OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 10th May 1972

The Council met at half-past Two o'clock

[MR PRESIDENT in the Chair]

PRESENT

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR CRAWFORD MURRAY MACLEHOSE, KCMG, MBE
THE HONOURABLE THE COLONIAL SECRETARY
SIR HUGH SELBY NORMAN-WALKER, KCMG, OBE, JP
THE HONOURABLE THE ATTORNEY GENERAL
MR DENYS TUDOR EMIL ROBERTS, CBE, QC, JP
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS
MR DONALD COLLIN CUMYN LUDDINGTON, JP
THE HONOURABLE THE FINANCIAL SECRETARY
MR CHARLES PHILIP HADDON-CAVE, JP
THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, CBE, JP
DIRECTOR OF URBAN SERVICES
THE HONOURABLE JAMES JEAVONS ROBSON, JP
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE JOHN CANNING, JP
DIRECTOR OF EDUCATION
DR THE HONOURABLE GERALD HUGH CHOA, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE DENIS CAMPBELL BRAY, JP
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE PAUL TSUI KA-CHEUNG, OBE, JP
COMMISSIONER OF LABOUR
THE HONOURABLE IAN MACDONALD LIGHTBODY, JP
COMMISSIONER FOR RESETTLEMENT
THE HONOURABLE SIR YUET-KEUNG KAN, CBE, JP
THE HONOURABLE WOO PAK-CHUEN, OBE, JP
THE HONOURABLE SZETO WAI, OBE, JP
THE HONOURABLE WILFRED WONG SIEN-BING, OBE, JP
THE HONOURABLE ELLEN LI SHU-PUI, OBE, JP
THE HONOURABLE WILSON WANG TZE-SAM, OBE, JP
THE HONOURABLE HERBERT JOHN CHARLES BROWNE, OBE, JP
DR THE HONOURABLE CHUNG SZE-YUEN, OBE, JP
THE HONOURABLE OSWALD VICTOR CHEUNG, OBE, QC, JP
THE HONOURABLE GERALD MORDAUNT BROOME SALMON, JP
THE HONOURABLE ANN TSE-KAI, OBE, JP

ABSENT

THE HONOURABLE JACK CATER, MBE, JP
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE LEE QUO-WEI, OBE, JP
THE HONOURABLE LO KWEE-SEONG, OBE, JP

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL
MR RODERICK JOHN FRAMPTON

Papers

The following papers were laid pursuant to Standing Order No 14(2): —

Subject	*LN No*
Subsidiary Legislation: —	
Public Health and Urban Services Ordinance.	
Cheung Chau Public Cemetery (Graves Removal) Order 1972	85
Hong Kong Letters Patent 1917 to 1970.	
Authorization by the Governor	86
The Colonial Fire Brigades Long Service Medal Hong Kong	88
The Money-Lenders Ordinance.	
Order of Exemption	89
Revised Edition of the Laws Ordinance 1965.	
Annual Revision 1971	90
Holidays Ordinance.	
Her Majesty the Queen's Birthday (1973 Celebration Day) Order 1972	91

Oral answers to questions

Juvenile crime

1. MR WILSON T. S. WANG asked: —

> Would the Attorney General take steps through prosecuting officers to invite the Courts, in cases where such action would be an effective measure for combating juvenile crime, to make orders under section 10 of the Juvenile Offenders Ordinance on the parent or guardian of a child or young person for the payment of a fine, damages or costs, or requiring the parent or guardian to give security for good behaviour?

THE ATTORNEY GENERAL (MR D. T. E. ROBERTS): —Yes, Sir. I agree that there are cases in which an order against a parent under section 10 of the Juvenile Offenders Ordinance might serve as a useful deterrent and I will accordingly ask prosecuting officers to suggest to the courts that they should consider making use of this section in appropriate circumstances.

Sterling guarantee

2. MR WILFRED S. B. WONG asked: —

Will the Financial Secretary make a statement on his recent discussions in London concerning our reserves and the UK sterling guarantee?

THE FINANCIAL SECRETARY (MR C. P. HADDON-CAVE): —Sir, the main purpose of my visit to London was to clarify certain aspects of the 10% diversification facility offered to us and to other members of the sterling area when the three year sterling guarantee agreements were extended for a further two years last September. Our agreement was signed in September 1968 for five years, but a reduction of 10% in the minimum proportion of total official external reserves which must be held in sterling was extended to us as well as to other members of the sterling area with five year agreements.

Our minimum sterling proportion is now 89% as opposed to the 99% originally applicable. I ascertained in London that we could take advantage of this right to diversify into other currencies or bonds denominated in non-sterling terms without restriction as to timing or the currencies and bonds to be selected. The question now to be decided is whether and, if so, how this facility should be shared between Government and the banks. I should perhaps add that about 46% of eligible sterling assets are attributable to the banks.

Now, the banks enjoy a 100% guarantee against a fall in the exchange value of sterling in terms of Hong Kong dollars by virtue of the special arrangements made with them by the Hong Kong Government in 1968, the burden of which falls on the Exchange Fund. For this reason at least, there is a case for the facility to be utilized solely in respect of Government owned sterling. The point, Sir, is that the Exchange Fund's commitment to the banks is *not* linked to the old sterling/US dollar parity of $2.40 and at $2.6057 the Exchange Fund is clearly at risk. Sterling would have to be devalued in terms of US dollars by about 11% before the sterling guarantee agreement between the UK and Hong Kong Governments could be invoked and this is unlikely. Yet any devaluation of sterling which was not followed by an adjustment of the sterling/Hong Kong dollar rate would mean that the Hong Kong dollar value of the banks sterling assets would have to be restored through the Exchange Fund. For Government owned assets to be diversified in effect by 20% or thereabouts would appear, therefore, to be equitable and in the public interest. But I propose to consult the banks at the earliest possible opportunity to ascertain their views before putting forward to you, Sir, any final recommendation.

As regards the sterling guarantee itself, this relates to the sterling/ US dollar parity in force in 1968, and it would thus be implemented at US$2.40, in other words on the terms on which it was originally negotiated. The agreement as it stands at present expires in September 1973, and my personal view is that moves ought to be put in hand in good time to re-negotiate the sterling guarantee agreements for a further period effective from September 1973 or earlier and naturally I would expect the terms of these new agreements to reflect present day and not 1968 realities.

"Jumbo" floating restaurant fire

3. MR WONG asked: —

When will the report of the inquiry into the "Jumbo" floating restaurant fire disaster be published?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, the Report of the Commission of Inquiry into the fire on the "Jumbo" Restaurant at Aberdeen will be laid on the table of this Council on the 24th of May, that is to say at the next meeting of this Council, and will be published both in Chinese and in English on the same day.

Changes in basis of assessment for income tax

4. MR G. M. B. SALMON asked: —

Will my honourable Friend the Financial Secretary state whether, under his proposals for changing the basis of assessment of salaries tax, deductions for premiums for life assurance and charitable donations will be allowed for the current year ending 31st March 1973?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, the details of the change in the basis of assessment in respect of salaries tax which I proposed in the Budget Speech have yet to be worked out in detail, embodied in legislation and put to this Council for enactment.

However, I can inform my honourable Friend that both the income and the deductible allowances for the year ending 31st March 1973 will not be used as the basis of a *final* assessment to tax in respect of the first year after transition, namely 1973-74. In that year provisional tax will be calculated with reference to income earned in 1972-73 and deductible allowances based on the circumstances of the taxpayer in that year. But the taxpayer's *final* assessment will be based on the

actual income earned in 1973-74 and the deductions for which he is eligible in that year.

In other words, so far as the great majority of taxpayers who are in continuing employment are concerned, they will be assessed to tax in 1972-73 on the present preceding year basis using 1971-72 figures; in 1973-74 they will be finally assessed on the basis of 1973-74 figures of both income and deductible allowances. In each of these years of assessment, the Commissioner of Inland Revenue will still be concerned with only one year's income and one year's deductions.

MR SALMON: —Sir, so that I can get this quite clear, can I ask my honourable Friend one simple question. (*Laughter*). If my salary is the same last year, this year and next year, do I pay the same salaries tax each year and do I get a deduction for insurance premium and charity donations each time I pay up?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —My honourable Friend, Sir, will be no worse off and, I regret to say, no better off. (*Laughter*).

Resettlement flatted factory buildings

5. DR S. Y. CHUNG asked: —

> Will Government explain the reasons for limiting resettlement flatted factory buildings to five storeys high and ensure a more economical use of valuable land in future developments?

MR J. J. ROBSON: —Sir, I am grateful to my honourable Friend, Dr CHUNG, for asking this question as it gives me the opportunity to state in public the information recently given to the Finance Committee of this Council, and to remind him that in 1963 the number of storeys in resettlement flatted factories was increased from 5 to 7 in order to cater for an increasing demand for factory space arising from clearance operations.

Space in Government flatted factories is allocated on the basis of units having a standard area. The original factories were H-shaped in plan, 5 storeys high, with factory units placed back-to-back in the two wings with access from external balconies. The later 7-storey factories were rectangular in shape having a depth which would provide three working units with areas a little larger than the area of the original units. This design is economical in the use of land and in this context it would be wrong to confuse the optimum development which can take place

on a given area of land with the maximum permitted under the Buildings Ordinance. From experience gained in the operation of these factories any increase in height above 7 storeys is considered impracticable unless the site is large enough to provide much greater ground-level working areas suitable for vehicular parking, loading and unloading and the delivery of materials to and from the individual factory units in the block. Much more traffic in relation to the space occupied is generated by these factories than the larger factories operating in buildings constructed by private enterprise.

The basic philosophy behind the design of Government's flatted factories is to tailor the supply of the factory accommodation to match the number and type of squatter/permittee factories which are to be cleared. These generally tend to be relatively small and more intensive building development, to the limits permitted under the Buildings Ordinance, for instance, would produce unacceptable and insoluble management problems as well as chaos on the roads serving the site.

DR CHUNG: —Sir, my honourable Friend in his reply said "much more traffic in relation to the space occupied is generated by these resettlement factories than by the larger factories operating in buildings constructed by private enterprise". May I ask, Sir, a supplementary question. Has Government carried out any surveys, in particular recent ones, to substantiate this statement and if so can Government publish the details of these surveys?

MR ROBSON: —I have no survey, I am afraid, of the type which my honourable Friend is suggesting—that is a detailed survey comparing these factories and other factories—because it hasn't been necessary. I think if you consider that each floor of these factories might have 20 and 30 different little factories operating within it, this gives an indication of the amount of traffic—vehicular traffic especially—generated because each factory is getting its own supplies by a vehicle coming to that one little unit and the experience is that on the ground there is much more traffic to and from these factories than the usual factories, for instance in San Po Kong where again there is chaos on the roads.

Industrial safety

6. DR CHUNG asked: —

> In the light of the rapidly rising number of occupational accidents reported under the Workmen's Compensation Ordinance during the year 1970 (from 1,301 cases in

January to 3,349 in December 1970), will Government explain:

(*a*) how far the 1970 figures reflect a real increase in the number of occupational accidents and how far they are result of defects in the pre-October 1969 reporting system;

(*b*) what steps Government is taking to educate employers and in particular the work force in matters of industrial safety and to what extent is Government spending financially on the promotion of industrial safety; and

(*c*) the respective number of employers and employees who in 1970 were reached by the activities of the Industrial Safety Training Centre?

MR PAUL K. C. TSUI: —Sir, in the first part of his question my honourable Friend asks the reason for the increase in the 1970 figures and whether these reflect a real increase in the number of occupational accidents. There are four main reasons for this increase:

(i) under the system of reporting occupational accidents introduced during the last quarter of 1969, nurses at the four major hospitals helped by notifying the Labour Department of all occupational accidents. Of the total of 24,610 accidents for 1970, 19,571 were of a very minor nature involving only a few days off from work. A further 2,023 were slightly more serious involving permanent disability varying from 1% to 5%. Many of these would have previously gone unnoticed and unreported;

(ii) the implementation of an amendment on 1st January 1970 widened the coverage of the Workmen's Compensation Ordinance by raising the wage ceiling of non-manual workers from $700 to $1,500 a month and by covering for the first time domestic servants, agricultural workers and certain other categories of employees previously excluded;

(iii) much wider publicity by the Labour Department about the Workmen's Compensation Ordinance has resulted in an increasing awareness by both employers and workers of their respective obligations and rights under the Ordinance;

(iv) lastly, there has been a continuing increase in the number of employees in registered and recorded industrial undertakings: from 561,563 in December 1969 to 605,367 in December 1971.

It is fair, therefore, to suggest that the introduction of a new system of reporting coupled with the wider coverage accorded by the 1969

amendment are jointly responsible for the seemingly large increase in the number of cases reported in 1969. This conclusion will become more apparent if we were to compare the number of occupational accidents reported during 1971 with those of 1970. May I draw the attention of Members to the figures stated on page 249 of the Annual Report 1971.

I now turn to the first part of the second question—what steps are being taken to educate employers and, in particular, the work force in matters of industrial safety.

Sir, reported industrial accidents are, whenever possible, investigated at the earliest possible opportunity with a view to devising appropriate preventive measures. While it is not possible to inquire into every accident, all major and fatal ones and a proportion of the less serious ones, are investigated. During the last financial year, the factory inspectorate, in all 77 officers, made some 63,000 visits in connection with occupational and industrial accidents, workmen's compensation, and the enforcement of safety, health and welfare provisions. In addition, the factory inspectorate receives many visits from employers who wish to consult them on these matters.

The Industrial Safety Training Centre, headed by an Industrial Safety Training Officer, who is assisted by 4 Factory Inspectors, promotes the training and publicity aspects of industrial safety. The Centre conducts industrial safety training courses on a continuing basis both at the centre itself and, at request, in individual factories and industrial undertakings. The Centre has also made available to managements, on special request, films showing various aspects of industrial safety. Industrial safety posters are prepared and issued from time to time to all known factories, industrial undertakings, government departments, and training and educational establishments. In addition, radio and TV interviews were given by officers of the Labour Department on industrial safety and related matters. With the collaboration of the Radio Hong Kong Television Unit, I personally participated in a special industrial safety feature film which was released in April this year through the two Chinese TV channels.

Safety training and education also forms an integral part of the curriculum of all students at the Hong Kong Technical College, the Morrison Hill Institute, other educational establishments and all vocational training centres.

The second part of the second question asks the amount which Government spends financially on the promotion of industrial safety. This expenditure, both direct and indirect, amounted to almost $5 million in the year 1971-72, made up of other charges, salaries of staff

for the Safety Training Centre and the salaries of the factory inspectorate and the seconded staff from the Medical and Health Department and those seconded from the Marine Department. Furthermore, I personally estimate that a third of the time and efforts of my staff in the Mines Division are devoted to safety in mining and quarrying activities. The expenditure in 1972-73 is estimated to be of a similar order and I can supply my honourable Friend with a detailed breakdown if he so requests.

Turning to the third part of the question, the Industrial Safety Training Centre completed during 1970 22 basic and 8 advanced industrial safety courses involving 718 persons, mainly at the foreman and supervisory level. The centre also organized an industrial safety exhibition, in conjunction with the Fire Services Department and local agents of manufacturers of personal protective equipment. This was followed by 4 similar exhibitions jointly sponsored by the Fire Services Department and my Department. It is not possible to state how many employers and how many employees were reached by these activities of the Centre. Of those attending courses, some came from large factories, others from small ones. Some supervisors on completion of their training will have applied their newly acquired knowledge to many workers. Others will have done nothing.

