

20th February, 1952.

PRESENT:

HIS EXCELLENCY THE GOVERNOR

SIR ALEXANDER WILLIAM GEORGE HERDER GRANTHAM,
G.C.M.G.

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

LIEUTENANT-GENERAL SIR TERENCE AIREY, K.C.M.G., C.B., C.B.E.

THE HONOURABLE THE COLONIAL SECRETARY

MR. ROBERT BROWN BLACK, O. B. E.

THE HONOURABLE THE ATTORNEY GENERAL

MR. G. E. STRICKLAND, Q. C. , *Acting*.

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR. RONALD RUSKIN TODD.

THE HONOURABLE THE FINANCIAL SECRETARY

MR. ARTHUR GRENFELL CLARKE.

THE HONOURABLE THEODORE LOUIS BOWRING, O. B. E.

(Director of Public Works).

THE HONOURABLE DOUGLAS JAMES SMYTH CROZIER.

(Director of Education).

DR. THE HONOURABLE YEO KOK CHEANG

(Director of Medical and Health Services).

THE HONOURABLE KENNETH MYER ARTHUR BARNETT

(Chairman, Urban Council).

THE HONOURABLE CHAU TSUN-NIN, C. B. E.

DR. THE HONOURABLE CHAU SIK-NIN, C. B. E.

THE HONOURABLE LEO D'ALMADA E CASTRO, Q. C.

THE HONOURABLE PHILIP STANLEY CASSIDY.

THE HONOURABLE MAURICE MURRAY WATSON.

THE HONOURABLE CHARLES EDWARD MICHAEL TERRY.

THE HONOURABLE LO MAN WAI, O. B. E.

THE HONOURABLE NGAN SHING-KWAN

MR. RONALD THOMPSON *(Deputy Clerk of Councils).*

MINUTES.

The Minutes of the meetings of the Council held on 6th and 8th February, 1952, were confirmed.

PAPERS.

THE COLONIAL SECRETARY, by Command of His Excellency the Governor, laid upon the table the following papers:—

<i>Subject.</i>	<i>G. N. No.</i>
Telegram from Secretary of State-for the Colonies dated 13. 2. 52.	
Sessional Papers, 1952 :—	
No. 4—Annual Report by the Director of Agriculture, and Forestry for the year 1950-51.	
No. 5—Annual Report by the Director of Audit for the year 1950-51.	
Proclamation No. 2 of 1952.	
Accession of Her Majesty Queen Elizabeth II	A. 15
The Landlord and Tenant Ordinance, Chapter 255.	
Notification under section 31(1)	A. 16
The Emergency Regulations Ordinance, Chapter 241.	
The Emergency (Immediate Resumption) (Amendment) Regulations, 1952.....	A. 17
The Royal Hong Kong Defence Ordinance, 1951.	
The Hong Kong Regiment (Amendment) Regulations, 1952	A. 18
The Interpretation Ordinance, Chapter I.	
Powers conferred to the Director of Marine under section 26	A. 19
The Essential Services Corps (General) Regulations, 1950.	
The Essential Services (Civil Air Services) Corps Regulations, 1952.	
The Essential Services (Civil Aid Services) Corps (Instruction Periods) Order, 1952	A. 20

MOTIONS.**CONSTRUCTION OF THE CITY HALL.**

THE DIRECTOR OF PUBLIC WORKS moved the following resolution:—

Resolved that this Council is of the opinion that the construction of the City Hall should be undertaken by the Public Works Department in association with Professor Gordon Brown.

H.E. THE GOVERNOR:—On this resolution Official Members may speak and vote as they wish.

THE DIRECTOR OF PUBLIC WORKS:— On the 19th December, 1951 My Honourable Friend, the former Colonial Secretary, in a written reply to a question by the HON. T. N. Chau, outlined the views of Government as to the best way of designing- and building the new City Hall. Since then Honourable Members had time to consider the matter, and doubtless have read the opinions of others which have been published in the local press.

Certain contradictory statements have been made and I feel, Sir, that it is necessary for me to begin with a brief recapitulation of some of the proposals which were considered by Government so that certain points may be clarified.

Very careful consideration has been given to the City Hall Committee's recommendation to hold a world-wide competition; consideration has also been given to the holding of a competition open to all members of the Royal Institute of British Architects resident in the United Kingdom, in the British Dominions, Colonies and Dependencies, and one limited to Architects practising in Hong Kong.

Government is not in favour of carrying out the work by any of these methods because in all cases the Rules of the Royal Institute of British Architects governing architectural competitions make it impossible to exercise the degree of control in the choice of design which Government considers its duty to retain in the interests of the people of Hong Kong.

There has been some controversy about this point and statements have appeared in the Press to the effect that Government will have all the control that is necessary.

These, Sir, are the facts. If a competition is held, Government, in conjunction with the Royal Institute, must appoint an assessor who would be, in all probability, a well known architect from the United Kingdom. The assessor would draw up the

conditions of the competition in consultation with Government, and although the promoters may appoint a representative to confer with the assessor, the assessor alone would decide which design shall be selected.

It is erroneous to suppose that Government would have the right to make the assessor insert any stipulation with regard to the style to be adopted for the building; and even if this were possible, it is difficult to see how anything specific could, in fact, be laid down in this case.

Honourable Members will appreciate that the assessor may select a design which, for one reason or another, rightly or wrongly, may appear to the citizens of Hong Kong to be quite unsuitable for their new City Hall. It might be an extremely fine design in a type of architecture which they would not like to have.

There has been some suggestion in the correspondence in the Press that this is not so, and that the criticism levelled at the design of the new Cathedral by the citizens of Coventry could not be repeated here. With this view, Sir, I cannot agree, as there has been no change in the Regulations Governing Architectural competitions since the Coventry competition was judged only a few months ago.

It would, of course, be open to Government to ask for modifications in the winning design, but how can one modify a building which is considered unsuitable in style without virtually scrapping the whole design and asking the architect to start again?

Modification of the basic conception of a scheme is not practicable nor is it envisaged in section 2(f) of the Competition Rules which states:—

“The duties of an assessor are as follows:—

2(f) to inform the promoters, if necessary, that modifications may be made in the winning design if so desired by the promoters.”

It is very necessary to have such a rule as, although the winning design may be clearly the best, it may contain some faults everyone concerned will wish to rectify, and the clause allows for just this.

Honourable Members may wonder why Government must abide by the regulations of the Royal Institute of British

Architects. The reason is that all members of the Royal Institute, and that means the vast majority of architects in the Commonwealth, are debarred by their Code of Professional Practice, from entering any competition which is not held in accordance with the Rules of their Institute.

The competition system, Sir, is beset with difficulties, since no matter what precautions are taken, competitions can and do go wrong; the architectural profession and the Royal Institute are well aware of the fact.

An important point to remember is that the outcome of any competition must depend largely on the experience and ability of the assessor and to a considerable extent on his own personal taste.

