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'1997 and all that

YOU recently reported renewed alarmist talk about the supposed inability of Britain to resist excessive financial or other demands which, it is said, China might make in negotiations over the expiry of the New Territories lease in 1997.

Britain's bargaining power is in fact, greater — or should we say China's is weaker — than has been suggested.

What would the situation be if negotiations were to fail?

First, if China wanted to take over the New Territories in 1997 it would have to be by a positive act of occupation and establishment of an administration: there is no necessity for Britain to withdraw automatically.

Just as a tenant can "hold over" until his landlord takes steps to evict him, so Britain could maintain its presence until Chinese officials arrived to take over from them.

It would not require a new Order in Council to establish powers to maintain justice: a military proclamation is enough in international law in an otherwise ungoverned territory.

Second, before deciding whether to take such positive action, China's leaders — whom we must assume will be intelligent, practical men, capable of assessing pros and cons — will need to consider all the possible consequences of that action. These are not necessarily what they have been said to be; China might well conclude "when in doubt, do nowt."

An inevitable consequence, not very palatable to China, is that any such action in 1997 would imply recognition of the validity of the 1898 treaty. This would greatly weaken the argument that the earlier treaties, by

which Hongkong Island and Kowloon were ceded to Britain for all time, were not valid.

The consequences of re-establishing a frontier along Boundary Street are less easily predictable. A frontier does not have to be a barrier to passage; political frontiers exist which are practically invisible. So it does not necessarily follow that passports will be examined on the MTR and the buses: it would be in the interest of both sides to minimise the effect of this frontier, for barriers would hurt the new citizens of China in New Kowloon as much as the people of Kowloon. And if barriers were created, Britain could lawfully deport northwards many more non-citizens than China could lawfully deport southwards.

So China could not rely upon its occupation of the New Territories resulting in a British withdrawal from Hongkong and Kowloon. The British public would probably welcome such a withdrawal, but would certainly insist on first setting up what is left as an independent state, so putting China into the political quandary of either accepting this independence or of being accused internationally of doing an Afghanistan.

Finally, China's leaders will know that an attempt to impose excessively harsh terms as the price of allowing continued independence from China would severely damage the business confidence on which their national rehabilitation now depends — just as would a breach of international law.

So if China's ultimate objective is indeed the re-integration of Hongkong into China, it will seek a reasonable and fair agreement with Britain and not try to rush it.

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