Finally, although carelessness by workers causes many accidents, many employers remain regrettably apathetic to accident prevention. Only a handful of replies are received each year in answer to the hundreds of letters sent out by my Industrial Safety Training Officer inviting industrial employers to nominate employees to participate in safety courses to be run by the Industrial Safety Training Centre. Many employers seem to consider that industrial safety is not their concern but solely that of Government. This, of course, is not so. Accident prevention, should be an integral part of good management.

My honourable Friend may be assured that my Department will continue to do all we can to extend the influence of these procedures for the benefit of workers and employers alike.

Recreational development and nature conservation for NT and HK Island

7. MR H. J. C. BROWNE asked: —

> Have any decisions been made on the recommendations of the Advisory Committees for Recreational Development and Nature Conservation for the New Territories and for Hong Kong Island, and if so what action is proposed?

Oral Answers

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, the combined proposals of the two advisory committees to which my honourable Friend has referred will shortly be submitted to the Finance Committee of this Council who will be invited to consider the financial implications of the two programmes. These involve approximately $25 million in capital expenditure over 5 years and a recurrent commitment of about $3.3 million per annum; that final figure is subject to reassessment and review.

Passenger facilities at Macao Ferry Wharf

8. MR BROWNE asked: —

> Does Government have any plans for improving the facilities for passengers at the Macao Ferry Wharf, and if so when will the work be put in hand?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, my honourable Friend will recall that in June 1971, my predecessor advised him that the Director of Marine was preparing plans to further improve the facilities for passengers at the Macau Ferry Wharf and that, for this purpose, an item had been included in Category B of the Public Works Programme at the Third Review in 1970. The overall plans for improvements to the terminal building will be carried out in two stages and include an extension to the covered way from the Arrival/ Departure Hall to the hydrofoil waiting area and the removal of various offices on the landward side of the Arrival/Departure Hall to give a total covered area of approximately 16,000 square feet for passengers waiting to enter the terminal. The plans also include the removal of a wall on the seaward side of the Arrival/Departure Hall to facilitate passenger access to the Immigration Department processing desks, the re-arrangement of various offices and the provision of additional office space in order to facilitate a more rapid flow of passengers through the terminal.

These structural alterations were approved by the Public Works Sub-Committee on 8th March 1972 and I hope that the item now in the Public Works Programme item will be upgraded to Category A in July 1972. Work on Stage I of the development is expected to commence at the end of the year and to be completed within about nine months. Stage 11 generally provides for an expansion of office accommodation, changing and toilet facilities and for the establishment of canteens in the premises presently occupied by the Transport Office. However, these premises will not be vacated until July 1973 at the earliest.

In addition to the comprehensive plans for solving the present overcrowding problems in the terminal, the departments concerned are considering the problems of traffic congestion outside the terminal building. The measures being considered include improving the traffic arrangements in the vicinity, the demolition of the public latrine which obstructs access to the terminal, the re-location of the metered parking spaces fronting the Arrival /Departure Hall to make way for a taxi rank, the demolition of the recently vacated Waterfront Police Station and Revenue Station to permit lorry access to the Wharf, thus separating passengers from cargo handling activities, and the reservation of an area in the vicinity of the ticket offices for use by tourist buses.

Difficulty is being experienced by my honourable Friend the Director of Urban Services in finding a suitable alternative site for the public latrine. A survey was carried out last year to investigate the possibility of using the public latrine at the Rumsey Street Multi-Storey Car Park but the results showed these facilities to be inadequate to cope with the needs of the travelling public. In view of this, the Director of Urban Services has recommended that the latrine should not be demolished until a suitable alternative site is provided. Various improvements have, however, been made to the sanitary conditions of this installation and an attendant has been posted there to maintain it in as clean a state as possible.

Particular attention has also been paid to the general cleanliness of the area of the Wharf. It is now being swept four times daily and washed with detergent three times a week. Public areas are normally washed down with water only once a week.

SIR YUET-KEUNG KAN: —Sir, has my Friend an estimate of the cost involved in all these improvements and, if so, how does he propose that these costs be reimbursed?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —I can't remember the figure, Sir, off hand, but it runs into several hundreds of thousands of dollars. We are conscious of the need to keep under revision all our charges at all times and I shall pay particular attention to the charges paid at the Macao Ferry Wharf.

MR OSWALD CHEUNG: —Sir, if my honourable Friend, the Director of Urban Services, has difficulty in finding a permanent site for the public latrine, would he draw inspiration from Paris for providing temporary facilities? (*Laughter*).

Oral Answers

Improvement of Connaught Road Central

9. MR SZETO WAI asked: —

> What is the progress in the improvement of Connaught Road Central between Edinburgh Place and Rumsey Street, and when will the grade-separated pedestrian crossing facilities in this stretch of road be put in hand? How will these facilities fit in with the recent scheme to improve traffic in Central District with particular reference to franchised bus and PLB stops?

MR ROBSON: —Sir, work on the widening of Connaught Road Central from Edinburgh Place to Rumsey Street is now approximately 60% complete and all road works should be finished by mid-1973. The new bus concourse situated to the east of the present one will be ready by September of this year, and this will allow widening work on that section of Connaught Road in front of the Vehicular Ferry Pier to be put in hand for completion early next year. The extension of the Star Ferry Subway across Edinburgh Place to link up with the Star Ferry car park is also included in this project and will be completed by August of this year.

Three footbridges are to be provided across Connaught Road Central. The first, to the east of Pedder Street between Union House and the new Connaught Centre, is being provided by the Hong Kong Land Co. Ltd. The necessary Streets (Alteration) Ordinance procedure has now been completed and foundation work commenced. Completion is expected towards the end of this year.

The second footbridge is situated outside the Fire Brigade Building and the third to the east of Gilman Street near the International Building. Streets (Alteration) Ordinance procedure for these footbridges is being put in hand and assuming no objections are received work could commence towards the end of 1972 for completion by the end of 1973. This will be the second occasion that action has been taken under this Ordinance in respect of these footbridges. The initial gazetting led to objections leading to the resiting of one of the footbridges away from the building affected; which is the reason why the bridges will not be available for use at the same time as the completion of the main road works.

In addition to the bridges crossing Connaught Road Central, two further bridges are planned, one crossing Pedder Street linking the General Post Office and Union House, the second crossing the new road being built to the west of Connaught Centre, that is the extension of

Pedder Street to the new sea front. Both of these bridges will link up with the bridge being provided by the Hong Kong Land Co. and will be ready at the same time.

All of the footbridges I have mentioned are part of an overall plan to segregate pedestrians from vehicular traffic and will provide direct and safe pedestrian movement both within the busy Central District and to the many public transport termini situated on the reclamation and sea front.

My honourable Friend enquires how these facilities fit in with the recent scheme to improve traffic flow in Central with particular reference to franchised bus and public light bus stops. As I mentioned at the last meeting of this Council, the recent traffic measures to combat increasing congestion represent an interim stage for improvements to traffic generally as completion of the Connaught Road widening scheme will provide a marked increase in road capacity. This should allow through traffic to have a much smoother passage and syphon off a large proportion of the traffic now using Queen's and Des Voeux Roads Central. This in turn should improve the flow of traffic in the area, particularly in Des Voeux Road Central, to the benefit of public transport using that route. However, by that time, a review of stopping facilities for both franchised buses and public light buses will have been undertaken and I wish to repeat my recent warning that it may also be necessary to place restrictions on kerbside activities at certain times of the day, including the banning of loading and off-loading of goods and the picking up and setting down of passengers from all vehicles, including private cars.

MR SZETO: —Sir, my Friend mentioned footbridges crossing Des Voeux Road. Now, as I understand it, the previous plans for these pedestrian crossings included mechanical means of access and approach to the bridges. Can my Friend confirm that these mechanical means in the way of escalators will be included?

MR ROBSON: —I can confirm that.

Government business

First reading

CRIMINAL PROCEDURE (AMENDMENT) (NO 2) BILL 1972
UNIVERSITY OF HONG KONG (AMENDMENT) BILL 1972
PHARMACY AND POISONS (AMENDMENT) BILL 1972
LEGAL PRACTITIONERS (AMENDMENT) BILL 1972

Bills read the first time and ordered to be set down for second reading pursuant to Standing Order No 41(3).

Second reading

CRIMINAL PROCEDURE (AMENDMENT) (NO 2) BILL 1972

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of: —"A bill to amend the Criminal Procedure Ordinance and to make other consequential amendments."

He said: —Sir, the main purpose of this bill is to reproduce the provisions of the English Criminal Procedure (Insanity) Act 1964 and the English Criminal Appeal Act 1968.

The first of these two Acts changes the law with regard to accused persons who are suffering from mental disability.

Under existing law, an accused person who was insane at the time when he committed an offence is found guilty but insane. This finding is replaced by a new verdict of not guilty by reason of insanity, as is provided in the new section 74 which is contained in clause 14 of the bill.

At present it is the duty of the trial Court to decide any issue as to the fitness of an accused to stand trial before the trial begins or immediately the issue of his insanity arises. The proposed new section 75 will enable the court to postpone a decision on this issue until as late as the opening of the case for the defence. This will afford the accused an opportunity of being acquitted on the facts, a possibility which is not open to him at present if he is unfit to plead.

By the new section 76, an accused person who is found not guilty by reason of insanity or is unfit to plead will be ordered by the court to be admitted to a mental hospital, instead of being ordered to be detained during Her Majesty's pleasure as at present.

The new section 76A will allow the prosecution to produce evidence that the accused was insane or suffering from diminished responsibility at the time of the offence, which it cannot do at present.

Clause 19 substitutes 27 new sections taken from Part I of the English Criminal Appeal Act 1968 for those sections of the Ordinance which relate to appeals. This latter Act repeals the Criminal Appeal Act 1907, on which existing Hong Kong law is based, and sets out the law in a different and clearer manner.

The substance of the new sections contained in clause 19 does not differ greatly from the existing law, though there are some changes to which I should like to draw the attention of honourable Members.

For instance the grounds for allowing appeals in criminal cases are varied and the phrase "unsafe or unsatisfactory" is substituted for

“unreasonable or cannot be supported by the evidence” and “material irregularity” as a ground for allowing an appeal is substituted for "miscarriage of justice" in the new section 83.

The new sections 83E and 83F give the Full Court a wider power to order a retrial if the interests of justice so require. A right of appeal is given by the new sections 83J and 83M against a verdict that the accused is not guilty by reason of insanity or that he is unfit to plead. At present it is not possible to appeal against either of those findings.

The proposed new section 83P will confer on the Governor a new power to refer a case to the Full Court either for an opinion on a legal point or generally, if circumstances should make this desirable.

The new section 83S enables the Full Court to dismiss groundless appeals summarily. The new section 83V extends the present provisions which deal with the reception of fresh evidence on appeal. Time spent in custody pending an appeal will count towards sentence by virtue of the new section 83W.

However, the bill does not follow the English provisions in one important particular. The Criminal Appeal Act provides that on an appeal against sentence the Court of Appeal may not pass a sentence more severe than that passed on the appellant at the trial court. The proposed new section 83I will allow the Full Court, on an appeal against sentence, to pass a more severe sentence than the trial court if it thinks that this is appropriate.

The remainder of the bill contains miscellaneous amendments which experience has shown to be desirable. Clause 3 makes it clear that a court may require an accused person to surrender his passport as a condition of being granted bail. Some doubt has been expressed as to whether or not this power is available and I have no doubt that in the circumstances of Hong Kong it must be.

Clause 5 is intended to ensure that an indictment may include counts which are founded on facts or evidence which are disclosed not only in depositions taken in front of a magistrate but also in the written statements which can now be admitted in evidence instead of oral testimony at a preliminary enquiry under section 81A of the Magistrates Ordinance.

Clauses 6, 7, 8, 11, 12 and 13 amend various sections of the principal Ordinance to make it clear that those sections apply to the District Court and to magistrates courts as well as to the Supreme Court.

Clause 9 abolishes the right of an accused person to make an unsworn statement from the dock. Such a right, which is an historical

[THE ATTORNEY GENERAL] **Criminal Procedure (Amendment) (No 2) Bill—second reading**

anachronism, originated at a time when an accused person was not allowed by law to give any evidence at all on his own behalf. Since he has long been able to do so, the right to make an unsworn statement is no longer necessary. Its abolition would give effect to a recommendation to this effect of the Full Court in a judgment which was delivered in 1969.

Clause 10 gives statutory force to an existing practice whereby the defence is accorded the right to make the last speech in all criminal trials.

Motion made. That the debate on the second reading of the bill be adjourned—THE ATTORNEY GENERAL (MR ROBERTS).

Question put and agreed to.

Explanatory Memorandum

The main object of this Bill is to bring the law of Hong Kong into line with that of the United Kingdom in relation to—

(*a*) the criminal procedure to be followed in trials in the Supreme Court with regard to insanity verdicts, unfitness to plead and related matters; and

(*b*) appeals to the Full Court in criminal cases.

2. Clause 14 deals with the former and follows closely the appropriate parts of the English Criminal Procedure (Insanity) Act 1964.

3. Under existing law, an accused person who was insane when committing an offence is found "guilty but insane". This is replaced by a new special verdict of "not guilty by reason of insanity" (new section 74). The procedure for the determination of the question whether an accused person is fit to be tried is amended (new section 75). Where an accused is found not guilty by reason of insanity or unfit to plead, the court, instead of ordering him to be detained pending Her Majesty's pleasure, will order him to be admitted to a mental hospital specified by the Governor (new section 76). Where the defence to a charge of murder is insanity or diminished responsibility, the prosecution may adduce evidence to prove the other of these two contentions. (new section 76A).

4. Clause 16 repeals the existing sections relating to appeals, and clause 19 substitutes 27 new sections taken from Part I of the English Criminal Appeal Act 1968. The 1968 Act repealed the Criminal Appeal Act 1907, on which the existing Hong Kong sections are based, and set out the law in a different and clearer manner. In addition it incorporated various amendments effected by the Criminal Appeal Acts 1964 and 1966.

5. The more important new provisions in clause 19 are as follows:

(1) The grounds for allowing appeals are varied. "Unsafe or unsatisfactory" is substituted for "unreasonable or cannot be supported by the evidence" and "material irregularity" is substituted for "miscarriage of justice" (new section 83).

(2) Where an appeal is allowed, the Full Court is given a wide power to order a retrial, if the interests of justice so require (now sections 83E and 83F).

(3) New rights of appeal are granted against—

(*a*) a special verdict that the accused is not guilty by reason of insanity (new section 83J); and

(*b*) a finding that he is under a disability (new section 83M).

(4) The Governor is empowered to refer a case to the Full Court (new section 83P).

(5) The Full Court is empowered summarily to dismiss groundless appeals (new section 83S).

(6) The existing provisions for allowing fresh evidence on appeal are extended (new section 83V).

(7) Time spent in custody pending an appeal will count towards sentence (new section 83W).

6. Clause 3 makes it clear that a court may require a person to surrender his passport before being admitted to bail.

7. Clause 5 is intended to ensure that an indictment may include counts founded on facts or evidence disclosed not only in depositions but also in the written statements admitted in evidence at a preliminary hearing, under section 81A of the Magistrates Ordinance.

8. Clauses 6, 7, 8, 11, 12 and 13 amend sections 31, 32, 51, 65B, 65C and 65D to make it clear that these sections are applicable not only to the Supreme Court, but also to the District Court and to magistrates courts.