If the best local architects were appointed assessors, they would be debarred from submitting designs, and also, if this were done, I fear that the competition would not attract architects from outside the Colony.

Government feels that the uncertainty as to the type of architecture that the assessor might select, and the uncertainty as to the experience and practical ability of the winning architect make it advisable to avoid adopting the competition system.

As an alternative, Government has considered the possibility of giving the work to a private firm of architects in Hong Kong, but the difficulty of deciding which firm shall be selected for the task appears to be insurmountable. It has been suggested that the work might be carried out by a group of local architects, but the same difficulty applies; who should be included in the group and who should be omitted?

I now come to the method which Government recommends. That is, to entrust the work to the Public Works Department in association with Professor Gordon Brown. There are certain advantages in carrying out the work by this method which appear to Government to be considerable and, equally important, the disadvantages inherent in the other methods are removed.

The Architectural Office of the Public Works Department, which is under the control of a most capable Chief Architect, has an excellent staff of architects, both European and Chinese, structural engineers and quantity surveyors with a wide range of experience of work in Hong Kong, and from inquiries which I have made, I anticipate no difficulty in supplementing the architectural staff so as to be able to undertake this work.

I do feel, however, that in view of the heavy commitments of my senior architects, one really first-class designer is required, and Government cannot do better than to appoint Professor Gordon Brown to work in association with the Public Works Department. Professor Gordon Brown has not only qualifications of a very high order, but has very special experience in this particular field. He has spent considerable time in the last few years studying at those places where the great examples of modern City Halls and Auditoria are to be found, and in this way has acquired an intimate knowledge of the detailed working of such buildings.

I have agreed, Sir, with Professor Gordon Brown that should this proposal be approved by Government, his duties would be to prepare sketch plans, supervise the preparation of working drawings and detailing and to give as much supervision in carrying out of the work as he might think necessary, in order to ensure that the intention of his design is carried out in practice.

By this method none of the architects concerned will gain financially as the fee for Professor Gordon Brown's work would be payable to the University.

Figures have been submitted to show that if the work is carried out in this way, there will be a considerable saving in expenditure. These figures have been queried in the Press as it has been said that they do not, in fact, show the detailed cost of the overhead charges. I would point out, Sir, that if there have been some omissions here, it was only because the amount involved is so small as to be inconsiderable.

The Public Works Department has an organization based on an establishment and this continues whether the City Hall is built by my Department or not. Where extra staff is required, their salaries have been shown in the estimate and I can assure Honourable Members that the figures which have been put forward are absolutely realistic, and the financial statements in regard to the alternative methods are based on figures obtained from the scales laid down by the various institutions concerned.

There seems to be a feeling that if the course now proposed is adopted, Government will be depriving Hong Kong architects of a great opportunity. I do not think that this argument can really be maintained. The Public Works Department has a Chief Architect who has spent most of his life here, and the department is staffed at all levels by architects and assistants representing several nationalities found in Hong Kong.

Personally, I feel that, as this is essentially a public building, it would be most unfair to the Public Works Department if our claims to undertake the work were set aside. After all, it is one of the duties and one of the functions, of a Public Works Department to design and construct public buildings. However, in this connexion, I must point out that the object Government has in mind is to find the method which will most certainly produce a really fine City Hall, and all considerations are subsidiary to this.

It must be borne in mind that if the work is carried out by the Public Works Department in association with Professor Gordon Brown, all sections of public opinion will be able to play their part, not only in framing the schedules of accommodation, but also in criticising the scheme as it develops, which I think Honourable Members and the public will appreciate. I have no doubt at all that a design prepared in this way will produce a fine building such as we all wish to see.

To sum up, Sir, the information given by my Honourable Friend on 19th December was correct, the alternatives are as set out then, and I have now explained the reasons that compel me as Government's technical adviser to recommend the solution embodied in the resolution now before Council. Sir, I beg to move. (Applause.)

THE CHAIRMAN, URBAN COUNCIL:— In rising to second the Motion I feel I must explain the temerity which leads me, as a very junior member of this Honourable Council, to speak before Honourable Members of many years' standing. Firstly, Sir, if I may mention as an analogy the practice of Courts Martial whereby the most junior member of the Court gives his judgement first; for if his seniors were to speak first he may be overawed and hesitate to deliver a contrary opinion. None of my Honourable Friends will be overawed by me— though I hope they will be persuaded.

Secondly, and this is the principal reason, the Urban Council, over which I have the honour to preside, and the Municipal Council which is one day to succeed it, will look upon this City Hall as its spiritual home. It will, I trust, contain a council chamber more worthy of a conclave of city fathers than the noisy back room where the Urban Council meets at present. There will come a day, I hope, when in that worthy chamber debates on matters such as this will be heard.

It is our earnest wish, Sir, that the new City Hall shall be a building which is more than just architecturally sound. It must dignify and embellish its magnificent setting of harbour and hills.

It must embody the spirit of Hong Kong, the determination, the enterprise, and above all the unorthodoxy which have planted here a great city where Nature said there should be none. We do not want a building in the Tuscan, Doric, Ionic, Corinthian, Byzantine, Norman, Early English, Perpendicular, Gothic, Baroque, Romantic, Neo-Gothic or even Neo-Georgian Order. We want a building that will start a new Order of Architecture—Hong Kong's own New Elizabethan Order. In short, Sir, it must be the building of Hong Kong's twin cities, to be spoken of as the great buildings of the past were, and some of them still are, spoken of—the Parthenon at Athens, the Pharos at Alexandria, King Solomon's Temple at Jerusalem, the Temple of Heaven at Peking, the Hanging Gardens of Babylon, the Pyramids. All these, Sir, so far as I can trace, were designed by Government architects. (Laughter.)

I confess, Sir, that when I first thought about this matter my choice was for a public competition. But if the City Hall is to be what we are all agreed it must be, neither the work of designing it, nor the selection of a winning design, can safely be entrusted to anybody who has not lived long in Hong Kong, absorbed our own special ways, tastes and prejudices, and experienced our extraordinary weather. He must know—as he could not learn from any scale models, or discover in a few weeks' or months' stay—he must know exactly how this City Hall will look from the harbour, from Kowloon, from the Peak, from the steps of the Hong Kong Bank, or looking along the Praya; by day, and by night, in all four seasons, in sunshine, fog, rain and typhoon. In fact he must be a Hong Kong man.

But then I looked at those R.I.B.A. rules. My Honourable Friend has explained that the competition must be held under these rules, or else no architect who is a member of the R.I.B.A. could enter for it. He has given in detail the reasons why in a competition held under these rules we are unlikely to have a Hong Kong man as assessor, nor a winning design from a Hong Kong architect; and that means to me, Sir, that the dice are loaded against our getting a truly Hong Kong design. And the fees! One might almost think, Sir, that the rules were designed with no other end in view than to “sock” the client. We have not unlimited money. We want a really fine building. Can we afford, Sir, to pour away the vast sums mentioned by the former Colonial Secretary last December, to buy a set of plans which are more than likely to be unsuitable and which, if they are unsuitable, we must either accept or start again—two years later and \$161,362 in the red?

