

No. S. 48.—The following Bill was read a first time at a meeting of the Council held on the 28th February, 1924 :—

C.S.O. 1 in 2576/19. Part III.

[No. 3 :—26.2.24.—3.]

A BILL

INTITULED

An Ordinance to amend further the Rents Ordinance, 1922.

BE it enacted by the Governor of Hongkong, with the advice and consent of the Legislative Council thereof, as follows :—

Short title. 1. This Ordinance may be cited as the Rents Amendment Ordinance, 1924.

Amendment of Ordinance No. 14 of 1922, s. 4 (1) (f), as amended by Ordinance No. 8 of 1923, s. 6. 2. Section 4 (1) (f) of the Rents Ordinance, 1922, as amended by section 6 of the Rents Amendment Ordinance, 1923, is further amended by the insertion of the following words immediately before the proviso thereto :—

“and that such intended reconstruction is desirable”.

Insertion of new sub-section in Ordinance No. 14 of 1922, s. 4, as amended by Ordinance No. 8 of 1923, ss. 5 and 6. 3. Section 4 of the Rents Ordinance, 1922, as amended by sections 5 and 6 of the Rents Amendment Ordinance, 1923, is further amended by the addition of the following sub-section immediately after sub-section (1) thereof, and by the renumbering of sub-sections (2), (3), (4), (5) and (6) as (3), (4), (5), (6) and (7), respectively.

(2) The certificate referred to in sub-section (1) (f) shall not be given unless the Building Authority is of opinion that the condition of the domestic tenement in question is such as to make the intended reconstruction desirable : Provided that the Governor in Council may, on appeal from the Building Authority, in any case and on any ground, direct that the certificate shall be given.

Application to current notices to quit. 4. Every notice to quit which was given before the commencement of this Ordinance under section 4 (1) (f) of the Rents Ordinance, 1922, and which was still unexpired at the commencement of this Ordinance, shall be deemed to be invalid :—

(a) if the lessor fails to obtain, before the expiration of the period of the notice, a certificate, from the Building Authority or from the Governor in Council on appeal from the Building Authority, to the effect that the intended reconstruction is desirable ; or

(b) if the lessee obtains, before the expiration of the period of the notice, a certificate, from the Building Authority or from the Governor in Council on appeal from the Building Authority, to the effect that the intended reconstruction is undesirable.

Objects and Reasons.

1. The object of this bill is to prevent the reconstruction of houses which are in a substantially good condition. The reconstruction of houses which are in a reasonably good condition is a wasteful use of the building resources of the Colony, even where the reconstruction provides additional floor area; and in some cases the floor area is reduced. Such reconstruction necessarily involves a temporary reduction in the domestic accommodation of the Colony, and it is against the spirit of the Rents Ordinances.

2. Reconstruction is dealt with at present in section 4 (1) (f) of Ordinance No. 14 of 1922. That paragraph provides that a lessor can recover possession in order to reconstruct upon giving three months notice to the tenant, provided that the notice is accompanied by a certificate from the Building Authority to the effect that the intended reconstruction will be such as to make the building a new building within the meaning of Ordinance No. 1 of 1903. The present bill proposes to enact that the notice to quit shall not be valid unless the certificate of the Building Authority which is served with it contains also a statement to the effect that the intended reconstruction is desirable. Clause 3 of the bill provides that the certificate is not to be given unless the Building Authority is of opinion that the condition of the domestic tenement in question is such as to make the intended reconstruction desirable. An appeal is provided to the Governor in Council. On such appeal the Governor in Council will have an unfettered discretion and will not be limited to the consideration of the condition of the building. This is in order to meet such special cases as the erection of a large modern building on the site of several small and old houses, or the fresh development and laying-out of an entire block.

3. Clauses 2 and 3 of the bill standing alone, would apply only to notices to quit given after the commencement of the new Ordinance, but it is considered desirable that the restriction proposed in the bill should be applied also to notices to quit given before the commencement of the new Ordinance and still unexpired at its commencement. Clause 4, therefore, provides that every notice to quit under section 4 (1) (f) of the principal Ordinance, given before the commencement of the new Ordinance and still unexpired at the commencement of the new Ordinance, shall be invalid:—

- (a) if the lessor fails to obtain, before the expiration of the period of the notice, a certificate, from the Building Authority or from the Governor in Council on appeal from the Building Authority, to the effect that the intended reconstruction is desirable; or
- (b) if the lessee obtains, before the expiration of the period of the notice, a certificate, from the Building Authority or from the Governor in Council on appeal from the Building Authority, to the effect that the intended reconstruction is undesirable.

Owners of property who have already given notices to quit for the purpose of reconstruction should observe that their notices will be invalid unless they can obtain the necessary certificate, either from the Building Authority or from the Governor in Council, before the three months expires. Accordingly, any owners whose notices will be on the point of expiring at the time when the Ordinance will probably come into force if it is passed would be well advised to make application before-hand for the necessary certificate, so that the Building Authority may be in a position to issue the certificate in time. No doubt there are cases in which the Building Authority would be quite prepared to give the certificate.

J. H. KEMP,
Attorney General.

22nd February, 1924.