Criminal Procedure (Amendment) (No 2) Bill—second reading

[*Explanatory Memorandum*]

9. Clause 9 abolishes the right of an accused person to make an unsworn statement from the dock. This gives effect to a recommendation of the Full Court in Reg. v. TSENG Pingyee [1969] H.K.L.R. 304.

10. Clause 10 gives effect to the existing rule of practice under which the defence has the right to make the last speech in all trials.

11. Clause 22 makes savings and transitional provisions which are necessary as a result of the various changes introduced by the Bill.

12. Clause 23 makes consequential amendments to other Ordinances, particularly the Mental Health Ordinance. Cap. 136.

UNIVERSITY OF HONG KONG (AMENDMENT) BILL 1972

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of: —"A bill to amend the University of Hong Kong Ordinance."

He said: —Sir, at present any instruments under seal which are executed on behalf of the University of Hong Kong have to be signed by the Chancellor, the Pro-Chancellor, the Vice-Chancellor or the Treasurer and countersigned by the Registrar of the University.

The object of this bill is to enable a countersignature to be given either by the Registrar or by the Secretary to the Council of the University.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

Explanatory Memorandum

This Bill will enable instruments under seal, made on behalf of the University of Hong Kong, to be countersigned by the Secretary to the Council of the University.

PHARMACY AND POISONS (AMENDMENT) BILL 1972

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of: —"A bill to amend the Pharmacy and Poisons Ordinance."

He said: —Sir, the most important provision of this bill is contained in clause 7 which increases the maximum penalty for offences against the Ordinance from $1,000 to $10,000 and imprisonment for 12 months. The maximum penalty for a continuing offence is raised from $100 to $ 1,000 a day.

Recently, the view has been expressed by more than one magistrate that powers of punishment conferred by the Pharmacy and Poisons Ordinance are inadequate, in view of the seriousness of some of the offences which can be committed under it.

For example, it is an offence to sell poisons which are included on Part I of the Poisons List except from the premises of an authorized seller of poisons and by a registered pharmacist or under his supervision and in his presence. It is also an offence under this Ordinance to be in possession of a Part I poison, except in accordance with the provisions of the Ordinance, which also prohibits the sale of poisons, unless the container is properly labelled with the name of the poison and the word "Poison".

As I am sure honourable Members will agree, it is essential that this Ordinance should be strictly enforced since the negligent or improper sale of drugs provides an important potential source of supply for drug abusers.

The introduction of a term of imprisonment as a maximum penalty will also enable the courts in appropriate cases to order that an offender be detained in a Drug Addiction Treatment Centre or in a training centre under the Training Centres Ordinance. These courses of action are only available to persons who are convicted of offences which can be punished by imprisonment.

Clause 2 will enable the Governor to appoint a secretary to the Pharmacy and Poisons Board. By clause 4 the Disciplinary Committee, which investigates complaints about the conduct of registered pharmacists, will conduct its enquiries in accordance with the procedure which will be prescribed by regulation. These regulations would be made by the Board under the powers which are conferred on it by clause 6.

This latter clause will also enable the Board to make regulations governing the purchase of poisons, which it cannot at present do. It is hoped that a closer control of the records of purchases of poisons will help to lessen the chance of such drugs as barbiturates and amphetamines falling into the wrong hands.

Pharmacy and Poisons (Amendment) Bill—second reading

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

Explanatory Memorandum

Clause 2 amends section 3 of the Ordinance so as to enable the Governor to appoint a Secretary to the Pharmacy and Poisons Board.

By clause 4, the Disciplinary Committee will conduct inquiries in accordance with such procedure as may be prescribed by regulations made under section 29.

A new section 16A sets out the powers of a Disciplinary Committee with regard to obtaining evidence at any inquiry (clause 5).

Clause 6(*a*) will enable the Pharmacy and Poisons Board to make regulations prescribing the procedure to be followed in inquiries held by a Disciplinary Committee.

Clause 7 increases the penalty for offences against the Ordinance from one thousand dollars to ten thousand dollars and a term of imprisonment for twelve months. The maximum penalty for a continuing offence is raised from one hundred to one thousand dollars a day.

LEGAL PRACTITIONERS (AMENDMENT) BILL 1972

THE ATTORNEY GENERAL (MR ROBERTS) moved the second reading of: —"A bill to amend the Legal Practitioners Ordinance."

He said: —Sir, as honourable Members are aware, a Department of Law was established in the University of Hong Kong in 1969. The first law students who entered the University in October of that year, are now in the third term of their third year and will be taking their final examinations in a few weeks' time.

Recently the Finance Committee of this Council approved the provision of additional funds to enable the Department of Law to provide a year's post-graduate course, leading to a post-graduate certificate to be awarded by the University. This post-graduate year will give a

choice of subjects to the student, who will select those appropriate to the side of the profession on which he intends to practise.

After obtaining the certificate, a student will enter a period of articles in a solicitor's office or of pupillage in barristers' chambers.

However, the Legal Practitioners Ordinance, which governs the admission of barristers and solicitors to practise in Hong Kong, and the regulations made under it, at present only permit solicitors, attorneys, barristers or advocates who have qualified in the United Kingdom to be enrolled as solicitors or barristers in Hong Kong.

It is therefore necessary to amend it so as to ensure that Hong Kong students, when they have obtained a law degree and the postgraduate certificate of the University of Hong Kong, and have served articles and pupillage satisfactorily, should be able to practise in Hong Kong as barristers or solicitors.

The Ordinance already provides that a person may be admitted as a solicitor if he has complied with such requirements a may be prescribed by regulations with regard to service under articles and to the passing of examinations. These regulations may be made by the Committee of the Law Society under section 73 of the Ordinance, subject to the approval of the Chief Justice. I have already had consultations with the Law Society on the subject and the necessary regulations with regard to the admission of solicitors qualified in Hong Kong are in an advanced state of preparation. I hope indeed that they will be submitted to the Chief Justice for his approval in the near future.

With regard to those who wish to qualify as barristers in Hong Kong, it is necessary to include specific provision to this effect in the Ordinance. Clause 2 therefore permits the Supreme Court to admit as a barrister a person who has qualified here in accordance with such requirements as to examinations and pupillage as the Chief Justice may prescribe by rules. Clause 3 introduces a new section empowering the Chief Justice to make the necessary rules.

Clause 5 gives effect to a recommendation of a Working Party, appointed by the Chief Justice in 1969 to consider legal education in Hong Kong, that an Advisory Committee be set up to advise the Chief Justice and the Vice-Chancellor of the University on all aspects of legal education and training. It is proposed that the Chairman should be a judge and that the Law Society, the Bar Association and the Vice-Chancellor should be represented on it.

I am glad to be able to say that this bill has the full support of the Hong Kong Bar Association and the Hong Kong Law Society. I hope that its enactment will reassure law students at the University that their

[THE ATTORNEY GENERAL] **Legal Practitioners (Amendment) Bill—second reading**

interests have not been lost sight of and that the Government and the legal profession are closely concerned about their future and intend to do what is necessary to enable them to practise successfully in Hong Kong in the future.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

Explanatory Memorandum

The University of Hong Kong established a Department of Law in 1969, with the principal object of training students for eventual admission in Hong Kong as solicitors or barristers.

The object of this Bill is to provide for the admission of such persons to practise in Hong Kong as barristers if they have satisfied such requirements as the Chief Justice may prescribe with regard to the passing of examinations and the service of pupillage.

Clause 3 inserts a new section 72A in the principal Ordinance giving the Chief Justice power to make rules for this purpose.

Clause 5 establishes an Advisory Committee on Legal Education, to advise the Chief Justice and the Vice-Chancellor of the University of Hong Kong on all aspects of legal education.

MATRIMONIAL CAUSES (AMENDMENT) (NO 2) BILL 1972

Resumption of debate on second reading (12th April 1972)

Question again proposed.

MR P. C. WOO: —Sir, I welcome this bill. As my honourable Friend said, it amends the principal Ordinance so as to adopt the provisions of the Divorce Reform Act 1969 and the Nullity of Marriage Act 1971 of the United Kingdom.

However, certain clauses in this bill have given concern to some of my Unofficial colleagues, particularly Mrs Ellen LI who has pointed out to me that as the bill stands it might on the face of it deprive

innocent parties to the proceedings and their children of the marriage means of maintenance and support or insufficient protection of their interests after the dissolution of the marriage.

The ground for dissolution of the marriage under clause 11A(1)(*e*), which reads "that the parties to the marriage have lived apart for a continuous period of at least five years immediately preceding the presentation of the petition" will sometimes cause hardship, though under clause 15B(1) he or she "may oppose the grant of *decree nisi* on the ground that the dissolution of the marriage will result in grave financial or other hardship to him and that it would in all the circumstances be wrong to dissolve the marriage" and the Court after considering all the circumstances is of the opinion that the dissolution of the marriage will result in grave financial or other hardship to the respondent and that it would be wrong to dissolve the marriage may dismiss the petition. That would not help, however, financially the respondent if the other party fails to make adequate provision and it seems to me that if the petition is dismissed the unhappy relationship would still exist between the parties. On the other hand if adequate provisions financial or otherwise could be made the marriage could be dissolved.

I am glad to say that my honourable Friend, the Attorney General, has assured me that remedies in such a case have been provided in the Matrimonial Proceedings and Property Act of 1970 in England and that he will introduce a bill in this Council adopting the same, which bill will give extensive powers to the Court to make financial provision for a party or children of the family in respect of maintenance pending suit and financial provision after the dissolution of the marriage. When this bill is passed it will dispel the fear and concern of my Unofficial colleagues.

Sir, I support the motion.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

Committee stage

Council went into Committee.

ADOPTION (AMENDMENT) BILL 1972

Clauses 1 and 2 were agreed to.

CHIT-FUND BUSINESSES (PROHIBITION) BILL 1972

Clauses 1 and 2 were agreed to.

Clause 3.

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, I move that clause 3 of the bill be amended as set forth in the paper before honourable Members.

Sir, my honourable Friend, Mr T. K. ANN in his speech on the second reading suggested that the penalties provided for in clause 3 should be reduced in the case of breaches of the law by private chit-fund operators.

Clause 3 makes no distinction between private and commercial chit-funds, but merely makes it an offence to run any chit-fund, except one which satisfies the conditions set out in clause 5.

So it is proposed, Sir, in the amendment to clause 3 that the penalty for the chit-fund operator who offends condition (*a*) or (*c*) of the four conditions laid down in clause 5(2), should be a maximum of one year's imprisonment instead of three years. These two conditions relate to the number of participants and the maximum size of the common fund. If the operator is running more than one fund (condition (*b*)) or is getting more than the right to the first pay out (condition (*d*)) then the likelihood is that the chit-fund is a "commercial" chit-fund, not a “private” one, and I think the maximum term of imprisonment that may be imposed should be left at three years.

Proposed Amendments

Clause

3 That clause 3 of the bill be amended—

(*a*) by renumbering it clause 3(1);

(*b*) by inserting immediately after “Subject to section 5” the following—

“and to subsection (2)”;

(*c*) by adding the following new subsection (2) —

"Notwithstanding subsection (1), if an offence is committed under this section by reason only of the breach of one or both of paragraphs (*a*) and (*c*) of section 5(2), the offender shall be liable to a fine of 1,000 dollars and to imprisonment for one year. ".

The amendments were agreed to.

Clause 3, as amended, was agreed to.

Clauses 4 to 10 and the Schedule were agreed to.

Council then resumed.

Third reading

THE ATTORNEY GENERAL (MR ROBERTS) reported that the

Adoption (Amendment) Bill 1972

had passed through Committee without amendment and that the

Chit-Fund Businesses (Prohibition) Bill 1972

had passed through Committee with amendment and moved the third reading of each of the bills.

Question put on each bill and agreed to.

Bills read the third time and passed.

Unofficial Member's motion

CROWN RENTS ON RENEWABLE CROWN LEASES

MR OSWALD CHEUNG moved the following motion: —

> It is hereby resolved that, in view of the public concern and objections to the present policy of assessing Crown rents on renewable Crown leases, this Council would welcome a thorough review by Government of its policy.

He said: —Sir, deep public concern has been expressed to Government, directly and indirectly through Unofficial Members of both Councils, over the present levels of re-assessed Crown rents on renewable leases, and representations have been made by very responsible organizations that these re-assessed rents should be substantially less. These organizations represent a wide spectrum of the public and different public interests. They are among those who stood up to be counted in 1967 and their views and misgivings must be seriously considered and, I would say, sympathetically considered. Their voice is unanimous. They submit that for social and economic reasons, and indeed out of sheer consideration for what is right, fair and proper, what is now re-assessed, by way of Crown rents is much too much. Unofficial Members of both Councils have been aware of the public

concern for some time; they spent the better part of the second half of last year studying this problem both in its historical context as well as its social and economic consequences, and Unofficial Members made known their findings and conclusions to Government at the beginning of this year. Since then they have given further consideration to the problem, and you will hear, Sir, from an unusally large number of my Unofficial colleagues today, that they have not departed from their conclusions, and they will unanimously ask Government to make a thorough review of its policy, and indeed to urge that a substantially lower level of Crown rents be assessed.

I am perhaps as familiar as anyone with the problem in its historical perspective and I shall by and large confine my own observations in that perspective. My colleagues will deal with the other, and perhaps more important, aspects of the problem.

The question of course is, what is a fair and reasonable rent, fairly and impartially assessed, without fine or premium?

In order to speak intelligibly on this subject, I would ask your leave, Sir, to define and explain some legal phrases which it will be convenient for me to use.

First of all the phrase "rack rent". This means the full economic rent, the full market rent, the best rent the landlord can obtain. For instance, when Crown leases were first auctioned in Hong Kong between 1840 and 1850, the leases were knocked down to the bidder who offered the highest Crown rent for the duration of the lease. The bidding in the open market determined what that full economic market rent was and the lease was knocked down to the highest bidder, who therefore paid rack rent on that Crown lease for the term that it was offered. Take another example: offices in the Central District are usually let, at the best rent the landlord can get, on a 3 year or 5 year lease. The landlord takes normally no premium and therefore what is paid for office space under those conditions would be the rack rent for that office space.

That leads me, secondly, to the phrase "premium". A landlord may wish to take part of the rent in a capital sum. He does this by reserving the rent at less than the rack rent, for example at half the rack rent. The other half is converted into a capital sum, allowing for interest that this capital sum would earn in the landlord's hands; this capital sum is the "premium", which sometimes is also called a “fine”.

It is obvious that the lower the rent that is reserved, the more there is to be made up by way of premium and hence the higher the premium is.

If the landlord decides to charge a nominal rent, the difference between the rack rent and the nominal rent would be very large. Hence the premium would be very high.

So much, Sir, for these definitions and explanations of terms that I shall use.

As I said earlier, when Crown leases were first sold, they were sold at rack rent. About 1850 the Government decided instead of charging a rack rent to charge a moderate rent and to get the difference by way of premium. Before land was auctioned, a moderate Crown rent was fixed for the whole period of the lease; the Government also fixed an "upset price", which was the lowest premium the Government required. At the auction, bidders competed by bidding up the premium from the upset price. He who bid the highest premium got the lease. If nobody bid the upset price, the lot would be withdrawn, perhaps to be put up for auction later.