Honourable Members may have feared that to entrust the work to my Honourable Friend's department may result in a competent mediocrity such as characterized many Government buildings here before World War 1. They may fear another Mountain Lodge, another General Post Office. But at the time when these were built, ornate mediocrity was the rule. Recent experience has shown that my Honourable Friend's department, even when hamstrung by my Honourable Friend the Financial Secretary can and does produce fine buildings. He has in short an A.I. team and in particular he has a Chief Architect who besides being a gifted architect can be called a real Hong Kong man, who has experienced Hong Kong in all its many moods. Add to this team Professor Gordon Brown, whose particular qualifications my Honourable Friend has mentioned, and we have a combination which can be relied on to give us a fine City Hall, our City Hall, the Hall our twin cities deserve.

Sir, I beg to second. (Applause.)

HON. CHAU TSUN-NIN, C.B.E.:— Sir, after studying the Honourable Colonial Secretary's statement made in reply to my question and after hearing what has been said here today, I am convinced that the construction of our new City Hall should be undertaken by the Public Works Department in association with Professor Gordon Brown. This method appears to be most economical and speedy. I shall therefore support the Motion.

DR. HON. CHAU SIK-NIN, C.B.E.:— The method of entrusting the work to the Public Works Department in association with Professor Gordon Brown has one very important consideration to commend itself to the general public in that it would afford the best possible opportunity to the people to voice their opinions and criticisms on the sketch plans and other aspects of the scheme at its different stages of development. On the question of whether the design and building of our City Hall will be in highly competent hands I feel confident that the experience and talent to be found in such a worthy combination as that of Professor Gordon Brown and the staff of the Public Works Department would be fully adequate for this important work. For some time past Professor Gordon Brown has made a close study of this particular subject and Government will be well advised to take advantage of the special knowledge he has acquired.

In my view the Government's aim in the project should be the erection of a fine building approved by the citizens of this Colony and of which they would be genuinely proud to call their

City Hall. I think we should be content to strive to realize this aim instead of trying to seek other designs by going further afield or resorting to a wide open competition with its attendant difficulties, disadvantages and uncertainties. As my Honourable Friend the Director of Public Works has just explained, Government will not have sufficient control over the choice of the design in the case of a competition whether world-wide, local or open to members of the Royal Institute of British Architects in the British Commonwealth. I regret I cannot see my way to favour the adoption of any method of planning and controlling the construction of our City Hall that would place the final selection of the design with an assessor who would be a stranger to the conditions of our Colony with no local experience. It is true that the winning design selected by the assessor might be rejected by Government but that would mean having to begin all over again and a consequent delay of about two years.

Turning to the suggestion that the leading architects in the Colony be appointed assessors in a world-wide competition, I cannot help agreeing with the view that the adoption of this course would not attract a wide field of entries, and feel that the very object of a wide open competition would thereby be defeated. Another disadvantage pointed out was that those architects serving as assessors would not be permitted to enter into the competition. The holding of a local competition with the Fine Arts Committee as assessors has also been suggested. This competition will have to be held under the regulations of the Royal Institute of British Architects to enable members of the Institute to enter. The Fine Arts Committee composed of some of the best local architects and since as assessors they also would be precluded from submitting designs, the scope of such a competition would be very narrow indeed.

Sir, I therefore beg to support my Honourable Friend the Director of Public Works in his recommendations that resolution now before Council be adopted. I will, however, ask Government to give the people an assurance that it would keep them fully informed of the progress of the scheme so that their criticisms and suggestions might be considered before any important part of the scheme is put in hand.

HON. P. S. CASSIDY:— Sir, this is the first occasion within my recollection that a Debate has been initiated by the Director of Public Works and I should like to congratulate my Honourable Friend on the successful way in which he has presented his case. So far as I am concerned he has made out his case, but it is

within my knowledge—a knowledge which, I may say, has been derived from discussions with various architects—that some of the more senior and experienced architects in the Colony are sharply opposed to his views. On the other hand there are some who take very much the same line as he does and I think after hearing his speech there can be few left who are not convinced that the course recommended is the best one. It seems to me rather unfortunate that there was one case where public opinion could have expressed itself and where its opinion would have been so welcome. I had hoped that the City Hall Committee whose set up with its rather grandiose composition of representatives from fifty-four different organizations, I had hoped that we should hear a certain amount from it, and that Government would have guidance. Much as I love Hong Kong, of course, I realize how deplorable this apathy is and even when the City Hall Committee were summoned to a meeting at which to discuss the statement made by Government in December last, I understand there was a very small attendance and despite a very balanced statement from the Chairman all one got were two bleats, one (if you will forgive me) from a wolf in sheep's clothing. So here we are discussing this question without any sort of lead and we can only speak for ourselves.

If I may, Sir, I would just like to air what is in my mind. It seems to me that our object is to provide the Colony with a set of building which will be of service to the Colony and which will attain a high architectural standard. If it is agreed that one of the four methods suggested by Government should be chosen (and personally I cannot think of a fifth method) then the cost of one method compared with another is of minor consideration when the job is one of £1 million. The main question is whether the design should be arrived at by open competition or through local agencies such as the Public Works Department, the Professor of Architecture or practising architects. I am opposed to the R.I.B.A. competition on the grounds that we may be saddled with a building which, as My Honourable Friend pointed out, would be unacceptable to local residents. Any design is bound to arouse controversy but there is a serious danger of the assessors of an open competition giving their award to a design which is revolutionary in its conception and which would, when translated into brick and stone be totally lacking in harmony with its environment. It is not a question of rejecting or rather declining to make use of the design of an architect of world-wide reputation in favour of the local architect with a more confined outlook. It is the risk of having to put up with a design which we would never get rid of I have no doubt that the assessors of the would never get rid of. I have no doubt that the assessors of the

competition for the Coventry Cathedral prize were convinced that Mr. Basil Spence's design eclipsed all others, but I have every sympathy with the many critics who regard it as an outrage to tradition.

We have a glaring example of that sort of thing in our midst. The Law Courts building was, I believe, designed by one of the recognized leaders of the profession in his day. I imagine that in pondering on his design he had what he felt was the happy thought of combining the classical style of most Courts of Justice of the time with the Chinese roof. Possibly he pictured in his mind's eye an environment of Chinese buildings. He did, of course, plan a flight of steps which would place the building on high. Government cut out that apparently unnecessary expense, so that for the past forty years we have had an abortion of a building which might have been partially redeemed by being elevated instead of being dumped as it is on the ground. But the point is that Sir Ashton Webb did not know Hong Kong nor did he realize that acoustics form a vital element in the construction of a Court of Law. Today, of course, we have two buildings with their fine proportions and clean outlines looking down upon a miserable dwarf. So I hope we have now successfully avoided running the risk of a second Law Courts. Getting back to our City Hall I would rather leave it to those who have lived long enough here to have adjusted their senses to local conditions rather than to depend upon one of a number of competitors with no knowledge of Hong Kong whatever.

