sure we all have that at heart. I think, if this policy is adopted, housing will be checked. We can hardly revoke it until there is obviously sufficient accommodation to take in persons who may be dispossessed, and then, also obviously, the capital will no longer be

available for further enterprise.

I think this Council will be well advised to take warning by the example of other places where Government interference in economic laws of supply and demand as regards the housing question has not had the happiest results. You cannot make omelettes without breaking eggs, and I suggest that it is best to get this painful process over as expeditiously as possible, by encouraging every form of building activity, whether in new houses or in reconstruction, provided that the accommodation (I am speaking particularly of Chinese tenement houses) is increased and the type is improved. When conditions in China return to their normal state—as assuredly they will—trade will revive, capital will flow back into its accustomed channels, a large number of our refugees will return to their homes, and I hope the Senior Unofficial Member will be amongst the first—when that happy state of things arrives—to congratulate the Government on a vastly improved city in which landlords will be vying with one another to induce tenants within their doors—(Applause.)

With regard to the second amendment as to *mala fide* action on the part of the landlord in demanding more than his lawful rent, I will leave this to the Committee stage. I may, however, refer to Section 16 of the Rents Ordinance which says.

"(1) No person shall, as a condition or pretended condition of the grant, renewal, or continuance, by himself, or by any other person, of a tenancy of any domestic tenement demand payment of any sum of money whatsoever in addition to the rent."

It is not for us to nurse the tenants in all their goings out, and comings in, and I propose to ask the Attorney General whether this does not sufficiently meet the difficulty.

There is one further matter to which I will draw attention, namely the statement of the Senior Unofficial Member as to Chinese sleeping in the streets. I think if this got abroad, and especially if it got to Parliament at Home, it would create a very wrong impression. Those who have had experience of this town at night or have had anything to do with the Police, will support me—and I am

sure the Chinese members will agree—when I say that in the hot weather a very large proportion of the people living in Chinese tenements prefer to live in the streets, because of the heat within doors. In threatening weather you may see them with little tents over their heads. Sleeping in the streets has no connection whatever with this housing question.

HON. MR. KOTEWALL — My Chinese colleague and I would like to bear out the comment just made by the Colonial Secretary. It struck me whilst the Senior Unofficial Member was speaking that his remarks were somewhat over stated.

H.E. THE GOVERNOR — I will defer any remarks I propose to make until we come to consider individual amendments in committee. There are only two things I should like to say at this stage: the first is I sincerely trust that this will be the last time the Council will be called upon to extend the operation of the Rents Ordinance; the other is that I should like the Council to understand the immense amount of work which the Colonial Secretary has been personally putting into this matter for weeks past.—(Applause).

The second reading was then carried, and on the motion of the ATTORNEY-GENERAL the Council went into Committee to consider the Bill clause by clause.

In moving the proposed new clause of which he had spoken, HON. MR. POLLOCK said—I should like to say with regard to what has fallen from the Acting Colonial Secretary that, first of all, I am satisfied that it is desirable to have some body which can be referred to as a committee in this question of re-construction, and that for the reasons I have given in my speech on the second reading. I quite appreciate the extraordinary efforts of the Colonial Secretary for the re-housing of tenants, but it is desirable that it should come before a regularly constituted body and that there should be a body which has a certain legal status. The Colonial Secretary, in his position, carries a great deal of prestige and influence, but I think it is desirable that there should be some body which by law has power to put a certain check on reconstruction, until satisfactory measures have been taken for the re-housing of tenants. That is the reason I press for this clause. With regard to Belilios Terrace. I got the Building Ordinance Officer's report on various properties. Though he says that

these premises are "old" he does not put the "cross" against them which denotes dilapidation.