The phrase "moderate rent" was actually used in instructions from the Secretary of State to the Governor of the day. Now what does the word "moderate" mean? I would suggest that it means "to avoid extremes", and I would suggest therefore that a moderate rent is one which avoids extremes; it would therefore not be the rack rent nor would it be a nominal rent, but it would be somewhere in between, somewhere in the middle. That is the ordinary meaning of the word “moderate”. Now I'll see how the instructions from the Secretary of State were carried out; from researches which my Unofficial colleagues and I have done on this question by examining every notice in the *Gazette* which advertised land sales between 1880 and 1904, and indeed notices earlier and later than that, we found that the rents reserved were somewhere in between nominal rents and rack rents. The question was were these moderate rents 40%, 50% or 60% of the full rack rent?

The result of this investigation was simply this; the moderate Crown rents reserved were on average in those years—those 25 years—half, or slightly less than half, of the rent the Government initially wanted at the auction. It was almost exactly half, if one decapitalized the upset price, allowing for 4% interest. It was slightly less than half—46%—if one allowed for 5% interest in decapitalization. Making a guess, I should think the Government allowed for 4% interest in their calculations. In every sense however, the Crown rents that were fixed were moderate, avoiding extremes, right in the middle, half of what the Crown expected the full market rent would be. If the lots had been sold at the upset price, then one could say the Crown rent was half, or slightly half, of the rack rent. Many, of course, were sold at a premium above the upset price; the bids at the auction depended on supply and demand and on economic conditions; but again, on average, taking those years 1880 to 1904, the Crown rents reserved were 43% of rack rents if

one allowed 4% interest, and 39% if one allowed 5% interest. Let me for simplicity say it was about 40%.

Now why did we particularly pay attention to the years 1880 to 1904? The reason is this: renewable leases were first introduced in the year 1899. We therefore examined these *Government Gazettes* to see what was the practice in the nineteen years which preceded the introduction of renewable Crown leases and in the six years which followed the introduction of renewable Crown leases to see what was the prevailing practice in those days.

I am not going to trouble honourable Members with the detailed data that we gathered last year from which we have drawn those conclusions. We have supplied them to the Government and the press are welcome to them.

Honourable Members may ask: what relevance this has and what help this can give in interpreting what is meant by a "fair and reasonable rent without taking any fine or premium" fairly and impartially assessed. I suggest it is very pertinent, and right to the heart of the matter, for the phrase in the renewal clause which we are considering should be interpreted in the light of what was understood at that time, in its historical perspective in connection with the method of fixing Crown rents at that time.

I mentioned that 1899 was the year in which renewable Crown leases were first sold. The Secretary of State for the Colonies at that time, Mr Joseph CHAMBERLAIN, gave instructions that, without reference to him, no further 999 years leases were to be sold, as they had been sold in urban districts since 1850. He considered that the Crown was being deprived of any benefit of the increase in value of land with the passage of time. There were strong protests from the Chamber of Commerce and from the public over the reduction of the lease terms from 999 to 75 years. Mr CHAMBERLAIN did not change his stand that 999 year leases were too long, but he relented to this extent: he instructed the Colonial Secretary to write to the Chamber of Commerce in these terms:

> "Terms will be embodied in future leases that leases will be renewed to the original lessee or the assignee in possession at the time of the expiry of the lease upon such an *advance* in Crown rent as is justified by the then value of the land *and without fine* for a further period of 75 or 99 years, and *that in the event of* the land being resumed by the Government for public purposes compensation will be given."

That was an important letter, the existence of which is not generally known. It is important in that it refers to an *advance* in Crown rent as is justified by the value of the land *and without fine*.

Now Mr CHAMBERLAIN might well have been right to assert that the Crown ought not to be deprived of *all* benefit which accrues from enhancement in the value of land; but he did not say that *all* benefits which flow from such enhancement in the value of the land should accrue to the Government. The two are very different things.

The terms that were embodied in future leases we all know, as do the thousands of people who have considered the matter and who will shortly be affected by them.

What, I next ask, is the meaning of the phrase "fair and reasonable"? Can it possibly mean a nominal rent, like the present zone Crown rents? On the other hand can it mean the full rack rent, the full market rent? I would suggest it can mean neither. I would suggest it means the same as "moderate" avoiding extremes, just as a fair and reasonable opinion is one which avoids extremes. And if I may use an illustration, Sir, it well describes the position taken by this Government and this Council over the bill concerning abortions. I have posed the questions, can a fair and reasonable rent mean either a nominal rent or at the other extreme the full rack rent?

Let me first deal with whether it can be a nominal rent. I do this because the view is still widely held that the re-assessed Crown rent should be what is called the zone Crown rent. Today the zone Crown rent for Central is, I believe, $10,000 per acre per annum—an acre being 42,000 or 43,000 square feet, so that zone Crown rent is something like 24 cents per square foot per annum. Now no one can call 25 cents per square foot per annum for land in Central anything but nominal, and I plead with those who think otherwise that office space in Central—as distinct from land—costs $4 to $5 per square foot per month, or $50 to $60 per square foot per annum. And if a building has a lettable floor area of ten times the site area, the rental which can be derived would be $600 per square foot per annum of ground. So 24 cents per square foot per annum is a rent in name only. Now when the phrase "zone Crown rent" came into being, or when it was decided to charge a flat rate for each district or zone, no one—inside or outside Government—has been able to tell us, although we have enquired far and wide. But what I know for certain is that it was not known before the year 1910 when my researches stopped. I can say for certain that before 1910 there were no flat rates for Crown rents for different zones.

In the Privy Council, the zone Crown rent was described by their Lordships as a derisory sum. They rejected the argument put forward by the Crown lessee that he was entitled to a renewal at the zone Crown

rent. They trenchantly observed that "the fact that the logical conclusion appears so generally unacceptable must cast some doubt on the validity of the argument". Unofficial Members, lawyers and laymen alike, with respect, entirely agree with their Lordships' view and cannot therefore support any representations which seek to have Crown rents re-assessed at the rate of zone Crown rents. Such rents cannot be described as moderate, or fair and reasonable; they are nominal.

I apologize to honourable Members for having taken up so much time to argue that re-assessed Crown rents cannot be zone Crown rents, but this is a matter on which large sectors of the public have not yet been convinced. The Crown's PR in that regard has not been all that good.

If, as I have said, and as all honourable Members—Official and Unofficial alike—agree, re-assessed Crown rents should not be zone Crown rents, should it, on the other hand, be at the full rack rate? We suggest not; we suggest a “fair and reasonable rent” means a moderate rent of the order of size Crown rents had been for half a century before renewable leases were introduced, somewhere about half or 40% of the rack rent. And I would suggest that the emphasis on not taking any fine or premium reinforces that meaning, which I have derived from a simple consideration of the actual words "fair and reasonable", and indeed, if honourable Members will look up their Oxford Dictionary, they will indeed find that the word "reasonable" means "to avoid extremes". It means, as I have said before, a moderate rent which would not include in it any element of fine or premium.

And when Mr CHAMBERLAIN spoke of an advance in the level of the rent, without taking any fine, surely he could have only meant an advance in the Crown rent element of the lease; he could not have meant that the Crown should take the premium or fine element in the lease when the Crown rents were re-assessed at the time of renewal.

I think I detect from statements made in the past by various Government spokesmen that the Government concedes that the reassessed Crown rent should not be the full rack rent but they say that the 5% rate of interest used for decapitalization is much less than the market rate of interest and therefore concession is being made to the lessees. My opinion, which I will enlarge upon presently, is that decapitalizing at 5% gives the full rack rent. But first, permit me to examine what were the consequences of adopting the concept of zone Crown rents.

I think perhaps it is idle to speculate now why such a flat rate was adopted for different zones. My own guess is the Government

became short of surveyors during the First World War, but other people have different theories and I am not going to argue it with them.

All I can say is—all anybody else I have asked can say is—this concept came into being between 1910 and 1940, when it was already firmly entrenched. But the fact that the concept was adopted had three consequences:

(i) The Crown, when it decided to auction a particular lot, did not carry out the process of assessing what a proper moderate Crown rent should be. Up to 1910 they religiously carried out that process for each particular lot; sometime after that, the Crown left it to the premium to see that they obtained the difference between the zone Crown rent and the rack rent.

(ii) The rates of zone Crown rent were revised, and then only moderately, at long intervals, and with the passage of time, with the fall in the value of money and the rise in land values, zone Crown rents became a smaller and smaller proportion of the rack rent, until today they have become only a rent in name only.

(iii) The failure to revise Crown rents at moderate rates continuously, in the way that rates have been constantly revalued and revised, has meant that no one inside or outside Government can say, with any facility, what a moderate or reasonable Crown rent for any particular property is. Had Government done with Crown rents what they did with rates, it would have been possible to say at any given time what such reasonable Crown rent would be with reasonable accuracy.

It would have been preferable if Government had maintained that continuous reappraisal. From documents exhibited in the case that went to the Privy Council, I know that such a course was pressed on Government by the Director of Public Works of the day, sometime after 1945, but unfortunately his advice was not accepted. It is of no use crying over spilt milk. Crown and Crown lessee have to live with the state of facts as they are.

And it boils down to this. The Government, in order to work out what a fair re-assessed Crown rent should be, has to start working backwards. They start with what the market value of the land is, *i.e.* what premium would a purchaser pay for a 75 year lease—or a 24 year lease, as the case may be—on the basis that the Crown lessee pays a nominal rent, *i.e.* the zone Crown rent. Honourable Members will remember that earlier today I said that a premium was the capital sum which represents the difference between the Crown rent paid and the full market rack rent. The Crown determines this capital value

by ascertaining from recent market transactions what other purchasers have paid for similar sites, and by forming a judgment on this data. Once this capital value has been determined, it is easy to convert it into an annual payment. And if anyone converts a capital sum into annual payments, it is not unreasonable that he asks to be taken into account the interest he would have earned if he had been paid a capital sum. I shall again, as I have said, have something to say presently about rates of interest but, in order to explain this point in simple terms, I shall assume that a fair and proper rate of interest is used for decapitalization. When the amount of annual payment has been worked out, that is well nigh the rack rent for that property—it is short of the rack rent by only the nominal amount of the zone Crown rent, and we all know that the zone Crown rent is in fact added to the annual payments, as calculated, but it is such a small amount that I propose, in order to keep the rest of my remarks simple and brief, to ignore the zone Crown rent which is added.

As I have said, the Crown uses 5% for converting the capital value into annual payments. The Crown says 5% is a concessionary rate; I am not pursuaded there is much concession there, as I shall elaborate later; but assuming it is the fair and proper rate of interest to use, the Crown by this process re-assesses Crown rents at rack rents: not a moderate rent nor, what is the same thing, a fair and reasonable rent.

Now, with the utmost respect to those in Government who have devised that policy, I would submit that just as those who advocate zone Crown rents have gone to one extreme, the Crown has gone to the other. And, very respectfully, I would suggest that neither school of thought is correct.

At present, the Crown has the approval of the Judicial Committee of the Privy Council in one case that was litigated. I will leave it to my honourable Friend Mr P. C. WOO to speak more about that case, and I will limit my observations to 2 points:

(i) The lessee in that case put forward, in opposition to the Government, that re-assessed Crown rents should be zone Crown rents. It may be that I speak with the benefit of research that had not at that date been carried out, and I speak with all respect to those who advanced that argument, but in my opinion that argument was very unlikely to succeed and in the event, it did not—and I think for good reason.

(ii) The Courts were informed that in fact—and as a fact—since the year 1850, when upset prices were introduced and bidding upon the premium first started, the Courts were told that

> Crown rents were always reserved at nominal rates. The Courts were informed that zone Crown rents at nominal rates had been adopted right from the beginning—from 1850. That statement did not represent the facts correctly, and in fact was grossly inaccurate, because Crown rents were reserved at half, or slightly less than half the rack rents.

My experience of litigation leads me to think that if a Court does not have the right facts before it, and indeed has before it a statement of a key fact which is completely wrong, the Court is apt to give an answer very different from the answer it might well give if the correct facts had been before it. It is, of course, for the Law Officers to advise the Crown of the strength or the weakness of that decision and of its value as a precedent when different facts and different submissions are put before the Courts, and I would not presume to trespass upon the province of the Law Officers.

What I am concerned with is that the Crown should do what is right, and be seen to be doing what is right. And seen in proper perspective the right thing to do—when all the facts are reviewed and due consideration given not only to the views expressed in this Council today, but to the widespread public concern and objection to the present policy—would be to assess Crown rents on renewal at about 40% of rack rents.

It may be to make allowance for the difficulty of assessing what the market value of a piece of land is and to make allowance for fluctuations in market value with the forces of supply and demand, that it would be fairer to use a range of 25% to 55% rather than a straight 40%, but I will not elaborate on that today; that we have already done in a memorandum we submitted to Government, so Government knows the refinements which we have proposed.

Well, Sir, if one has to start with market value and work backwards, imperfect as such a process is, a fair and proper rate of interest must be decided upon when converting a capital sum into annual payments. A fair and proper rate of interest, I would submit, is the rate of interest which the Government would be able to earn on a long term basis with the capital sum in financial markets where the currency is stable, and having regard to the fact that, as lessor, the Crown has the highest grade security possible in its hands. I should have thought that 5% is not far wrong. My friends who are economists think 5% is slightly on the high side and that perhaps 4% might be fair and proper; they are emphatic that any rate above 5% per annum is neither fair and proper. And may I remind Members of the Government that after the War, when non-renewable leases were renewed, the lessees were offered the option either of paying a premium in a lump sum or by instalments over a number

of years—75 at the longest—but, over whatever period they paid the instalments, the rate of interest used for decapitalizing the premium was 5%.

In order to judge whether 5% is fair and proper, I would like to ask what mean rate of interest has Government earned on its reserves in the last 25 years, taking into account losses due to devaluation—3%, 4%, 5%? I do not know. I doubt very much if it would be more than 5%. And when I speak of a fair and proper rate of interest, I am not referring to interest return on risk capital, nor to short-term rates of interest, nor rates of interest where the borrower demands a substantially higher rate to compensate for the risk of devaluation. 5%, in my view, is as much as Government ought to use in converting capital values into annual payments. 6% is too high and 7%, as a distinguished Finance Minister once said, would draw money from the moon! So Government, in deciding to use a 5% rate after the War, when they dealt with non-renewable leases, and more recently in connection with renewable leases, chose instinctively a fair and proper rate; it was only when Government came under attack that it started to describe this 5% rate as being "concessionary".

But the annual payments, converted from the capital value, represents the rack rent; and the gist of my remarks today is that re-assessed Crown rents ought to be about 40% of rack rent. For example, on a piece of property worth $100,000 in a normal market—that is to say in a market neither depressed like 1967 nor overheated like the present—the Crown rent works out at $4,890 per year or 4.89% of the capital value. Add a little bit for the zone Crown rent and it comes to 4.9%—under 5% at any rate. I would suggest that it should not be more than $1,890 or 1.89% of the capital value—in other words, the 4.89% should be reduced by 3%. That is, for renewable leases renewable for 75 years. In an overheated market, where premia are at an unusually high level, it might indeed be fairer to re-assess Crown rents at something like 1¼%, just as, in a depressed market, it might be fair to charge 2¾% of the capital value. But these are refinements which I will not enlarge further upon today. They should, however, be taken into account in the review which my Unofficial colleagues and I are urging Government to take.