So I reject the idea of an open competition and come to the next method, that of entrusting the work to the P.W.D. in association with Professor Gordon Brown. This appeals to me on the grounds that in Professor Gordon Brown the Colony has an architect of reputation who has been here sufficiently long to have acquired experience of local conditions. Moreover, I understand that he is a member of the Council of the R.I.B.A., a tribute to the regard of the profession as a whole. I have sufficient confidence in him to feel that his dynamic character will supply the driving force which Government departments sometimes require, although I hasten to add that the P.W.D. is not lacking in that respect. The new City Hall is essentially a Government responsibility and I feel that the Public Works Department is in a better position to undertake this big project than a privately controlled organization. I think we have been re-assured on this point by my Honourable Friend. It has been argued that the extra staff required if the P.W.D. is to handle the scheme will not attract

the best men in view of the short term basis of their appointments. I should have thought that a really well qualified man would jump at the chance of being associated with a big scheme overseas without committing himself to a career outside Great Britain. But possibly we shall have to offer special inducements in that respect.

I think it is better for Professor Gordon Brown to be an associate rather than to take full charge of the scheme and while I have great faith in private enterprise I feel that it would be extremely difficult to decide on a local firm of architects without causing a great deal of heart burn. As to the suggestion of entrusting it to different firms of local architects time is an additional consideration and I rather thought that it may be possible to make greater use of local talent. I am heartily in favour of the resolution and it will get my support.

HON. M. M. WATSON:—Sir, may I first join Mr. Cassidy in praise of my Honourable Friend's presentation of his case which I agree he put very forcibly. I cannot imagine it could be improved upon.

However, I have formed a contrary view before I came here and I still am of the same view. Although I appear to be in the overwhelming minority I hope that this Council will allow me to put my views forward because (one never knows) in years to come I might be able to say "I told you so!"

The paramount question, Your Excellency, is that we must get the best possible building. After careful study of the four methods which have been suggested, it does not appear to me, and as pointed out by my Honourable Friend, that any question of expense enters into the matter. A further consideration, however, in dealing with this essentially Colony building, and doubtless one which I think Government would agree—in fact I think in the answer to my Honourable Friend Mr. T. N. Chau's question they did agree—is that it is desirable that the efforts and enterprise of local professional architects should be brought into the matter if possible. This appears to me to be not only desirable from the point of view of the Government and the building which we hope to have, but it is also fair to the profession which practises in the Colony. We are not dealing with normal Government buildings which everybody is content—and with the present staff more than content—to leave to the Public Works. We are dealing now with a building which we hope will be outstanding, essentially Hong Kong, and paid with by Hong Kong money,

and for that reason I think it would be only fair if by any possible means that we can arrange for local architects to participate in the design and construction.

The question therefore appears to me to resolve itself as to whether there are any overwhelming factors in support of my Friend's proposal or as to whether there are such grave objections that we should not take into account local architects at all. As the matter has occasioned great public interest I took the trouble, if I may say so, of looking into the matter carefully, and I did come to the conclusion that there was no reason why local architects should not be brought into the matter. If this Council would bear with me I will explain my reasons.

Perhaps it would be better to deal with the negative first and therefore I propose to say just a few words on the objections I have to the present scheme. I do not for one moment suggest or doubt that Professor Gordon Brown is more than competent to design this building, but one of the objections that I have to the present scheme is the divided control that apparently is to be set up. From my professional experience I know that a professional man must carry the job through himself. I have junior lawyers in my office and they come to me and I always say to them you want my advice, but you must make the decision. For that reason I consider Professor Gordon Brown should either carry the job through from beginning to end or have nothing to do with it. As my Honourable Friend said, I agree that he is quite correct that there are architects in the Public Works Department who are competent and quite able to do this job themselves. But the point appears to me that any architect worth his salt could hardly take much interest in putting up the building of a fellow architect whilst he is already carrying on himself, more than over-worked, with the buildings he has on hand.

It therefore appears to me to be a fundamental objection to this project that you are going to have two people controlling it. I am informed by experienced architects in the Colony that in a building of this nature the architect must live with the building. He cannot just spend an hour or two a day, he cannot take other work; he has to live with the building until the building is certainly well advanced. There is no day or night that he leaves that building alone. There is a constant need for supervision, drawings and changing things from hour to hour. Another important matter which has been rightly emphasised is that experience is essential. Now I gather that in the present case

the experience is to be furnished by the Public Works Department, who are well able to do it, but is there any reason if some other architect who had a design which might be better than Professor Gordon Brown's, should not also take advantage of the experience of the Public Works Department ?

There is no objection whatsoever to a competition in this Colony. The limitation, of course, is that according to the present scheme a competition must be subject to R.I.B.A. rules, otherwise the members of that Association in Hong Kong would be unable to enter. But what is the objection to a competition itself. Obviously that is the most desirable; it is much better to have a competition instead of only one design. Furthermore if there is a competition there is no objection, there is no reason whatsoever, that Professor Gordon Brown should not enter and produce the best design. We can be where we are now. It does not however prevent somebody else from producing a better design and it necessary working with the Public Works Department. I think it would probably be an advantage for a private firm in as much as getting supplies from overseas Government would be in a much better position to do so than a private firm of architects and that might be actually the ideal solution.

The objections to the R.I.B.A. competition are, of course, as we have been told, we may be saddled with some abortion that nobody wants. I do not think in fact that things work out quite so badly as that. As a matter of fact I am informed that the regulations have been altered and now the author of the design is bound, under the new regulations which I have here, made in November last, is bound to alter the design as may be required by the promoters, otherwise he is finished. There is no question now of him saying—"Well, I am not going to alter my design. It has been chosen and you must pay me my fee." He is now bound to make all reasonable modifications required by the promoters.

To come to the next point, what kind of a building you will have, the promoters can lay down exactly what they want and there is no trouble in formulating the requirements of the promoters in such a way that you would not get one of my Friend's abortions. In the case of the Coventry Cathedral, I am informed that the promoters said that they wanted a design which was a new approach to a Cathedral. Well, they got it. That is the whole point. (Laughter).

It only emphasises the point that the promoters can get what they want. I also asked the President of the local R. I. B. A. to make some inquiries from London and in a letter from the Royal Institute of British Architects, the Secretary states the Coventry Cathedral case was exceptional. The Secretary is, of course, rather guarded on this point. So I do not think the Coventry Cathedral competition is really in any way relevant to the City Hall. In the first place the promoters were not at all agreed upon the sort of building they wanted and the assessors had to try to give effect to what was undoubtedly the promoters selection.