H.E. THE GOVERNOR—I should like to say at this stage that I propose to leave it to the unfettered discretion of the Council to adopt this amendment if they wish. If I had to vote I should vote against it for two reasons. In the first place I desire once more to emphasize that I hope this Ordinance is about to come to an end at the end of twelve months from now, and I think it is a mistake to tinker with a temporary Ordinance, and thus lead people to believe it is more likely to be renewed than is the case. The second reason is that I feel that—however unreasonable it may be—the adoption of the clause may tend to prevent people reconstructing in cases where it is manifestly desirable that reconstruction should take place. When a man is just wavering on the point whether he shall or shall not destroy insanitary premises—really insanitary I mean and not only legally so—he may be determined not to do so by this clause. He will not wish to submit all his plans to the consideration of two bodies. The Building Authority is a very hard-worked department and unquestionably requires a little time to examine plans. The suggested Committee might be another body of busy men and the time devoted to the examination of plans would be naturally increased. Government departments are blamed for delay and it is possible that the virus of the delay would spread from the Government body to the new committee. If reconstruction, where it is desirable, is checked, I think we shall be making a very serious error. At the present time we are getting a large amount of desirable reconstruction done at the expense of the landlord. If it is not done by him it is probably only a question of time before it is necessary to do it at public expense. Now, everybody seems to have money to spare: they are ready to spend it in reconstructing buildings because, owing to various circumstances, including revolutions in China, remunerative employment of capital in China is difficult to find. When that condition of affairs passes away and people have other uses for their money it is unlikely they will be content with the six reconstructed tenements. What that time or seven per cent. they can get out of comes they will put off the reconstruction

as long as their houses will hold together. I must confess I should be reluctant to be a member of the proposed committee unless I was an architect or an engineer, because if the committee refused permission to reconstruct and there was a serious disaster—supposing Belilios Terrace were to collapse upon its inmates—I feel that the committee which refused to allow it to be reconstructed would find their consciences and their reputations suffer as the result. However, as I say, if the Council considers that this clause should form part of the Ordinance, I am perfectly content to leave it to their decision. There is one other point. It is proposed that the committee should have discretion to postpone reconstruction for as long as eighteen months. If the Ordinance is only to last twelve months it is undesirable to have a longer period named in the measure itself. The position would be that the committee would have power to exercise jurisdiction under the Ordinance six months after the Ordinance had expired. I suggest the substitution of the figures 12 for 18 in the amendment.

HON. MR. POLLOCK accepted the suggestion and the amendment was then put.

H.E. THE GOVERNOR — I think the "No's" have it.

HON. MR. POLLOCK called for a division, and the votes were recorded as follows:—

For:—Hon. Mr. H. E. Pollock, Hon. Mr. P. H. Holyoak, Hon. Mr. A. G. Stephen, Hon. Mr. R. H. Kotewall, Hon. Mr. Chau Siu Ki.

Against—Hon. Mr. A. O. Lang, Officer Commanding the Troops, the Colonial Secretary, the Attorney-General, the Colonial Treasurer, the Secretary for Chinese Affairs, the Director of Education, the Director of Public Works.

The amendment was, therefore, lost by eight votes to five.

HON. MR. POLLOCK made a remark not clearly heard at the Press table to the effect that the unofficial members would obviously not vote in favour of the amendment after the very strong expression of opinion which H.E. the Governor had given against it. It did not amount to free voting, but was a manœuvre to defeat the unofficial minority, and he did not

consider it fair.

H.E. THE GOVERNOR — In case there was any misunderstanding, I hope no official member considered that anything I said bound him to vote in any other way than his own judgment dictated.

HON. MR. POLLOCK was understood to say that His Excellency expressed a strong opinion and it was only to be expected that it would influence the voting of the Official Members.

H.E. THE GOVERNOR — I should be sorry to suppose that members of the Public Service were quite so invertebrate.

HON. MR. POLLOCK, who was still very indistinctly heard, made a remark to the effect that the result was "bound to follow."

H.E. THE GOVERNOR — I must really dissent and object to the phrase used. If anybody considers that I am endeavouring to jockey the unofficial members into the belief that I have not influenced official members when I have, I beg to repudiate the suggestion most heartily. I consider that the official members have the right to express their opinion and to hold the opinions they express. Unless they are directly instructed by me that a measure is a Government one which they must support they are free to vote in accordance with their own convictions. I must confess, Mr. Pollock, that I am amazed that you should suggest that I should be responsible for a "manœuvre" as you have described it.