The same principles can be applied to leases renewable for 24 years, such as those in New Kowloon coming up for renewal. The principle is to charge 40% of the rack rent obtainable in a normal market. Again we start with the capital value of the land. One would expect that the premium a purchaser would pay for a 24 year lease would be less than that for a 75 year lease; it would not be one third of the price and I would expect it to be about two thirds of the

price. I mean this: if there were two sites, one south, one north of Boundary Street identical otherwise in every way, I would expect that if the premium on the site south of Boundary Street (where a term of 75 years would be granted) were $1 million, the premium on the site north of Boundary Street would be about two thirds, or $670,000. Converting $670,000 into annual payments, of course, a higher multiplier would be used for a 24 year lease than the multiplier of 0.0489 for 75 year leases; but again using a 5% rate of interest, the annual payments would work out at about 2¾% of the premium per annum, as against 1.89%. But the Crown rent would work out for the site north of Boundary Street at the same figure as that for the site south of Boundary Street, which is what it ought to be. Two sites next to each other on either side of Boundary Street ought to pay the same rate of Crown rent.

The Government, in dealing with renewable leases in New Kowloon, under its present policy decapitalizes the premium over 75 years instead of 24. If it assumes the same premium for two lots, it would achieve the same result for re-assessed Crown rents for both. If it recognizes that a lower premium would be paid for 24 years, the re-assessed Crown rent would be less. But logically I think there is little to commend this method.

There are, however, inherent difficulties in working out rents backwards from capital values, especially where the market is thin. Moreover, the property market is volatile; not only that, but the source of any new supply of land can only come from the Crown, and unless supply equals demand—which it never does—land has a scarcity value, like diamonds. The price of diamonds is kept up because the supply is carefully regulated to keep prices up.

It may be therefore that at least another method of re-assessing a fair and reasonable Crown rent can be used, based on the data available from the Rating and Valuation Department. I shall leave it to my Friend Mr SZETO to enlarge upon that. Such a method would mean a lot of work, but the method is not unsound and in the review which we ask Government to take we would urge that it be examined seriously and in depth.

So far, Sir, what I have said applies to the generality of cases. I have not dealt with two categories of sites:

(*a*) those on which pre-war buildings stand, the rents of which are controlled at the low levels allowed by the Landlord and Tenant Ordinance; and

(*b*) those on which post-war buildings stand, though very much underdeveloped.

[MR CHEUNG] **Crown rents on renewable Crown leases**

As regards the first category they require, in my view, very special treatment. The Government, which in the public interest severely limits the rents, ought to increase the Crown rents only by an amount commensurate with the increases allowed by the Landlord and Tenant Ordinance until all the buildings are demolished and the property developed. But I know that since 1969 Government has agreed to keep this as a special category.

As regards the second category, some concession, unquantified as yet, is made. It would be right to come to some specific formula in terms of discount in any review of this whole question.

4.09 p.m.

HIS EXCELLENCY THE PRESIDENT: —I think at this point Members might like a short break. Council will resume in 15 minutes.

4.25 p.m.

HIS EXCELLENCY THE PRESIDENT: —Council will resume.

MR WONG: —Sir, speaking on the motion in support of my honourable Friend, Mr CHEUNG, I would like to make the following points.

The purpose of re-assessing the Crown rents upon expiry of renewable Crown leases are twofold: first, to bring Crown rents to a more realistic level in line with market conditions and, secondly, to derive a higher revenue from them so as to enrich the public purse.

Under ordinary conditions, this step would be the normal procedure in the financial administration of a government. However, everyone is now aware of the abnormal inflation in land values in recent years. As the price of land affects rent, which is an important component in the cost of living, it would be injudicious for Government to adopt a formula which raises the Crown rents to too high a level.

It is not possible to stop inflation since inflation is a concomitant of expansion. But inflation must and can be contained or restrained, otherwise the consequences of its effect on rents and hence the cost of living would be disastrous in pricing Hong Kong out of the world market.

If we do not control rent, or at least Crown rent, which we can, we will find that we will face the problem of controlling another factor of production which is more tedious and almost impossible.

Moreover, many of the leases concerned are industrial lots. With the sharp rise in costs, the competitive position of our manufacturer will be further weakened at the time when they are already facing restrictions in overseas markets. Already some industrialists have become disillusioned with the high land price policy of Government and moved their factories elsewhere. If this policy is allowed to continue, the ill-effects on our economy should be obvious.

It has been said that the assessment of Crown rents is based on pure economics and, in my talk with a certain officer in the Secretariat for Home Affairs, he had this to say "the lessees have made large profits throughout the years. If they are not satisfied with the new renewal terms, let Government re-enter and any number of people will take up the Crown leases."

With due respect I would say that this represents the mentality which in the history of man has caused many heads to lose their crowns. (*Laughter*).

In the first place, the present leaseholders are generally not the original leaseholders. Many are recent ones and own small lots for the purpose of their own living. I will give a few examples:

(*a*) A Mr POON owned a flat with an annual income of $2,760. Recently he was informed that on renewal of the Crown lease in question, his share of the new Crown rent ($51,844) would amount to $3,100 per annum.

(*b*) An amah had purchased a flat with 7 others. Its annual rental income amounted to $1,584 but following the forthcoming renewal of the Crown lease in question, its share of the new rent would amount to $2,633 per annum out of a total of $13,116.

(*c*) A woman owned a house at No 3, Wah Fung Street. Hitherto its annual rental income amounted to $2,000 per annum. On renewal of her Crown lease, she would have to pay a new Crown rent of $5,630 per annum.

An eminent journalist says the Government only knows how to apply Alfred MARSHALL's theory. Let us see what MARSHALL said—and I quote from his preface to the first edition of the Principles of Economics—"Economics are statements of tendencies expressed in the indicative mood, and not ethical precepts in the imperative. Economic laws and reasoning in fact are merely a part of the material which conscience and commonsense have to turn to account in solving practical problems and in laying down rules which may be a guide in life. But ethical forces are among those of which the economist has to take account."

[MR WONG] **Crown rents on renewable Crown leases**

Furthermore, in the chapter on land tenure, 9th edition, we find this passage: "It is clear that if a farmer falls below the standard of ability of his own district, if his only forte is in driving hard bargains, if his gross produce is small and his net produce even smaller in proportion; in such a case the landlord acts in the interest of all when he hands over the farm to a more competent tenant, who will pay better wages, obtain a much higher net produce and pay a somewhat higher rent. On the other hand, when the local standard of normal ability and enterprise is low, it is not clearly right from an ethical point of view, nor is it clearly in the business interest of the landlord in the long run, that he should endeavour to take to himself a greater rent than can be paid by a farmer who reaches a standard; even though it could be obtained by importing a farmer from another district in which the standard is higher."

In the 19th century, economics was called political economy because it was realized that one cannot separate economics and politics—politics in the best sense. The earlier writers, MILLS, JEVONS, and RICARDO all wrote on the theory of political economy. MARSHALL himself was a professor of political economy. In the early 20th century Gustav CASSELS called his book "Theory of Social Economy." This perhaps more accurately describes economics as applied to modern political structures.

The assessment of the Crown rent in this case is very complicated because it may involve elements of unearned increment or quasi-rent. Having taken into account these and the social effects of the originally proposed formula, which is the assessment at market value plus decapitalization at 5% compound interest, other formulae are found by the Unofficials, and they have recommended two alternatives. Both these formulae propose the golden mean, spread the increase over a period of years instead of taking the price of land at the highest point. I am sure that every one would realize the far reaching effects of serious inflation of land prices and high Crown rents on the overall economy of Hong Kong. In the interest of stabilizing the cost of living and having in mind the hardship which will fall on the present leaseholders, I am in favour of the formula which yields the lowest Crown rent, and which proposes that Crown rents for leases renewable for both 75 years and for a shorter term should be calculated as 1/75th of the value of the land exclusive of buildings either north or south of Boundary Street, and no interest being charged at all.

In the beginning I had doubts as to a fair and reasonable rent being based on the present market value which reflects the phenomenal scarcity value and taken at the highest point of market transaction. However, in view of the fact that the formula which contained 5%

compound interest over 75 years would increase the original figure of the rent by four times, I am now reconciled to the annual Crown rents at 1/75th of the market value which, in my opinion, is a fair and pragmatic one rather than a disproportionate and unfair one.

The formula which charges 5% compound interest over 75 years might be a fair one if the land would be freehold or the lease perpetual. Then the rents become instalment payments of the price of land. It might also be justifiable if the value of buildings is deducted from the market value of the land since the buildings are built by the lessee. For Government to charge what the market can bear is wrong in principle and practice.

It might have been tenable in the heyday of pure *laissez faire* for a Carnegie or a Rockefeller to charge what the traffic can bear. It should not be the case with Government in this day and age.

Therefore, for economic and social reasons, I implore Government to reconsider the present empirical formula of assessing Crown rents.

I strongly support the motion.

DR CHUNG: —Sir, in rising to support my honourable colleague, Mr CHEUNG, I would like first to cite two cases. The first one is about a "Mr Unluckyman" who went to the City Hall on 13th May 1963 to bid for one lot of Crown land at Kwun Tong for the residue of a term of 21 years commencing from 1st July 1962 at a Crown rent of $276 per annum and with the option of renewal for a further term of 14 years less three days at a Crown rent to be fixed by the Director of Public Works as the fair and reasonable rental of the land at the date of such renewal. The area of the lot is about 12,000 square feet and the lot number is 432. One of the general conditions of sale of this lot of Crown land is that the purchaser shall be entitled to pay 90% of the premium by 20 equal annual instalments at an interest rate of 5% per annum. He eventually succeeded to obtain that particular lot of land at a premium of $610,000, or about $51 per square foot.

The second case occurred few weeks later. On 10th June 1963 there was another lot of Crown land at Kwun Tong for sale by public auction in the City Hall. This lot also has an area of about 12,000 square feet but for the residue of a term of 99 years less three days commencing from 1st July 1898 at a Crown rent of $286 per annum. This lot of land, designated as lot number 433, is in fact situate next to the lot bought by Mr Unluckyman. Any purchaser of this piece of land shall also be entitled to pay 90% of the premium by 20 equal annual instalments at an interest rate of 5% per annum. A "Mr Luckyman" bought this lot of land at a premium of $400,000, or about $33 per square foot.

[DR CHUNG] **Crown rents on renewable Crown leases**

Mr Luckyman, after paying his 20th and last annual instalment of $30,600 for the premium in 1982, will continue to have that particular lot of Crown land at his full disposal for a further period of 15 years until June 1997. On the other hand, Mr Unluckyman, after paying his 20th and last annual instalment of $46,600 for the premium in 1982, will lose his ownership for that lot of land in July 1983 but retain only a contractual right to a new lease for a further term of 14 years until June 1997 at a Crown rent which is to be assessed by the Director of Public Works as a fair and reasonable rental at the date of such renewal. At that time of renewal, that is about 1983, and based on a projected market value of, say, $100 per square foot, Mr Unluckyman will probably have to pay a Crown rent of approximately $55,000 per annum, if the present formula used by Government in assessing Crown rent for renewable Crown leases is adopted.

There are two obvious conclusions which one can draw from these two cases. First, I am sure honourable Members will agree with me that both Mr Luckyman and Mr Unluckyman, and for that matter the general public including experts such as lawyers, bankers and real estate developers, were misled by the Particulars and Conditions of Sale issued by Government for public auction purposes. There was no indication whatsoever that there are two completely different types of Crown rent as contained in the printed version of the Particulars and Conditions of Sales. These two types, as my honourable Friend, Mr CHEUNG, took great pains to clarify earlier on this afternoon, are "zone Crown rent" and "rack Crown rent". The Crown rents of $276 for lot number 432 and $286 for the lot number 433 are in fact zone Crown rents and the Crown rent, which Mr Unluckyman will have to pay if he is to renew his lease in 1983, is rack Crown rent. Had Government made the distinction between zone and rack Crown rents clear in the Particulars and Conditions of Sale in 1963, I am confident that Mr Unluckyman would not have offered a premium of as high as $610,000.

These two lots of land were put up for public auction under almost identical conditions within a month with the only exception that one lot is for a term of 34 years and the other is for a term of 20 years with the option of renewal for a further period of 14 years at a new Crown rent. If the new Crown rent would be assessed in a totally different manner as compared to that for the present one, it is only fair that the potential purchasers be fully and clearly informed at the time of public auction. Since Government has failed to do so, the public were then misled into the belief that the new Crown rent would be evaluated in a similar manner as the present Crown rent and hence the premiums offered by the bidders were based on this misunderstanding. Under these circumstances, I am therefore inclined

to agree with a growing body of opinion on this particular issue that Government is acting unilaterally and unsympathetically and that the present formula is unreasonable, far too excessive, and contrary to public understanding. In short, I feel as many people do that Government owes these leaseholders a great deal of moral obligation.

The second conclusion that can be drawn from these two cases is that the market price of land is subject to extreme fluctuations even within a period of few weeks and is open to dispute. Honourable Members will no doubt realize the premiums paid to these two almost identical and adjacent lots of land in Kwun Tong within a month showed a marked difference of 50%. What justification can Government make to demonstrate to the satisfaction of leaseholders that its assessments on capital value are fair and realistic?

I understand that there will be some 5,000 lots of land in New Kowloon falling due for renewal on 1st July 1973. It could be argued that the really true capital values for these 5,000 odd lots of land would only be determined by offering all of them for public auction on or around their dates of renewal. If this were possible, would it not be fair and reasonable for the present leaseholders to expect that due to supply and demand the market prices of their lots of land under those conditions should be very much lower than those under normal conditions as assumed by Government in making the assessment?

Sir, I must challenge Government on its public announcement that the 5% interest rate is in itself a substantial concession on the part of Government made to those holders of renewable leases. As honourable Members are aware, Government is already accepting a 5% interest rate for payment of premium by instalments from those successful bidders of new lots of land. Knowing what my honourable colleague, Mr P. C. Woo, will be going to say later on, I fully support his view that there must be a substantial distinction between a person who does not own the land he is buying and a person who is already in possession of that land which he seeks to renew by virtue of the option he holds.

I understand that a petition was recently submitted to Government by the Exchange Banks Association on the subject of renewable Crown leases. Members of the Association believe that, if Crown rents for renewable leases are to be increased by between 200 and 1,500 times, a number of defaults are likely to occur. They also feel that, where such premises have been mortgaged by way of security for bank advances, the banks concerned owe a duty to their shareholders and their other depositors to call these loans if and when the security value has diminished below a safe margin. Should the re-call of advances occur on a large scale, it would certainly cause disruption of our commerce

and industry and, as warned by the Association, could have far-reaching results.

This issue of renewable Crown lease is a delicate and cogent problem and, if not properly handled by Government, could lead to confrontation between people and Government to the detriment of the whole community. It is more than economical, it is moral and social and above all the confidence of the people on Government. I do hope that Government will not under-estimate the gravity and seriousness of this issue. Like all my honourable Unofficial colleagues, I strongly urge Government to review its present policy for the assessment of new Crown rents for renewable leases.

With these remarks, Sir, I support the motion.

MR T. K. ANN: —Sir, industry is the lifeblood of our economy. Any serious adverse effect suffered by our industry will have far-reaching consequences.

I fear, therefore, that the existing Crown rents policy, which is intended to benefit the whole community, could boomerang to the detriment of all. This is because the present Crown rents policy on renewable leases, as is shown by a recent study conducted jointly by the Hong Kong General Chamber of Commerce and the Federation of Hong Kong Industries, will impose a burden on the manufacturers which is both too heavy and too sudden for them to bear.