I think we can leave Coventry Cathedral out of it as being any criterion as to what we might get here. The object in having a competition with assessors is, first of all, that the promoters would set down what was wanted, the assessors would be appointed either by the R.I.B.A. or in conjunction with them and they would very probably—and we can ask them to anyway—appoint an assessor who was conversant with the building of city halls in England and elsewhere. I imagine, now, that the work of building of a city hall is one in which you must have some practical experience. The modern complex building, with its elaborate engineering, electrical, heating and ventilating requirements and design must be a tremendous business and I feel that somebody who has actually built one himself is the person we should have to shroff up the plans and the design and so far as I know neither Professor Gordon Brown nor the Public Works Department are in a position to do that.

I think, Your Excellency, that if a Commonwealth scheme, or rather if the scheme were sent all round the Commonwealth, there would be very few who would be interested so much as to come to Hong Kong if they were successful to build a building here. I have no doubt that there are a number of architects in this Colony, including Chinese who are not members of the R.I.B.A. who are absolutely brilliant and therefore in my submission, Your Excellency, I see no objection to doing what I think we are all agreed is the fairest thing, and that is for all the architects in this Colony to have an opportunity of producing a design for this great and memorial building. (Applause).

HON. C. E. M. TERRY:—Sir, disregarding the question of type, kind, or scope of any competition, to my mind there is one over-riding objection to any competition—and that is the time factor. As has already been said the first step in any competition is for the promoters—in this case the Government—to agree and publish their requirements. That in itself is going to take time,

particularly in a project such as this where everybody's views have to be consulted as to what those requirements are. Taking into account all the other complications of the competition I am advised that it may well be two to three years before the final award is made, and the detailed design commenced. It may be argued that after we have waited so long for a City Hall another two or three years does not matter. But in my opinion that delay can only be justified if as a result we achieve a design and a building of such excellence that it could not have been achieved otherwise, and I do not think that, in fact, would be the result. Although we in Hong Kong, somewhat naturally, regard our City Hall as a matter of considerable importance and a major project, I do not think that it is either financially or technically of a stature to attract entries from the leading architects in the world, and the result we would get from a World-wide competition would be no better than we should get from our own extremely good local talent. This throws us back on the other alternative—a local competition—and I can see nothing that can be gained from a local competition to offset the delay which is inherent in any competition. I therefore agree with the view that the first alternative as set out in the reply of the Hon. Colonial Secretary in this Council is not the best answer.

For the reasons given in that reply, I also agree that the second alternative which is mentioned does not commend itself either. And so I support, to some extent, the proposal now before us, but I feel that there are some weaknesses in it and I think they can be remedied by what amounts to a combination of alternatives 3 and 4 in the HON. Colonial Secretary's original reply.

The desire of the Director of Public Works that Government, that is to say his Department, should be primarily responsible for this important Civic project is both understandable and laudable, and I thoroughly agree but it has already been admitted that his Department cannot successfully cope with the project without engaging extra staff. Reference has been made to the difficulty of recruiting such staff, and in this connexion I would quote an extract from the Times Review, published in London on December 26th of last year, and reprinted in the local press, which reads as follows:—

“The Ministry of Labour admits this problem is due principally to a shortage of candidates who have the necessary experience and personal qualifications. It is clear the best

technicians are not coming forward for overseas jobs because they can get good wages in this country where, at the moment, there is a shortage of skilled workers and scientists.”

I am afraid the Director of Public Works is optimistic that temporary additional staff of the standard required will in fact be found; even if it is possible, recruitment of this additional staff would mean further delay which I think can quite easily be obviated.

I am very strongly in favour of the principle that this new Community Centre should in fact be the result of a community effort, and that not only the kudos, but the money involved, should accrue to the Colony. I therefore suggest that the method most likely to secure the quickest and most generally satisfactory results would be one where the overall direction of the project remains, as in my opinion it should rightly do, in the hands of the Director of Public Works. That he should, in the words used by the Honourable Colonial Secretary, “Retain the services of a leading expert who has the great advantage of local experience”, that is to say, Professor Gordon Brown. (In parenthesis, Sir, since a project of this sort is bound to be of some magnitude, it might well be desirable to consider the appointment of a Consulting Engineer). Finally, and this is where I expand on the present resolution, as the third side of the triangle, that a panel of our leading architects and engineers should be appointed and each of them entrusted with the detailed design of a part of the project; to one for instance could be apportioned the theatre, the other the assembly hall, and to another the civil engineering problems, and so on, all under the co-ordination and control of the Director of Public Works and his main consultants. I have not the requisite knowledge to make comparisons of cost, but I assume it would not exceed the figure of \$1,649,000 which was quoted for alternatives 2 and 4. I am not prepared to dispute the figure quoted for the third alternative now recommended. But I agree with my Friend Mr. Cassidy that cost should not be the main consideration in the project, the difference being in any case quite a small and insignificant percentage of the total.

I suggest that this extension of the proposed method has all the advantages claimed for the proposal now before us without its disadvantages; not only would local experience and knowledge be fully utilized, in fact more fully than under the limitations of the present proposal, but local talent and professional knowledge of high professional standard readily available and not at present fully extended would reap a benefit.

A further advantage of this method is that it ensures close collaboration between client, architect and engineer right from the early conception of the project. Experience has shown this to be extremely important both in saving of time and economy of construction. The only possible argument I can see against it is that referred to very briefly by the Director of Public Works, namely that as Government is in fact the client, partiality may exist in the selection of those who are to participate in the scheme. I assume that those who would be so selected would in fact be appointed as associated architects, and surely any client has the right to select such appointees. Our Building Ordinance Office through which I believe I am right in saying all plans in the Colony pass is surely experienced enough to select the necessary five, six or seven who regularly submit plans of the requisite standard.

Finally, Sir, I understand that the reclamation on which our City Hall is to be erected is scheduled to be completed in 1954; it seems to be common sense to plan for the erection of the building to start as soon as the site is ready, and I feel that the proposal I have outlined will produce the complete design and working drawings in the shortest possible time.

The resolution as before us, Sir, does not preclude the adoption of my suggestion and proposals. In fact it establishes a basis on which they may be established. I shall therefore vote in favour of it, but I do commend to this Council and to my Friend the Director of Public Works, the extension of his final directives on the lines I have indicated. (Applause).

HON. LEO D'ALMADA E CASTRO, Q.C.:— Sir, even before hearing the Hon. Mover of this motion in his presentation of his case, I had made up my mind, after an examination of the method proposed by Government and of the criticisms advanced in the Press and at the meeting called by the City Hall Committee, that this method was the best, all things considered. Having heard, therefore, what the Hon. Director of Public Works has had to say upon this subject, that certainty had been made, if possible, even more sure.

The next speaker after him, the Honourable the Chairman of the Urban Council, produced in his speech certain arguments which raised for the first time some small misgivings in my mind. It seems to me, Sir, that his idea is that the Public Works Department should have so free a hand in the design and construction of this building that having run through the whole gamut of architectural styles enumerated by him, they should produce something embodying the spirit of Hong Kong, something which,

if I have heard my Friend aright, should be unorthodox. I have visions, therefore, that if the Chairman of the Urban Council is co-opted into any kind of committee by the Director of Public Works for the purpose of this building, we should have a super-colossal Metro-Goldwyn-Mayer production in gorgeous technicolour, something which may be the result of translating the spirit of Hong Kong into bricks, mortar and concrete, something, the outcome of which would be a vast building, compared with which my Honourable Friend Mr. Cassidy's abortion, would pale into a petty criminal offence.