HON. MR. POLLOCK — All I wished to say was that putting it to the vote of the officials after Your Excellency has expressed yourself strongly in a certain direction is not really leaving it to the unfettered decision on the Council.

H.E. THE GOVERNOR — Council will proceed with the discussion of the Ordinance.

HON. MR. POLLOCK mentioned an amendment to Clause 7 suggested by the Tenants' Association. It was to the effect that "the Magistrate may order the lessor to allow the lessee possession of such domestic tenement.

THE ATTORNEY-GENERAL commented that after a house had been rebuilt it might be difficult for a former tenant to find

the part in the new house corresponding to the portion he had occupied.

HON. MR. R. H. KOTEWALL considered that the amendment was not worth pressing, and it was dropped.

HON. MR. POLLOCK moved the second amendment of which he had given notice, viz.:

By inserting at the end of clause 9 of the following:—

29. — Every lessor who demands or receives more than the standard rent for any domestic tenement shall unless he proves to the satisfaction of the Magistrate, that he acted *bona fide*, be liable upon summary conviction to a fine not exceeding one thousand dollars.

H.E. THE GOVERNOR suggested that it would be difficult to apply the amendment to the case of a man who wanted sleeping space for a week and who would not know anything about the standard rent.

HON. MR. POLLOCK — It might be difficult with regard to a bed space but there are other parts of the house in regard to which it would not be difficult.

H.E. THE GOVERNOR — But if it does apply to the small space it is difficult to get it to work, and it may give opportunities for blackmail.

THE COLONIAL SECRETARY—Does not Section 17 cover it? Surely that Section is sufficient?

THE ATTORNEY-GENERAL thought the amendment could not do much harm.

HON. MR. POLLOCK—The amendment is taken from a precedent — the Straits Ordinance.

H.E. THE GOVERNOR — Do you know whether their conditions are similar? I have not the slightest objection to the amendment, but it seems to me its practicability is doubtful, and it does seem to offer opportunities for blackmail if certain people like to take advantage of it. Can you see any way of amending the clause which is less open to objection?

HON. MR. POLLOCK — There certainly should be such a clause.

H.E. THE GOVERNOR—We will leave the matter to the opinion of the Council, and I take

care on this occasion to express no opinion myself.

On the amendment being put to the vote His EXCELLENCY said—"I think the No's' have it."

HON. MR. POLLOCK asked for a division.

The voting was as follows:—

For.—Hon. Mr. A. O. Lang, Hon. Mr. Chau Siu Ki, Hon. Mr. A. G. Stephen, Hon. Mr. P. H. Holyoak, Hon. Mr. H. E. Pollock, Hon. Mr. R. H. Kotewall, the Director of Public Works, the Attorney-General, the Officer Commanding the Troops.

Against. — The Colonial Secretary, the Colonial Treasurer, the Director of Education, the Secretary for Chinese Affairs.

The amendment was therefore carried by nine votes to four.

On the motion of the ATTORNEY-GENERAL it was agreed to substitute for Clause 10 of the Bill the following:

Section 10 of the principal Ordinance is amended by the substitution of the figures 1924 for the figures 1923 in the second line thereof.

THE ATTORNEY GENERAL moved a new sub-section (b) in Section 6 as follows:—

(b.) The word "tenant" in the eighth line thereof is deleted and the word "lessee" is substituted therefor.

and the re-lettering of sub-sections (b), (c), and (d) to read (c), (d) and (e) respectively.

The motion was agreed to.

The Bill then passed through Committee without further amendment and the Council then resumed.

THE ATTORNEY-GENERAL moved and the COLONIAL SECRETARY seconded the third reading of the Bill. This was carried and the Bill passed accordingly.

The Council adjourned *sine die*.

FINANCE COMMITTEE

A meeting of the Finance Committee was afterwards held, the Colonial Secretary presiding.

The Kowloon Tong Cemetery Project

HON. MR. POLLOCK—I am sorry to ask for this to stand over a little longer

if possible. I have been in communication with Mr. Soares, and I am expecting a further communication.

THE CHAIRMAN—I may mention that this vote was agreed by the Finance Committee when you were away last year and tenders came in on June 5th. However, I have no objection to postponement, except that it is rather awkward for the tenders. This new cemetery is at Kowloon in a central ring of hills.