The study was undertaken with the assistance of the Crown Lands Office, which provided a number of typical cases of industrial land lots due for renewal under renewable Crown leases, and the particulars were analysed by a firm of public accountants. Although it was not possible to obtain a larger sample than four cases provided as being typical, I feel the results of the study can safely be said to be sufficiently illustrative of the general situation.

The study involved, exclusively, factories operating in self-owned premises. The revised Crown rents of these factories range from $28,000 to $1,955,000 a year, compared with a previous range of $20 to $8,820 a year. This works out at an average rent of $7 per annum per square foot, as compared with the previous average of 3 cents per square foot a year. When related to sales turnover of the respective factories, the revised Crown rents range from 0.8% to 3.9%, averaging 2.4%. This means that for every dollar's worth of goods sold, 2.4 cents will have to be for Crown rent and to be absorbed additionally as part of manufacturing cost from the day when their Crown leases are renewed.

Sir, the percentage of profit before tax of our local manufacturing industries on average for the year 1969-70, in relation to sales turnover, works out at approximately only 4.73%. This figure was calculated from published official statistics.

It can be seen then that the increased Crown rents, on the average, will mean that the manufacturers concerned must either increase their sale prices by 2.4%, or must reduce their profit accordingly, so as to pay for the increased Crown rent. With the slowdown in exports and keen oversea competition, as a direct result of economic depression in our main markets, it is unlikely that they will be able to pass on this increased cost to their customers.

On the other hand, in view of the average small margin of profit of 4.73% in terms of sales turnover, it is unrealistic to assume that industry can absorb such an immensely increased burden. Chopping 2.4% from 4.73% is in reality amounting to a cut in the profit to the extent of more than 50%, not to speak of the effect that continuously rising labour costs will have on profit margin.

It should be noted that the figure 4.73% is a percentage arrived at for 1969-70, which was a good year. Should the present year, and the coming year, prove to be disappointing in business results, the consequence would be to force the manufacturers concerned to a marginal existence, if their industries require all the space they are now using for their manufacturing processes and cannot effectively operate in a lesser area. As a matter of fact, the minimum space required per worker varies from industry to industry. It is incorrect to assume that the same minimum space requirement per worker could be applied to all industrial undertakings varying from the casing of watches to steel rolling.

If the effects from the existing Crown rents policy are widespread, as it now seems to be, they forebode a chain reaction of cut-throat competition, insolvency, unemployment, labour disputes and social unrest.

Sir, it is estimated that some 4,000 to 5,000 lots with renewable leases are due for renewal in the next two to three years. Of this figure, it is not known how many are industrial lots, but it is understood from official sources that at least 233 lots in Kwun Tong alone, and a further number of lots in the Sham Shui Po area, are due for renewal.

From the figures I presented earlier relating to the typical cases studied, one can gauge the extent of the problem facing manufacturers who hold renewable leases. I feel that Government should contemplate the likely ill-effects in time, rather than wait till they occur.

[MR ANN] **Crown rents on renewable Crown leases**

It has been argued that the owners—in this case, the factories concerned—have already enjoyed low Crown rents for many years, but it is probable that if the revised rents were introduced many years earlier at the present rate, these manufacturers would have been forced out of business long ago. The acute rise in land prices since 1967 is, needless to say, beyond the manufacturers' control, and is more due to scarcity than pure environmental development.

Sir, the realities of the situation clearly call for a review of the Crown rents policy, which dictates generally that new Crown rents on renewable leases be reckoned at market land value plus 5% per annum compound interest for the period during which the payments are to be made by instalments. Appropriate steps should be taken to alleviate the heavy and sudden burden on those manufacturers who are, unfortunately, caught in this dilemma, and thus ensure our economic stability.

We all agreed with the honourable Financial Secretary when he stressed during his budget speech the predominant role which industry plays in our economy, which contributes about 43% to our Gross Domestic Product and employs 42% of our economically active population.

We are now up against a situation in which a Government official is quoted publicly as stating that the high cost of land has been deterring many foreign companies from setting up promising new industries in Hong Kong, because of the lack of backing by advanced iron foundries and aluminium and alloy casting facilities, which generally need large areas of land for operation but cannot bear the present high land costs. And now our existing industries are being threatened by the Crown rents policy.

Industry must not be allowed to be stifled inadvertently; it must be allowed to continue its growth so that it will continue to provide employment, especially for the large numbers of young people emerging from our schools.

I am deeply concerned at the adverse impact which the existing policy will have on our industry, and support the motion before Council.

MR SALMON: —Sir, towards the end of the last century, as my Friend Dr CHUNG has told us, the Hong Kong General Chamber of Commerce was heavily involved in the subject of renewable leases and of Crown rents. They were at it again before the last war and

immediately after it, and were the only organization in those times who were concerned in the protection of the interests of commerce and industry, as well as owners and tenants of domestic premises, on this difficult subject. Now, just about every organization we have—the CMA alone having got no less than 215 associations from all sectors of the community together—is very much concerned and one thing is remarkable, they all, whether representing rich or poor, landlord or tenant, industrial or domestic, agree that a major modification of Government policy is needed.

Hong Kong has never had a policy of soaking the rich, and thank goodness too because it has been amply shown elsewhere in the world that such a policy is a failure. If Government's Crown rent policy was to soak only the rich, it might have some support in certain quarters. But this is not the policy, it is one to hit and hurt not only the big industrialist but also the small factory owner on whom Hong Kong relies so heavily; it is to hit not only the big property owner, but also the small man who has skimped and saved to buy a small flat, as well as tenants of affected properties whose rents will go up; it is going to hit not only the rich, but also the poor. And what is as bad, it is a policy of inflation. Heaven kows it is hard enough anyway to contain inflation, the inevitable price my Friend Mr Wilfred WONG says of our expansion, and I suggest Government must contribute towards its containment rather than its aggravation.

My Friend Mr T. K. ANN has spoken on the position of industry, and with facts and figures has clearly illustrated the damaging results that would obtain from an enormous increase in manufacturers' Crown rentals. Here I may say I am personally not all that impressed by moans over multiplication sums, that is to say if there is an increase in Crown rent by 100 times, say from $20 a year to $2,000 a year, this may not always be as serious in effect as the 100 times in itself suggests. But I am, and we must all be, very concerned if manufacturers' essential contribution to our well-being is threatened.

As far as I know, it has not yet been disclosed what the anticipated extra revenue from Crown rents in 1973 and over the next few years will be under existing policy, and I see no reason why this information should be withheld from the public. I think we should all know the sort of sums we are talking about, and the effect on revenue any modification that has been suggested and that Government in their wisdom may introduce, would have on forward revenue projections and financial planning.

Finally, Sir, I would like to bring up a point of detail on a leaflet distributed by Government headed "Renewal or Early Renewal of 75-Year Renewable Crown Lease", and I refer to that part concerning property held in co-ownership by a number of owners. There is an

actual case, I am informed, of a block of 650 flats, and if just one of these 650 owners is absent or for some reason cannot formally apply for "legal option renewal", then all are dealt with by Colonial Treasurer Incorporated. But I see there will be an administrative fee of no less than $1,000 for each assignment, that is $650,000 for the one block, and this does seem too heavy for people who really cannot afford $1,000. I hope this flat fee will be reconsidered.

Sir, I support the motion.

MR WOO: —Sir, a great deal has been heard about the judgment of the Judicial Committee of the Privy Council which was given in the case of CHANG Lan-sheng (appellant) and the Attorney General (respondent). Sir, the judgment given in that case has only limited connection with the problem under consideration by this Council today, namely what would be a fair and reasonable manner in which to reassess Crown rent on those Crown leases which are due to expire within the next few years and which provide for renewal in the hands of the existing lessees. As my honourable Friend Mr CHEUNG has said "if a Court does not have the right facts before it, and indeed has before it a statement of a key fact which is completely wrong, the Court is apt to give an answer very different from the answer it might well give if the correct facts had been before it." And that is precisely what the CHANG Lan-sheng case was.

I wish first of all to quote from a passage of the judgment. Their Lordships said:

> "At the trial—and this refers to the trial in the Lower Court in Hong Kong—a number of criticisms were made by the appellant of the manner in which the new rent was fixed and of the procedure of the Director of Public Works. Before Their Lordships only three of these criticisms were persisted in and Their Lordships' examination will be confined to those three matters."

I quote this passage first because it reflects something which is of considerable importance: namely, that there were before Their Lordships only three arguments, and the case was decided when those three arguments were rejected in the circumstances of the particular individual case on appeal.

The first of these arguments was whether the revised rent as computed by the Director of Public Works was or was not "without payment of any fine or premium". It was demonstrated to Their Lordships that, in computing the rent, the capital value of the land was taken into

consideration. The point of appeal was whether or not the capital sum should be so taken into consideration. On this point Their Lordships' opinion was stated to be as follows:

> "All that the proviso in the lease requires is that the rent should not be expressed, either wholly, or even in part, as a capital sum. Their Lordships cannot agree that the fact, that one of the factors used in calculating the annual rent was the capital sum, entitles the lessee to claim that the annual rent ultimately fixed was in any sense a premium."

Their Lordships held that it was simply a rent. In mentioning this first point in Council today I do not wish to deal further with it but mention it simply in order to get it out of the way.

Similarly, the second contention of the appellant in the Privy Council case can equally quickly be got out of the way. This was the argument that the right of renewal contained in the proviso in the lease should have been regarded as analogous to a charge or incumbrance, and the capital value or the rental value of the property should have reflected its existence. This view was rejected both by the Lower Court and the Full Court in Hong Kong and by the Privy Council.

The third argument of the appellant was more substantial and it is with this third argument that I wish to deal at length today. The Director of Public Works, it was said, had fixed the rent by reference to what a willing purchaser would be prepared to pay, that is by reference to full market value. But the proviso to the lease required the Director to fix a "fair and reasonable rental". The appellant claimed that the use of these words indicated an intention that the standard should be something other than the full market value and, since the proviso was evidently intended to confer a benefit on the lessee, that it should be lower than the full market value. Their Lordships disagreed with the contention that a reasonable rent must be of necessity something different from the full market rent. But it is extremely important to note that, in saying that the two things need not necessarily be something different, Their Lordships made it equally plain that the two things need not necessarily be the same. They said—and I wish to emphasize these words most strongly—

> *"It must be obvious that whether a full market rent is 'reasonable' or 'fair' depends upon the nature and condition of the market."*

Sir, I am sure that you, and the Official Members of this Council, have had the opportunity of reading the judgment, but may I ask you, please, to do so once again and to reflect carefully upon the meaning of those words. Surely they are crystal clear. A full market rent, and a fair and reasonable rent, are not necesarily the same thing. They

may be the same in some circumstances but not in others. Let me quote one further passage from Their Lordships' judgment:

> "The words used are 'fair and reasonable' and since, as has been shown, there is no necessary identity between the market value and what is fair and reasonable, it would be open to the appellant to show, if he could, that the Director had not fixed the rent in accordance with the required criteria. If nothing more appeared than that the Director had fixed the full market value, he (that is the appellant) could contend, with some prospect of success, that the assessment was vitiated and should be set aside. But the appellant was unable to show this."

These words are of great significance. They show the reason for the failure of the appellant in the particular circumstances of the case put forward to the Privy Council to succeed in persuading Their Lordships that the assessment was wrong. But Their Lordships did go so far as to indicate the manner in which the appellant might have succeeded, had he attempted to adduce arguments to show that the Director had done no more than work out the full market value without considering at the same time whether or not that rent was fair and reasonable in all the circumstances.

Now, Sir, the question is what would happen if a new case were to be brought before the Privy Council in order to argue that issue, that is, is the formula adopted by the Government of Hong Kong fair and reasonable as a basis for re-assessing Crown rents for those leases due to expire in the years which lie immediately ahead. We all know that the basis of that re-assessment is full market value. The appellants in a new case would have the benefit of Their Lordships' guidance that there is no necessary identity between the market value and what is a fair and reasonable rent. They would have the benefit of Their Lordships' observation that whether a full market rent is a reasonable or fair rent depends upon the nature and condition of the market. I am sure that they would be able to show without any difficulty at all that the nature and condition of the market in Hong Kong today is grossly abnormal: so much so, that the market rent could not possibly be regarded as fair and reasonable. In the first place, there is a greatly inadequate supply of land. Hence the market is one in which prices are forced up to extremely high levels by a shortage of the commodity which is being auctioned. The value, in fact, is not a fair and reasonable value but is a greatly inflated scarcity value. Each case must be judged on its own merits and it may well be contended by a future litigant that the true market value was inflated by circumstances, that is the boom in the conditions in Hong Kong at the time, land speculation, or even the very system adopted by the Government of "selling" leases

may have caused the rents to be "highly unreasonable" when based, as they are said to be, upon the market arrived at by competition at land auctions.

Whether or not that scarcity value should be charged to a person who does not already have a lease of the land in question but who is prepared to pay the inflated price—prepared to pay whatever the price may be in order to obtain the land—is one question. The answer to that question given by the Government is quite simply "let the Crown extract the last possible dollar from the value of the land and let it be sold to the highest bidder". In that way income to the Treasury is maximized and taxes and duties can be kept correspondingly lower. We all know that revenue from Crown rent is a very important part of the revenue of this Colony. I do not intend today to express any opinion upon this general policy as applied to the sale of new land. But, Sir, a completely different question is whether that same inflated scarcity value should be charged to a person who already has a lease of the land in question and furthermore is entitled to a renewal of that lease. This is a most important distinction to make, that is between the person who does not own the land he is buying and the person in whose possession it already is by virtue of his holding a renewable Crown lease. It seems to me that the formula for assessing Crown rent for the latter should not be the same as for the former. If it is, then what is the benefit of having in one's lease a proviso providing for renewal for a further term at a fair and reasonable rent? In such circumstances, the renewal clause means nothing; it is valueless. Indeed, it is a burden because it requires the lessee, if he is to hold on to his property, to pay in order to retain that property the same full inflated scarcity value as is paid for land coming up for auction for the first time. I cannot believe that the intention of the Crown is to place the two categories of purchaser in the same position. It seems to me that, so far as a sitting lessee is concerned, he should be able to renew his lease not at a scarcity value but at such a fair and reasonable rent as would apply if, for example, there were an unlimited supply of land available for purchase, or at any rate a supply reasonably in balance with the demand. This would be quite a different value from the scarcity value in the present market in Hong Kong. We know very little land is available, so it is not surprising that the price is boosted up to prices which have no relevance to the words "fair and reasonable". Such a market is not a true open market but is more like a black market such as exist in food in times of crisis or war.

At the Privy Council hearing the Senior Estate Surveyor was able to demonstrate to Their Lordships that, in the case in question, he paid regard to what the lessee fairly and reasonably ought to pay; what return the lessee might expect to gain for his expenditure on buildings; and correspondingly what return the Government would be obtaining.

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The appellant called no expert evidence to put forward figures opposed to those of the Senior Estate Surveyor or to criticize those figures. The position, therefore, as seen by Their Lordships, was that the Director of Public Works through the Senior Estate Surveyor gave proper consideration to the question what rent should be regarded as fair and reasonable to both lessor and lessee and that no evidence was called to show that the results of this consideration were in themselves wrong. So it was a lack of challenge on this point which led the Privy Council to reject the appeal. It seems more than likely that if these points were now to be challenged in a new Privy Council case Their Lordships might well come to a different finding.