Let therefore my support of this motion be accompanied by two qualifications.

1. —A caveat that the Urban Council be not given too large a hand in this matter, and

2. —A reservation that the Hon. Director of Public Works should seriously consider the suggestion made by the speaker immediately before me, that is to say that if at all possible local architects should be co-opted for the purpose of this building from its very initial stages until its completion.

It would seem that the Director of Public Works envisaged that some suggestion such as this would be made in the course of this debate because he did say that difficulties might arise in the matter of choosing such architect or architects from the members of the profession in Hong Kong.

Inevitably in a small place like Hong Kong, however fairly you make your choice, however unbiased your decision, susceptibilities are going to be offended, and I suggest that in a scheme of this magnitude and of this importance to Hong Kong, any fear of offending A, B or C should not enter into the matter as a consideration for rejecting what, in my humble opinion as a layman, is a proposal which has very much to recommend it.

I urge that, Sir, not as a kind of sop to local architects (because goodness knows they do not need it) nor do I suggest it in any spirit of compromise. I say, having carefully considered the suggestion of the Honourable Member who spoke before me, and I have considered it for some days because he was good enough to discuss it with me shortly after he had developed it, that in my view it is something which must commend itself to every member of this House, and indeed to the public of Hong Kong. I think in fact that both the Honourable Mr. Cassidy and the Honourable Mr. Watson, in the course of their addresses, stressed the desirability that local architects should play some part in this very important building.

In view of the expressions of opinion that have fallen from Members of this House it is perhaps unnecessary as one supporting this Motion to deal with the arguments advanced by the sole opponent on one of the other alternatives, that is the argument advanced by Mr. Watson. One of them struck me as worthy of some comment. He foresaw the possibility of friction in the method adopted by Government because on the one hand you would have the Director of Public Works and on the other Professor Gordon Brown. He feared that all would not be exactly smooth working between them. He cited from his own practice with regard to difficulties, and the way difficulties of that kind, have arisen when the members of the same profession are dealing with the same thing. I can quite see that in a firm of solicitors where you have a senior and a junior, a certain course of conduct commends itself, and of course that conduct produces the requisite results. The same, of course, is not applicable in the case of the relationship which will exist between the two persons concerned if the method proposed by the Hon. Director of Public Works is adopted. But I would remind my Honourable Friend Mr. Watson of another relationship between professions not unlike each other, his own and my own, where quite often, working on the same side, differences of opinion occur but are resolved in a way satisfactory to both parties and, most important of all, to the client. It seems to me that this is an exact parallel with what might occur if the method is adopted and if there should be any difference of opinion between Mr. Bowring and Professor Gordon Brown.

Subject therefore to the caveat with which I dealt earlier on and with the strong recommendation in support of what my Honourable Friend Mr. Terry has said as regards the employment as much as possible of local architects, I shall vote in favour of this motion.

HON. LO MAN-WAI, O.B.E.:—Your Excellency, that the design for the City Hall should be chosen through the medium of a public competition appears at first sight to be an attractive proposition, but for the reasons, the cogent reasons given by the Honourable the Director of Public Works and so eloquently and poetically expressed by the Chairman of the Urban Council, I feel that it should be rejected and that the construction of the City Hall should be undertaken by the Public Works Department in association with Professor Gordon Brown.

I have found it difficult to assess the feelings of the public on this matter. For instance, I confess I could not find much guidance from the meeting of the City Hall Committee held on the 10th January, 1952. At that meeting, proposals that the design for the new City Hall be by competition and that the competition be open to all architects in all parts of the world and be held in accordance with the Royal Institute of British Architects and in consultation with the Royal Institute were unanimously adopted. But I notice in the report published by the South China Morning Post that the Chairman spoke in favour of the present proposal, while two speakers, who were obviously interested parties, spoke in favour of a world wide competition and two other speakers stressed the desirabilities of a local competition.

I feel that for the people of Hong Kong, the internal arrangement and accommodation of the City Hall are as important as the external appearance of the Building, and I am confident that with the able assistance of Professor Gordon Brown, the Public Works Department will produce with speed, efficiency and economy an edifice which will be a source of pride and satisfaction to the whole Colony.

HON. NGAN SHING-KWAN:—Your Excellency, Honourable Members of this Council have been arguing in regard to the design of the City Hall. It appears to me that the people of this Colony are very anxious particularly on the design of that particular building. Of course I agree that it is of paramount importance but I feel that the HON. Director of Public Works had presented a very good case in this connexion and I think the architects of the Public Works Department are well able to handle this project. I wish to emphasize that local talent of the Public Works Department must be utilized.

I also wish to add one thing because it is very important that consideration should be given to the various suggestions which have been made or which will be made by the general public of this Colony. On account of that I fully support the motion made by the HON. Director of Public Works that the construction of the City Hall be undertaken by the Public Works Department in association with Professor Gordon Brown.

DIRECTOR OF PUBLIC WORKS: —Sir, I can assure Honourable Members that Government will have no difficulty whatsoever in recruiting additional staff for the City Hall. As a result of inquiries which have been made already several well qualified architects have expressed their willingness to work on this project. The local knowledge would, of course, be supplied by the Chief

Architect, Professor Gordon Brown and my structural engineer, and the whole project would be under my direction.

The proposal that the work be carried out by a team comprising of Professor Gordon Brown as Consulting Architect, someone else as Consulting Engineer and several local architectural firms each undertaking the detailed design of a part of the work is, in my opinion, not a practical proposition; and even if I were able satisfactorily to co-ordinate and control such an organization, I greatly fear that the result would be a building which would lack cohesion and unity.

One of the main attractions of the method proposed by Government is that easy co-ordination and collaboration would be possible as all the Architects, Structural Engineers and Quantity Surveyors work under the same roof and under the control of the Chief Architect. I think the Honourable Member who referred to the advantage of close collaboration, which I agree is most essential, has drawn attention to a very big point in support of the resolution.

I can give Honourable Members the assurance that the resolution before Council would give the public of Hong Kong every opportunity for criticism and making suggestions as I see no reason why the sketch plans should not be considered in Committee and then made public through the medium of the local press.

With regard to the appointment of Professor Gordon Brown, he is not going to be employed as a consulting architect but to work in association with the Chief Architect and the Architectural staff of the Public Works Department. The Architectural staff would therefore be concerned with the project from its inception and would be working with an associate architect in all phases of the design.

A vote was then taken.

H.E. THE GOVERNOR:—Sixteen in favour and just one against. The Motion is carried.