HON MR. LANG — Objection was taken to the design suggested.

Further discussion was postponed.

The Empire Exhibition

The Governor recommended the Council to vote a sum of \$250,000 on account of Miscellaneous Services, contribution towards expenses of Hongkong Section of British Empire Exhibition expected to be incurred in 1923.

THE CHAIRMAN—I read to you at the last meeting a letter from the Chamber of Commerce. You must realise that in voting this money you are binding yourselves to a total expenditure of \$650,000 — that is the maximum.

HON. MR. HOLYOAK — This does not represent the cost of the Exhibition Buildings?

THE CHAIRMAN—This is a preliminary vote. We do not know what money will be required, nor how soon.

The vote was approved.

Government Cables and Telephones

The Governor recommended the Council to vote a sum of \$16,200 in aid of the vote Public Works, Recurrent, Hongkong, Communications, (8) Maintenance of Telephone including all cables.

THE CHAIRMAN — This refers to the Cape D'Aguilar and Waglan cable which

had to be renewed very recently. Part of the sum is also for a new cable from Capsuimun to Lantao island in substitution for a defective cable.

Approved.

Government Nursery at Kowloon

The Governor recommended the Council to vote a sum \$4,000 in aid of the vote Botanical and Forestry Department, Other Charges, Forestry, New Territories.

THE CHAIRMAN — The Kowloon Tong scheme and its extension Northwards has necessitated the removal of the Government Nursery and this money is required for labour in laying out the new Nursery and getting a water supply from a distant stream.

Approved.

Railway Votes

The Governor recommended the Council to vote a sum of \$12,800 in aid of the vote Kowloon-Canton Railway, Special Expenditure, Bridge No. 7.

THE CHAIRMAN—This is for a bridge over the new main road from Sham Sui Po to Kowloon City. The contract estimate was \$61,000, but considerable excavations had to be made and there was a large unexpected amount of rock.

Approved.

Railway Work

The Governor recommended the Council to vote a sum of \$1,550 in aid of the vote Kowloon-Canton Railway, Special Expenditure, Locomotive, Carriage and Wagon Expenses: Additional Machines for Workshops.

THE CHAIRMAN — This is for wood planing and other machines. A large number of wagons and carriages are being built and this is urgently needed.

Approved.

Questions

(Extract from the Hongkong Government Gazette No. 27 of the 29th June, 1923.)

THE HON. MR. H. E. POLLOCK, K.C., has given notice of the following questions:—

1.—Does the Government propose to adopt the policy of refusing to pass plans for the reconstruction of houses which are not in a dangerous or dilapidated condition? If not, why not?

2.—Is it not the fact that the reconstruction of houses tends by increasing the demand for skilled labour and building materials to increase the cost of the erection of new buildings on ground not previously built upon?

3.—It is not the fact that, in the case of domestic tenements, which were originally built prior to the Public Health and Buildings Ordinance, 1903, the re-erection of such buildings, with an additional storey, would, in many cases, hardly give any additional accommodation, owing to the extra requirements as to open space, etc., contained in the said Ordinance?

4.—Is it not the fact that as the result of reconstructions now pending, over 30,000 or some other, and if so what number of tenants will have to look for fresh quarters to live in?

to which the following are the replies:—

1.—The Government's powers in connection with the passing of plans are

defined in the Public Health and Buildings Ordinance, 1903. It was decided at the last meeting of the Legislative Council not to alter the law in this respect.

2.—The Government has no evidence which would enable it to make a definite statement. It is *prima facie* probable that, when demand exceeds supply, the cost of supply will rise, but this tendency may be offset by the introduction of labour-saving devices resulting in cheaper construction, to the ultimate benefit of the community.

3.—The fact is as stated, but the Building Ordinance Office reports the extra requirements referred to result in vastly improved sanitary conditions, so that the community is materially benefitted by such rebuilding.

4.—The Government has no figures. The new accommodation which has been and is being provided is much in excess of the old accommodation which has been and is being demolished.

S. B. B. McELDERRY,
Clerk of Councils.

COUNCIL CHAMBER,
June, 1923.