Let us take, for example, the phrase "what return the lessee might expect to gain". Their Lordships said that this was a point that should be considered in fixing the Crown rent.

Obviously the Crown lessee, who is the landlord so far as the tenants of a building are concerned—the landlord must be able to gain from the rental of his premises such sum as is necessary to pay the Crown rent and in addition to give him a reasonable return on his capital. Examples have been furnished to UMELCO of cases where the revised Crown rent will exceed the amount received by the landlord or Crown lessee by way of rent from protected tenants whose rental payments are controlled by legislation. This, Sir, is an absurdity. If protected premises give a yield of $X per annum in rent and the landlord has to pay $X + $Y in Crown rent, is there any point in owning property at all? If I were the landlord, I would prefere to surrender the lease and the Government can re-enter. I invite my honourable Friend the Attorney General to say whether, if such a case were taken before the Privy Council, Their Lordships could be expected to rule that the revised Crown rent is fair and reasonable. I would be surprised indeed if my honourable Friend or any member of the legal profession were to advise under such circumstances that the revised Crown rent computed on the present basis is fair and reasonable. In such circumstances it is obviously not fair and reasonable and furthermore it is contrary to commonsense.

So in brief, what I am trying to say is that the judgment in the Privy Council was given on the basis of the arguments put forward in that particular case and, as we have seen, these were related only to three arguments. Two of these arguments need not be further pursued. The third argument, namely whether or not full market rent is a fair and reasonable rent, is the one which must be argued out again. It must be argued again on the basis of commonsense and equity. If, by administrative means, a more sensible outlook cannot be achieved on what it is reasonable to charge then, Sir, I fear that there would be no

alternative but for members of the legal profession individually to advise their clients to lodge new appeals in individual cases and to take those cases as far as necessary—to the Privy Council itself—to get new rulings on the particular points which I have outlined here today.

Sir, although these are to some extent legal arguments they are also arguments of commonsense. It does not need a lawyer to point out the inequitable features of the present policy. It is too easy to say that the present policy of charging has been "approved by the Privy Council" but that is an over simplification. All that the Privy Council has done is to reject one appeal based upon the three arguments put forward in the circumstances of that case. I do not think that his one case should be used by the Government to justify a policy which in commonsense terms is not fair and reasonable to sitting lessee and in particular I do not think it should be used to justify the application to existing leaseholders of the policy which applies equally to persons bidding for land at public auction for the first time.

What is more important for present purposes is for Government to review its policy on Crown rents. An over-high Crown rent will bring in its wake serious economic consequences for the population of Hong Kong.

Take for instance the Privy Council case. The lessee from an annual rent of $76 will not pay $60,764 per annum. The increase will certainly be passed on to his tenants, and the latter will in turn foist the increase on to their sub-tenants. With the increase of rents, commodities will become more expensive to buy, there will be agitation for increases of wages and foreign investors may remove their capital investments eleswhere.

I do not say that there should not be an increase but the increase should be one that will not disastrously affect the economic conditions of Hong Kong.

My colleagues have outlined some of the adverse facts which adherence to the present policy will have for many leaseholders in the Colony. Like them, I most strongly urge Government to reconsider its policy and to adopt a fair and reasonable method of computation of Crown rent for the holders of renewable Crown leases.

Sir, I support the motion.

MR SZETO: —Sir, several of my honourable colleagues have spoken to the motion. My legal Friend Mr CHEUNG has spoken expertly at length on what is a fair and reasonable or moderate rent, citing historical reference. My philosophical Friend Mr WONG once again

linked the subject with his pet economic theory and recruited assistance from his long respected authority Alfred MARSHALL. Mr ANN has ably pleaded the case of the industrialist and dwelt on the effects of unreasonable Crown rents on industry's reducing markets and dwindling profits. My honourable Friend Mr WOO has questioned the application as a general policy in all cases of their Lordships' judgement on a single Privy Council appeal; Dr CHUNG has spoken on the moral and social issues; and Mr SALMON has urged a policy which will avoid the inflationary effects and the hardship of the present one.

It now only remains, Sir, for me to add my voice to the general concern and, if I may, plead the case of the small common men who undoubtedly form a greater bulk of the people being called upon to shoulder the colossal burden and hardship. I have in mind, Sir, the old age pensioners, the widows, the working men, *etc.*, who have spent most of their lifelong savings in purchasing a humble small flat of accommodation in one of these multi-storey, multi-unit post-war developments, hoping to live out their lives happily and securely, scarcely suspecting that they would be called upon to face the demand of a staggering re-assessed Crown rent—a sum in most cases beyond their conjecture not to mention their reach—in order to continue to enjoy their possession which they were once led to believe by unscrupulous developers or by incompetent or unsuspecting legal advice. To the average man, it is either a case of inconsistency of Government policy or that of lack of clarity in the terms of the original lease. Because, prior to the publication in 1969 of Government's consolidated statement concerning the terms and conditions for renewal of these leases, even a legal mind could have been misled by the original conditions which, to all intents and purposes, conveyed that the lease could be renewed at expiry without payment of premium or fine but at a Crown rent for the second period to be fairly and impartially fixed by the Director of Public Works as the fair and reasonable rental value of the ground at the date of renewal. In the event this Crown rent, re-assessed as fair and reasonable, turns out to be, as widely held, a disguise to cover both Crown rent and premium in the same sense as the lessee was made to pay 75 years ago.

I understand, Sir, that there are approximately 5,000 lots and sections of lots in New Kowloon alone which will fall due for renewal in 1973 covering residential, commercial/residential and industrial uses. Many of these lots have been redeveloped in the 50's and 60's and many of them are of multi-storey high density developments.

In the absence of detailed information, I estimate, based on the minimum development possibility of a semi-detached building with accommodation units on both sides of the lifts or staircases, that no

less than 45,000 flats or units of accommodation are involved, but in all probability a much greater number of units—two to threefold, say at least 100,000 units, would be more likely. Clearly it is possible that more than hundreds of thousands of families in these New Kowloon lots will be affected by the renewal policy. In most cases the developers had made their profits and moved on to bigger ventures and bigger profits, leaving the small owner-occupier to face the devastating re-assessed Crown rent. The position of such a person is aggravated if he is still paying for his property—as the great majority are—by means of instalment payments covering the capital cost plus interest.

Besides the alternative methods of re-assessment suggested by my Unofficial colleagues today, there is another which, to my mind, is more justified in the present circumstances. This is to re-assess Crown rent as a proportion of rateable value of the property which includes elements on the land and the buildings on it. Such a method has the following merits:

(*a*) rating is a continuous and rational process; it will iron out the volatility of the real estate market which is one of the objections to the present policy of re-assessment based on rising market land values;

(*b*) Crown rent will be directly related to the income that can be derived from the land at the time of renewal and thus avoid hardship that would otherwise be created by unfairly reassessed Crown rent which may exceed the existing rent roll; and

(*c*) factors such as appreciation, enhancement of values due to economic development of the locality, lease restrictions, rent control, *etc*., are reflected in rating and hence would also be reflected in the Crown rent.

Sir, in my view this method is less arbitrary and more equitable compared with the present policy and, in the light of the gravity of the issue, I would commend it to Government's consideration.

Sir, I support the motion.

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, this is a complex subject. It has been a source of much controversy in recent months and in moving this motion my honourable Friend Mr CHEUNG has given a number of honourable Members an opportunity to speak at length this afternoon. They have all spoken with great care and vigour. But as I support the motion, Sir, as worded, I do not propose to answer them point by point for that would take a very long time,

but to use the time allotted to me to define the public interest and to explain the consequences of failing to have proper regard for the public interest.

Anything concerning land concerns us all. Land is the basis upon which all activity in the Colony takes place—it is required for housing, for industry, for roads, for schools, for hospitals, for social and recreational activities. It is our one natural resource. We have very little of it. The terms on which it is transferred to, and retained in, private hands must be carefully protected. This has been recognized by the Government and, I believe, by the people of Hong Kong for many years.

The level of payments made by private interests for the exclusive use of land is, therefore, a matter of great importance; and it has always been a cardinal principle of policy that, when a Crown lease expires, at least a proportion of the increment of value since the lease was originally granted should accrue to the public purse for public purposes. Land owners are naturally concerned to retain their rights to the exclusive use of their land and to pay as little as possible for those rights. But we are all concerned—that is to say, the Government and the community as a whole—we are all concerned that those who are granted exclusive rights over our limited resources of land should develop their lots in such a way as to maximize their economic value; and we are concerned that they should pay the community adequately for the benefits conferred upon them by such exclusive use; and we are also concerned that the Crown should be seen to be doing what is right.

Honourable Members have stressed the problems which they feel will arise from adherence to Government's policy concerning renewal of leases. This policy has been applied since the first lease was renewed (in 1948) and has been the subject of particular consideration over the past ten years because of the number of leases falling due for renewal in 1973. This consideration has been largely concerned with working out ways and means whereby the straightforward application of the policy can be varied to meet the particular circumstances of particular groups of land owners (or, more correctly, owners of leases). I think it would be fair to say that honourable Members have stressed the problems of these owners, and rightly so, for honourable Members are watchdogs of the private as well as of the public interest. But I must say, here and now, Sir, that it is not part of Government policy to diminish those rights or to confiscate them in any way. Honourable Members have argued for a change in the level of payment for the renewal of the right to hold and use land to a figure below that provided for in the lease contract. It is because the problems referred to by honourable Members have already been recognized that various methods are available to land owners for renewal of their leases. The fact is, however, that land

owners generally form a comparatively wealthy segment of the community and have, by and large, done very well in Hong Kong in recent years. It is this segment of the community, which includes the large property companies, which stands to gain most if the present policy on renewal is changed in the way proposed by honourable Members. And it is the public interest, the wider interest of the community as a whole, which would be prejudiced by such a change.

The practice of selling land for development by private enterprise on 75-year renewable Crown leases started in 1898 when it was decided that the leases should be such as to give the lease owners the option of renewal and yet reserve to the public purse the future enhanced value of the land.

Yet the method of renewal decided upon some years ago and widely publicized, particularly in recent years, leaves a large share of the enhanced value of the land with the lessees (together, of course, with any capital improvements existing upon the land). That is to say, in the calculation of the renewal rent over 50% of the enhanced value at the time of renewal is left with the owners. This is because of the low assumed rate of interest used in calculating the renewal rent. This rate—which is essentially a concessionary rate—strikes a balance between the public interest, on the one hand, and the legitimate needs and aspirations of landowners, on the other. This is fair, just, reasonable and moderate; it thus avoids extremes and, as a matter of fact, has been accepted as such by the highest judicial tribunal in the Commonwealth. And let it be stressed that the nature of an option is such that the person in whose favour the option is conceived, in this case the Crown lessee, is not obliged to take it up. But in fact, out of 79 lots or sections the leases of which expire in 1972, the owners of 51 have so far accepted renewal on the terms offered to them and none has refused. Presumably this is because they have all recognized that whatever rent may be charged by the Government upon renewal, it will be much less than the rent that would be charged by a private landlord for the same or similar premises.

Let me illustrate, Sir, the method of calculation by taking, as a simple hypothetical example, a site having an area of 4,000 sq. ft. which would fetch $250 per sq. ft. for a through lease at the standard zone Crown rent, that is a site with a capital value of $1 million. The Crown Lands and Survey Office assesses the renewal rent by decapitalizing this figure at 5%. Allowing for payment half yearly in advance the renewal rent will be $48,900 per annum plus zone rent of, say, $460 (at $5,000 per acre) giving a total annual rent of $49,360. On the other hand, a much higher return from the land would be required by the landowner in order to support this assumed market value of $250 per sq. ft. A mortgagee, for example, lending money for development

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on the security of this site would expect a return of at least 10% per annum; and more usually—and I have checked on this—a figure of 1% to l¼% per month or, if you like, 12% to 15% per annum is charged. Similarly the developer, if he does not sell out, will expect a return of at least 10% (and often 20% or more) on the money he employs to develop the lot. Thus, in practice, a lot will only command a capital value of $1 million if it is capable of generating a return in the order of $120,000 to $150,000 per annum. Alternatively, and more usually, this is expressed by saying that the market rate of return on land investment is about 12% to 15% per annum. Thus, the renewed Crown rent of $49,360 assessed by Government is less than half the actual land value.

Turning now, Sir, to a particular case and choosing, if I may, the case which was the subject of the Privy Council proceedings, namely, KIL 3793, Nos. 45 and 47, Carnarvon Road, Kowloon: the lot has in area of 3,293 sq. ft. and it was not disputed that it was worth $375 per sq. ft. (or $1,234,875 as a capital sum) assuming a through lease. Decapitalizing this capital sum at 5% the renewal rent was assessed at $60,764 per annum. As just mentioned by my honourable Friend Mr P. C. WOO at the time of appeal it was considered that the gross annual income that the property was capable of producing was in excess of $600,000 per year or approximately 10 times the new rent. The building standing upon this lot was completed on 6th June 1964 and even allowing a 20% interest charge on the cost of the building and allowing for rates, the return attributable to the land was $457,300 per annum, a return of 37% on the capital value of the land or, in other words, the rack rent for the land was only 7.5 times the renewal rent. Putting this in another way for the benefit of my honourable Friend Mr CHEUNG the renewal rent was only 14%, and not 40%, of the rack rent. These figures amply support the theoretical case which I have just mentioned. It is also interesting to note that this property was first let before the imposition of the renewal rent. The property has now been subject to the renewal rent for a number of years yet there has been no consequent sudden increase in the rents payable by the tenants. In fact, taking the ground floor shops, which are not subject to any form of rent control, the total rent in 1964-65 was $21,350 per month and today it is $22,100 per month.

Quite separately from the method of assessment of renewal rents under the terms of the leases, Government has made available various methods by which renewal rents may be paid in order to meet the wishes and circumstances of individual owners. That is to say, owners have been given the choice of renewing early and paying in a lump sum, *or* paying over the term of the lease *or* renewing on the basis of the existing development and paying a rent of about 30% of actual income

from the property. This is what the famous Consolidated Statement is all about.

Although I said, Sir, that I would not reply to the many individual points raised so far by honourable Members, I think I should deal with the specific cases referred to by my honourable Friend Mr Wilfred WONG. Unfortunately insufficient information has been given in respect of the first two cases he mentioned for me to identify the particular lots concerned. However, in the third case the house number has been provided and I have been able to obtain details. My honourable Friend has said that the rent income amounted to only $2,000 per annum whereas the renewal rent was assessed at $5,630 per annum. The facts are that this lot HHIL 241 Section E is held on a 75-year lease from 1901 renewable in 1976. At the time of application for early renewal in 1970 the lot was subject to an Exclusion Order under the Landlord and Tenants Ordinance which stipulated that building works must be completed within 30 months from 12th June 1969, that is to say by 12th December 1972, and a new 6-storey building was under construction. Early renewal was offered on the basis of the site value at the date of application assessed at $170 per sq. ft. This figure was deferred 5 years to allow for the remaining period which the lease had to run and led to a renewal rent of $5,630 as stated by my honourable Friend. As this was an early renewal, the applicant was given the alternative of paying a lump sum premium of $109,085. In fact this renewal offer was not taken up and it has now lapsed, but it is quite clear that the renewal rent was based upon the value of the land for redevelopment which was in progress, rather than upon the rent controlled pre-war property which had been demolished. I think honourable Members will agree that these circumstances are very different from those implied in my honourable Friend's speech. I feel certain that a similar explanation could be given in respect of the other two cases and I shall be more than pleased to have them looked into if my honourable Friend will let me have the necessary particulars to enable the Crown Lands & Survey Office to identify the lots in question. In general though, I would like to emphasize that no owner would pay more than around one third of the total rents receivable provided he selects the method of renewal most suited to his circumstances.