**RESOLUTION REGARDING ABANDONMENT OF CLAIMS
AND WRITE-OFF OF LOSSES AND DEFICIENCIES
FOR THE FINANCIAL YEAR 1951-52.**

THE FINANCIAL SECRETARY moved the following resolution:—

Resolved that the abandonment of claims and write-offs of losses and deficiencies as specified and explained in Schedule No. 3 of 1951-52, be approved.

He said, Your Excellency, the Schedule now before Council is, as usual, in four parts. The items set out in parts A and C have already received the approval of Finance Committee, but those included under Parts B and D, which are less than \$200 each have been approved by me under the authority delegated by Finance Committee. It is now necessary for this Council formally to approve the action taken.

THE COLONIAL SECRETARY seconded, and the Motion was carried.

ORDER UNDER CRIMINAL PROCEDURE ORDINANCE,

CHAPTER 221.

THE ATTORNEY GENERAL moved the following resolution:—

Resolved that the order made by the Chief Justice on the nth day of February, 1952 under subsection (2) of section 9 of the Criminal Procedure Ordinance, Chapter 221, be approved.

He said: Sir, it has been the practice for a considerable time to assign solicitor and counsel for the defence in capital cases and to pay the fees of the same out of public funds. Curiously enough, although the power to assign is provided for by legislation and although the Chief Justice has by section 9 of the Criminal Procedure Ordinance, power to prescribe fees, no fees have so far been prescribed. The Order to which this resolution relates prescribes fees for Council which are less remunerative in respect of the first case assigned than in the case of subsequent ones. The fees have been agreed by the Junior Bar and represent a compromise between the conception of discharging a public service at a low cost and the payment of adequate remuneration for services rendered. They are nevertheless higher than the fees which have been paid in the past. The Chief Justice and Government consider that they are reasonable.

THE COLONIAL SECRETARY seconded, and the Motion was carried.

INDUSTRIAL AND REFORMATORY SCHOOLS

(AMENDMENT) BILL, 1952.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Industrial and Reformatory Schools Ordinance, Chapter 225". He said, Sir, the Bill is a short amending bill and I have nothing to add to the Objects and Reasons.

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

Objects and Reasons.

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

1. The Industrial and Reformatory Schools Ordinance, Cap. 225 (the principal Ordinance) empowers a court to send a youthful offender (under 16 years of age) convicted of an offence punishable with imprisonment to a reformatory school instead of to prison. At the reformatory the offender receives a course of training designed to turn him into a reputable citizen. The training includes teaching a sense of responsibility and it is considered that this end may well be furthered by affording the manager of a reformatory school power to permit selected boys to proceed on short leave, in that such boys will be on their honour to behave themselves while absent.

2. This Bill therefore by amendment of the principal Ordinance seeks to empower the manager of a reformatory school accordingly, but prescribes a safeguard in that if a boy fails without due cause to return at the expiration of his leave he is treated as having escaped and may be arrested without warrant and taken back to the reformatory. He also is liable to punishment.

3. Part of the training given to boys detained in a reformatory is training as boy scouts. This at times necessitates their being in a camp under the charge of scoutmasters who are not officers of the reformatory. To remove any doubts as to the legality of the youthful offender's custody whilst so engaged this Bill specifically provides that he shall be deemed to be in legal custody.

TRADE MARKS REGISTER (RECONSTRUCTION)

AMENDMENT BILL, 1952.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled “An Ordinance to amend the Trade Marks Register (Reconstruction) Ordinance, Chapter 262.” He said, Sir, I have nothing to add to the Objects and Reasons.

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

Objects and Reasons.

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

Section 3(1) of the Trade Marks Register (Reconstruction) Ordinance, (Chapter 262), provides that any person claiming to have been the registered proprietor of a trade mark registered in the old register of trade marks kept by the Registrar prior to the 25th day of December, 1941, or to have become entitled thereto by assignment, transmission or other operation of law may, within two years from the commencement of the said Ordinance, *i. e.* 9th February, 1948, apply in writing to the Registrar for the registration of such trade mark and for the appropriate entries to be made to show that he is the registered proprietor thereof. Section 7 of the same said Ordinance further provides that a trade mark which was registered in the old register and was not within two years of the commencement of the said Ordinance also registered in the new register would not be deemed to be a registered trade mark.

2. The said period of two years expired on 8th February, 1950. Representations have since been received from various sources on the question of the extension of the two year period to enable the renewal of many trade marks otherwise well known in Hong Kong, the overseas owners of which, through no fault of their own, have had no information as to either the loss of the old register or the provisions of the Trade Marks Register (Reconstruction) Ordinance, (Chapter 262).

3. It has been pointed out that if the two year period were not extended, a grave injustice would be done to many proprietors of pre-war trade marks who would be compelled to apply for registration *de novo* and thus lose the privileges and protection which they should enjoy under sections 41 and 42 of the Trade Marks Ordinance, (Chapter 43).

4. Clause 2 of this Bill now extends the said period within which re-registration must be made from two years to seven so that proprietors of pre-war trade marks who hitherto have not had their trade marks re-registered in the new register, will now have until 8th February, 1955, to do so.

TENANCY (PROLONGED DURATION) BILL, 1952.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled “An Ordinance to remedy certain abuses resulting from the exclusion of new buildings and certain reconstructed buildings from the operation of the Landlord and Tenant Ordinance, Chapter 255.”

He said, Sir, Members will recollect that when it was publicly urged that a committee should be appointed to examine certain aspects of the Landlord and Tenant situation connected with the Landlord and Tenant Ordinance and in particular de-control and rent increases, Government was at the same time urged to proceed with a Bill similar to the Bill the first reading of which I am now moving.

At the following meeting of Legislative Council I announced Government's intention of acting in accordance with public opinion in both respects, but mentioned that further consideration required to be given to the precise form the Bill should take. In giving this further consideration I have been greatly assisted by the Law Society, the Committee of which, while doubtful of the wisdom of giving retrospective effect to the Bill, has made constructive suggestions as to the scope and form of the Bill and particularly as to its effect on past and pending judicial proceedings.

There are still one or two matters, which I propose to mention later, as to which views may differ and I hope that on the Second reading Honourable Members will give Government the benefit of their views on these matters and generally on the Bill. The Bill, as the Objects and Reasons explain, prohibits a landlord from giving notice to quit to a tenant who has paid key or construction money to obtain the tenancy, and who has observed the covenants which, by law, are deemed to form part of the tenancy agreement. Now, the Bill does not provide a definite term for which this situation is to continue, and it may be thought that this is a defect and that some machinery ought to be provided whereby it should be possible for a landlord, upon showing what construction money was in fact provided, and having regard also to the rent, to obtain an order putting an end to the control or possibly an order of exemption on the ground that the period of time during which the tenant has been in possession is ample compensation for the construction money in fact paid. This would, I think, be preferable to prescribing a definite term for all tenancies as the circumstances of each case may differ.

If some simple machinery to achieve this could be devised, I am inclined to think it would improve the Bill and I would welcome suggestions in this field. It may also be thought that as a covenant for quiet enjoyment is in any case implied, clause 3 could as a matter of form be improved by providing in simple

terms that notice to quit shall not be given to a tenant who has observed any expressed or implied covenant. That is a matter that can be considered in committee stage.