A great deal of attention, Sir, has been paid to the way in which it is alleged the policy will affect different groups of owners and tenants. Before dealing with the position of these groups of people as I see it, I think it is important to be quite clear as to the properties we are immediately concerned with: for all practical purposes we are not concerned with any on Hong Kong Island; we are not concerned with any in Kowloon; we are concerned only with a group of 2,900 lots, comprising some 5,000 properties, in New Kowloon, and about 90 lots in the whole of the New Territories. Clearly, whilst there are a considerable

number of leases due for renewal in 1973, they represent only a fraction of the total number of properties in the Colony and, for this reason alone, the increased rents landowners must pay on renewal cannot be passed on to tenants to a greater extent than is permitted by market forces, for they cannot exercise a great deal of influence on the general level of rents. Indeed, leaving aside all old schedule lots in the New Territories (about 290,000) and which are in no way affected, the leases subject to renewal in 1973 represent a mere 7½% of all other lots in the Colony.

In addition, as a considerable number of leases relate to pre-war properties which are, therefore, subject to the provisions of the Landlord and Tenant Ordinance, some rents will remain fixed at levels which are *below* market levels.

Now as regards the main groups concerned, namely, industrial tenants, domestic tenants, owner-occupiers and owners, there are four salient points which I think should be borne in mind. *First*, tenants—both industrial and domestic—where not benefiting from controlled rents will pay the same market rents to their landlords (whatever their landlords pay by way of renewal Crown rents).

Secondly, there are less than 200 industrial properties affected by the renewals scheduled for 1973 and so I find it impossible to foresee the widespread repercussions on the industrial economy predicted by so many commentators even if rents for the factories in these properties could rise above market levels. Furthermore, the market for flatted factory accommodation will, in the coming months, be influenced by the completion of some 9.5 million square feet of additional floor space.

Thirdly, owner-occupiers, like other lease owners, can renew under existing arrangements (and where underdeveloped or controlled property is concerned I am referring to the Third Alternative in the Consolidated Statement), owner-occupiers can renew at a rent that need never be more than one third of the market rent of the flat or factory. In many instances, where fully developed property is concerned it will be as low as one fifth or one sixth of the rent that the flat or factory would command in the market. It is natural to feel some sympathy towards a person of limited means who, through his or her own thrift, manages to purchase a small flat, and is then faced with the necessity of finding cash to pay his or her share of the renewal rent. However, any purchaser of a flat, particularly if he or she had engaged the services of a solicitor, ought to have been aware of the renewal provisions of the Crown lease. I might add that mortgagees such as banks must have taken into account these provisions when lending money on the security of property. They have only themselves to blame if the prices paid

originally for the properties concerned did not take into account the lease renewal provisions. I do not myself foresee foreclosures on a large scale in the offing, despite the petition from the Exchange Banks Association.

Fourthly, on renewal, owners are being granted a further period during which they will have the exclusive use of the lots they occupy and it is only reasonable that they should pay for the privilege. Furthermore, under the existing policy they are in a far better financial position than owners of non-renewable leases, or purchases of Crown land at auctions. The latter will pay, in a lump sum (or by instalments including interest as they wish) the full market value of the land. Owners of 75-year *non*-renewable leases have to pay the full market value of the land for the regrant of their lots and, where they choose to pay by instalments, they are charged 10%. By contrast, owners of renewable leases retain the whole value of the buildings on the land, plus over 50% of the enhanced value of the land itself. Further concessions to this group of landowners would inevitably lead to demands for similar concessions from other categories of landowners—and the whole economic basis of our carefully thought out land policy would be seriously undermined and I am of course at least as concerned as my honourable Friend Mr T. K. Ann with ensuring that Government policies are consistent with the maintenance of a high growth rate of the economy as a whole and the industrial sector in particular.

This brings me, Sir, finally to the financial consequences of a change of policy. The anticipated revenue from the renewal of Crown leases has been allowed for since the year 1973-74 first came within the scope of the annual five year forecasts of revenue and expenditure back in 1969-70. If the sums involved, amounting to some $150 million in 1973-74 rising to $200 million a year by 1975-76 and staying at roughly that figure thereafter, are to be diminished in any way, then the fiscal or expenditure implications or both will have to be faced. Yet it would be quite unrealistic to suppose that any necessary adjustments to the revenue earning power of other levies or to expenditure plans could be arranged in a way which was equitable in terms of the general public interest. The fact is that lease owners would be, by any change in long standing policy, beneficially treated. And let us not imagine that those lease owners, who are also landlords, will pass the benefits of any such change on to their tenants. Landlords will, in general, continue—and understandably so—to charge their tenants the highest rents the tenants are willing to pay and, in some cases, the law permits, regardless of the rents that the landlords are paying to the Crown.

Sir, subject to these remarks, I support the motion.

Crown rents on renewable Crown leases

5.58 p.m.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, on a point of order, it is very nearly 6 p.m. at which time our Standing Order No 8 requires the interruption of the business of Council. Therefore, Sir, with your consent, I move the suspension of Standing Order No 8 in order that the debate on this motion may be concluded this evening.

Question put and agreed to.

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, I would like to thank honourable Members of this Council for the deep study they have obviously made of this very difficult and complicated question with which we have been dealing. The Government will, I undertake, reflect on what has been said and upon the advice that has been given, and in the light of that advice recommendations will be made to you, Sir, in Council before any announcement can be made of a revision in Government's policy. But I would like to make it clear, before continuing with what, I promise, will be a very short speech, that I accept the motion for the further consideration of existing policies in this matter.

My honourable colleague the Financial Secretary has clarified the issues involved and has defined them, both as they affect the community as a whole and the various particular groups of owners and tenants. Before this debate concludes I would like to underline some of the points he has made.

As a general proposition, the very substantial increases in Crown rent on the renewal of Crown leases are justified, thus ensuring that part of the enhanced value of the property at the time renewal takes place accrues to the body of taxpayers as a whole—that is one point on which I disagree with my honourable Friend the Financial Secretary; I prefer the phrase "taxpayers as a whole" to "the public purse": I am a taxpayer too (*laughter*) —and not only to a tiny proportion of them.

It is true that there would always be exceptions to this general principle to meet the problems of particulars groups of owners—for example, land on which there is property subject to rent control, or land which its owner is for one reason or another not able to develop to the fullest extent. Other matters have emerged which may require a particular solution. But those leaseholders who are not in these special categories, and they are the vast majority, must expect to pay for the renewal of the lease of their property. The payment will be unpopular with lessees and they have nothing to lose in pressing their objections

on any grounds and through any channel. But this does not mean that those objections are necessary or all justified.

For its part Government has to consider the public interest as well as the private interests of the 5,000 or so leaseholders involved. The latter hold leases which are nearing their expiry date; they have enjoyed those leases for a great number of years, and have profited from them. At the same time the value of the land has grown over the years as a result of the efforts of all those who have contributed to Hong Kong's increased prosperity. In these circumstances it is only reasonable to insist that leaseholders should pay a part of the increased value for the benefit of renewal of their leases for a further term. There may be disagreement about the proportion they have to pay but there can, in my view, be none on the principle that they should pay.

The basic argument then is not one of principle; it is not about law; it is not about history. Both law and history have been invoked in support of the leaseholders but I personally am satisfied on the question of principle and that the Government is legally entitled to charge a renewal rent calculated by the present method. The question now before us is whether it is reasonable to exercise this right to the extent to which it is now being exercised; whether increases of this order can be absorbed at one jump; and whether the general level is too high. These are matters, which, as I have said, will be given further thought and upon which the advice of Executive Council will be sought.

In the light of this debate and the many suggestions made, the Government will now reconsider its policies from two angles: first, their initial impact—that is to say whether, for instance, it is reasonable or not to expect increases of the order thrown up by the policy to be absorbed at one time; second, from the point of view of the eventual level. Some have held that the values in 1973 will be unrepresentatively high. Myself I admit to confidence in the maintenance of land values in the Colony, but arguments have been adduced indicating that at the point of time we are discussing such values could not be regarded as representative. These are matters which, as I say, we will consider very deeply.

In conclusion I would ask honourable Members to bear in mind that the various methods of reducing renewal rents, in favour of which they have been arguing, would result in a very substantial reduction in the forecasts of revenue on which our present planning is based. It is from this revenue in these forecasts that the cost of many suggestions for improvements made by Members in this Chamber at the time of the budget debate must be met; on that revenue our social and other development schemes depend. As members of the legislature, honourable Members will wish to note that any reduction in revenue from this source may have to be made good from another—even though a different

group of contributors to revenue may be involved. In other words, I ask them to remember that the dilemma which Government has to face is the choice between the interests of the community as a whole and those of certain leaseholders, and whether, and if so where, to strike a balance.

Sir, I support the motion.

MR CHEUNG: —As most of my Unofficial colleagues and myself will not have the privilege of advising you, Sir, in Council, I wonder if I may exercise my right of reply briefly to some of the points that have been raised by my honourable Friends, the Financial Secretary and the Colonial Secretary.

The first point I would urge upon you, Sir, is this: let us not be misled by the comparatively small number of lots which arise for renewal in 1973. It may be 4,000 lots, it may be 5,000 lots, I am not certain; it may be only 200 industrial lots are involved, but 200 industrial lots involve more than 200 factories, and 4,000 lots—or whatever the figure is—involve far more than just 4,000 leaseholders. Why I say you, Sir, should not be misled by what might immediately happen next year is this: that what is decided upon now in regard to what should be done with leases that come up for renewal in 1973 will affect leases that come up for renewal in all the years thereafter.

On a point of detail, my Friend the Financial Secretary is not right that none of the leases that come up for renewal in 1973 are not situated on the Island or in Kowloon itself. My recollection is—from researches I have done—that a fair number are situated both on the Island and in Kowloon. I won't mention specific instances. If my Friend would trouble to look at the land records he will find that that is so. But nevertheless far more Crown leases will come up for renewal in 1974 than in 1973 and a very large number will come up for renewal in 1976 and in 1978. But whatever is decided upon now will affect all renewable leases which have been granted since 1898 and 1899.

I would ask you, Sir, in Council to bear in mind that there has been a great social change which has occurred in Hong Kong in the last 15, perhaps the last 20, years. Whereas previously landlords existed as a class, and the wealthy put up buildings in order to derive rents from them, the pattern of land owning has so much changed that—and I take this from the review on property recently published by Government—85% of building which is put up is now sold and not retained for renting purposes. It would be a great mistake to think that either my Unofficial colleagues or myself have spoken today in defence of rentiers or

to put forward the interests of a very small and wealthy class of people. We have spoken with due regard to the public interest and it is because the public interest in our opinion requires it that we urge Government to review this present policy of assessing Crown rents. Whatever my Friend the Financial Secretary may believe, higher Crown rents will be passed on to the man who actually sleeps in the bedspace.

Now, I am glad at least philosophically my honourable Friends the Colonial Secretary, the Financial Secretary and my Unofficial colleagues are at one on one point. My Friend the Colonial Secretary says substantial increases in re-assessed Crown rents are justified so as to ensure that *part* of the enhanced value of the land accrues to the "public taxpayer"—I think that was the phrase he preferred to the "public purse". My Friend the Financial Secretary said at least a proportion of the increment should accrue to the public purse and, in a later part of his speech, he says in the calculations at present made for the renewal of Crown rent over 55% of the enhanced value is left with the owners. I presume Government leaves more than 50% of the enhanced value with the land owner because it thinks it is right to leave more than 50% of the enhanced value with the land owner. Therefore, to that extent, we are at one. What we have advocated is that the re-assessed Crown rents should be about 40% of what the full market rent of the land should be. I notice that my phrase "rack rent" may have been misunderstood. In fact my Friend the Colonial Secretary told me I have used it in the wrong sense; but I was careful when I made my opening remarks to this Council and to you, Sir, to define what I meant by "rack rent". By “rack rent” I meant the full economic rent of the ground without the buildings, and our proposition is this: re-assessed Crown rents should be rather less than half of the full market rent of the land. To that extent, I find that our philosophies are at one, but it seems to me that the argument boils down to this: my Friend the Financial Secretary says the market rates of interest are 10%, 12% or 15%; we say the proper rate of interest is 5%. With great respect, the test is this: because Government—and this is derived from the failure of Government to continuously re-assess what proper Crown rents should be over the years—because you have to work backwards, because you have first to determine the capital value of the land in question without the building on it—you start with the capital value, and then decapitalize it. Now that capital value is what the Government would get in the open market if that piece of land were sold without any buildings on it. That is where the present method starts. Now, as you are not getting the capital sum, how can you be compensated? You can be compensated by what you would earn, or would have earned, if you had had that capital sum of money in your hands. I am no great student of long term rates of interest but such research as I have been able to do—praying in aid not only Alfred MARSHALL but PIGOU and J. M. KEYNES

and the whole of the Cambridge school as well, and I am supported by the economists in Hong Kong—shows that 5% is the normal long term rate of interest, and if my Friend the Financial Secretary were for one moment—I am not saying he would, but if he were—to invest our money in US Treasury Bonds of long term duration—30 or 40 years which are the longest ones which are available—he would not get net more than about 4¼%. And if he were to invest in top grade corporate bonds of US companies, he would not get net more than about 5.4% on a bond of 40 years duration. I doubt very much if he would, on a top grade bond in Deutschmarks or in Swiss francs, get more than 5% over a long term period. We are talking of long term rates of interest, not rates of interest on a building mortgage. I would gladly pay 10% on a building mortgage because I will only pay it for 2 years. It is a very different proposition paying 10% for 2 years than paying 10% for 75 years!

I end my reply with these remarks. Over the past 20 years this Government has recognized that a large proportion of our citizens need subsidized housing. Vast acres of land have been made available, and enormous buildings have been put up, until today we can boast proudly to the world that 40% of our citizens live in subsidized housing, paying rents of 25 cents per square foot a month—perhaps it is 30 cents, I do not know the precise figures of low cost housing or the rents charged by the Housing Society, but it is of that order, 25 cents, 30 cents, maybe 40 cents a square foot a month. But, Sir, remember a further fact: according to the census—and I have no doubt as to its accuracy—85% of the households in Hong Kong have a monthly income of $1,500 or less. I am not concerned, my Unofficial colleagues are not concerned, with the people who have over $1,500 a month, but of those households who have less than $1,500, only 40% are in public housing; the other 45% have to depend on the private sector. I think we would be slightly schizophrenic if we say that 40% of our population should be subsidized in public housing; while the other 45% have to put up with high land cost, high Crown rents and high profits made by developers. In my respectful opinion, this Government should do everything possible in its power to see that those people do not suffer and are not forced by reasons of high Crown rents to squeeze themselves into even smaller quarters than they are being squeezed into. You will find, Sir, that of the households that are getting $1,500 a month, you will be surprised how many live in flats with about 200 square feet, and how many people are squeezed into 200 square feet. They are living in some cases in the private sector eight to a room of that size.

Sir, I am much obliged for this opportunity of reply.

Question put and agreed to.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: —In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday 24th May 1972.

Accordingly adjourned at twenty-two minutes past six o'clock.

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