The aspect of the Bill which in my view requires the greatest consideration is its retrospective effect. This is governed by clause 5 of the Bill. Members will recollect that when the Bill was first published it was, by its terms, to apply to all tenancies of new or substantially reconstructed premises which were still subsisting on 22nd December, 1950 and it might be argued that this was fair warning to the public and that therefore the Bill should be made retrospective in all respects to that date. It must, however, be remembered that courts of law must interpret the law as it stands and that there have been numerous cases in which tenants of the class of premises to which the Bill applies have either voluntarily or as the result of legal process left such premises in the interim. The compromise solution has therefore been adopted so far as concerns legal proceedings of selecting the date upon which Government announced its firm intention of proceeding with the Bill, namely, 19th December, 1951.

I invite attention to subclauses 3, 4, 5 and 6 of clause 5.

In cases where the tenant has not quitted the premises and cannot now be compelled to quit as the result of legal proceedings, the Bill will, with an important exception, be retrospective to 22nd December, 1950. The exception is where third parties have acquired rights by virtue of transactions entered into before 22nd December, 1950. Attention is invited in this connexion to Clause 5(1)(c). It should, however, be noted that protection is given to the original tenant only, (see subclause (2) of clause 3) and that even he might forfeit his right to protection if for example he creates a nuisance on the premises or uses it for immoral purposes. Though I have cited these two examples, the circumstances in which he may by his conduct forfeit protection have not, however, been specified. As they may be very varied it has been thought wiser merely to clothe the Governor in Council with a power of exemption. Subclause (3) of clause 3.

Now, Sir, I would mention that if Council is satisfied that there is justification for providing that the Bill, including such of those provisions as are retrospective, it is important that the Bill should become law at an early date so that persons may know their position and so that tenants be not further subjected to legal proceedings or threats of eviction and so as not to increase the hardship, if any, which might result from any retrospective

effect. That is the reason, Sir, why Government considers that it should proceed with the Bill rather than as it would otherwise have liked to have done, to refer this aspect of the matter to the Committee that has been appointed. I have personally received letters from members of the public, some of whom have already been evicted, urging Government to proceed with the Bill so that others, at all events, may be protected.

It may be asked, perhaps, why should Government interfere with freedom of contract. Persons have, by their own imprudence, placed themselves in a position where they are liable to eviction simply because they have not stipulated for a lease for a definite term. If they chose to act in this careless manner, on what grounds can Government intervene. This argument might have greater force if only a few had been careless. Unfortunately, Sir, it is a prevalent custom in Hong Kong, applicable to both business and domestic premises to take merely a monthly tenancy without any written evidence as to the agreement. If Government does not intervene a large section of the population would be subjected to threats of eviction and/or demands for increased rent. In my view we should intervene and as rapidly as we can. That is not to say that the Bill should not be carefully considered, nor indeed to suggest that criticism will not be welcomed from the Committee that has been appointed even after the Bill becomes law. It does mean, however, that in my view we should, after careful consideration of method, bridge the gap now, always remembering that the Bill itself contains in clause 4 provisions for decontrol so that, if this later appears wise or expedient, we should once more revert in whole or in part to freedom of contract.

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

Objects and Reasons.

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

1. On the 22nd of December, 1950, a Bill was published in the *Gazette* for public information under the short title the Tenancy (Prolonged Duration) Ordinance, 1950.
2. Briefly the object of the Bill was to prevent a landlord of new or substantially re-constructed premises from giving notice to quit to a tenant who had paid key or construction money to obtain the tenancy and who had observed the covenants implied by law.

3. The Bill contained a clause (clause 5) referring the operation of the Ordinance to tenancies subsisting at the date of the publication of the Bill.

4. Government did not however announce its intention of proceeding with the Bill until the 19th of December, 1951, and in the interim judgments for possession had in a large number of cases been obtained from the Supreme Court and a few actions were pending. At the time these judgments were given or the proceedings commenced the law had not been altered and until the 19th of December, 1951, there may have been some justification for thinking that Government had changed its mind. After that date however there can be no moral justification for commencing fresh proceedings in the Courts. Moreover all persons who acquired interests in new buildings after the 22nd of December, 1950, must have been aware in view of clause 5 of the original Bill of the risk that the law would be altered with retrospective effect but persons may have acquired interests under assignment or mortgage prior to the 22nd of December, 1950. There may also be cases where no key or construction money has been paid or where the tenant has already quitted premises to a tenancy of which the Bill might apply. Again there are cases where the agreement between the parties has been in writing or evidenced in writing and in which there may be no justification for interfering with freedom of contract.

5. In view of the above Government has given fresh consideration to the scope of the Bill. Clause 5 now regulates the sphere within which the Bill is to apply save that by sub-clause (2) of clause 3 it is clarified that only the original tenant will be protected and by sub-clause (3) of clause 3 the Governor in Council is empowered to exempt cases where the tenant has by his conduct forfeited his right to protection. This might *e. g.* occur where an opprobrious user of the premises was not prohibited by any implied term.

6. Under clause 5 the Ordinance will not apply—

- (a) to a tenancy for a definite term of more than one month if the tenancy was in writing or evidenced in writing; it being considered that in such cases the mind of the tenant was directed to the question of his eviction at the end of the specified period;

- (b) to cases where the Court is satisfied that no key or construction money or other similar premium has been paid, the onus of so proving being on the landlord and those claiming under him; it being considered that unless a premium has been paid eviction is no hardship;
- (c) to cases where the person entitled is not the original landlord and has become entitled by or under some event which occurred before the 22nd of December, 1950; it being considered that otherwise great hardship might be inflicted on persons buying or otherwise acquiring title in good faith without having received any part of the premium paid to the original landlord;
- (d) to cases where the tenant has already quitted the premises or a Court judgment has been obtained before the 19th December, 1951; it being considered that in such cases unless the exception is made, as much, if not more, inequity would result as would be the case if no exception is made.

7. Judgments obtained as a result of legal proceedings commenced after the 19th of December, 1951, may at the expense of the person against whom judgment was obtained be set aside; see sub-clause (5) of clause 5. Provision is also made for other legal proceedings pending after the commencement of the Ordinance introduced by the Bill, see sub-clause (4). Sub-clause (8) empowers the Chief Justice to make rules of procedure.

MENTAL HOSPITALS (AMENDMENT) BILL, 1952.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Mental Hospitals Ordinance, Chapter 136."

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

Council then went into Committee to consider the Bill clause by clause.

Council then resumed.

THE ATTORNEY GENERAL reported that the Mental Hospitals (Amendment) Bill, 1952 had passed through Committee without amendment and moved the Third reading.

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

ADJOURNMENT.

H.E. THE GOVERNOR:— That concludes the business, Gentlemen. When next we meet two weeks hence, it will be the opening of the Budget session. Council will adjourn to this day fortnight.
