

12th January, 1949.

PRESENT:—

HIS EXCELLENCY THE GOVERNOR (SIR ALEXANDER WILLIAM GEORGE HERDER GRANTHAM, K.C.M.G.)

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING THE TROOPS
(MAJOR-GENERAL F. R. G. MATTHEWS, C.B., D.S.O.)

THE COLONIAL SECRETARY (HON. K. M. A. BARNETT, *Acting*).

THE ATTORNEY GENERAL (HON. J. B. GRIFFIN, K.C.)

THE SECRETARY FOR CHINESE AFFAIRS (HON. R. R. TODD).

THE FINANCIAL SECRETARY (HON. C. G. S. FOLLOWS, C.M.G.)

HON. V. KENNIFF, C.B.E. (Director of Public Works).

DR. HON. I. NEWTON (Director of Medical Services).

HON. D. F. LANDALE.

HON. CHAU TSUN-NIN, C.B.E.

HON. SIR MAN-KAM LO, KT., C.B.E.

DR. HON. CHAU SIK-NIN.

HON. M. M. WATSON.

HON. P. S. CASSIDY.

MR. J. L. HAYWARD (Deputy Clerk of Councils).

ABSENT:—

DR. HON. J. P. FEHILY, O.B.E. (Chairman, Urban Council).

HON. LEO D'ALMADA, K.C.

MINUTES.

The Minutes of the meeting of the Council held on 29th December, 1948, were confirmed.

OATHS.

The Hon. K. M. A. Barnett took the Oath of Allegiance and assumed his seat as a Member of the Council.

ANNOUNCEMENT.

THE ACTING COLONIAL SECRETARY:—By Your Excellency's direction I rise to announce the appointment of the Standing Law Committee for 1949.

The following members have been appointed and have agreed to serve: —

The Hon. the Attorney General (Chairman).

The Hon. Chau Tsun-nin, C.B.B.

The Hon. Sir Man-kam Lo, KT., C.B.E.

The Hon. Leo D'Almada, K.C.

The Hon. Maurice Murray Watson.

PAPERS.

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

Annual Report of the Statistical Branch, Colonial Secretariat, for the year 1947-48.

Sessional Papers, 1949:—

No.1—Report of a Commission of Inquiry appointed by the Governor-in-Council to inquire into the cause of and responsibility for the loss of life and damage occurring at and in the vicinity of 351-367 Des Voeux Eoad West and Godowns 2, 3 and 4 Connaught Eoad West on 22nd September, 1948, and subsequent days, and to consider and recommend what measures should be taken to prevent similar occurrences in the future.

He said: Sir, the second of these papers is the report of the Commission under the Chairmanship of Mr. Justice Reynolds appointed by Your Excellency in Council to enquire into the Wing On Fire.

Honourable Members will readily understand that this careful and comprehensive report requires consideration with three different departments of Government and with a number of non-Government organisations, for example, fire insurance companies, and it will not be expected at this early date that Government should announce what steps it is taking to implement the special recommendations made in the Report.

QUESTIONS.

HON. SIR MAN-KAM LO, asked the following question:—

With reference to the Report of the Building Costs Committee 1947-1948 which was published in September, 1948, will Government state—

(a) whether Government has accepted this Report and, if so,

(b) what action Government has taken to implement the recommendations of this Report and in particular, what Government has done or proposes to do in regard to the recommendation regarding the sand monopoly created by Government?

THE ACTING COLONIAL SECRETARY replied as follows:—

(a) Consideration of the various recommendations of the Report have not yet been completed, but it is already evident that it will not be possible to accept all the recommendations which the Report contains. For example, the suggestion that the working hours of labourers should be increased is one which could not be contemplated.

(b) (i) Revision of the Buildings Ordinance is under active consideration, and, while amendment of the law will require careful and detailed preparation it is hoped that it will be possible to introduce an amending Ordinance into this Council before long.

(ii) Government has found itself unable to accept the recommendation that sand should be dug and graded by private enterprise. The figures in Appendices XV, XIV and VI of the Report indicate that the cost of hiring lighters and lorries and the cost of labour in the open market are so high that the return of the production of sand to private hands would not result in any economy to builders. Unless sand remains a Government monopoly there is also the danger that beaches will again be spoiled as they were before the war, and that compensation will have to be paid for damage to land adjacent to the shores. There is a mistaken belief that sand is at present not graded: in fact three grades are supplied by the Stores Department. It is admitted that there still are occasional delays at the depots. This is a defect which can easily be cured if purchasers will spread their demands over the week, and not expect to collect the bulk of their requirements on Saturday mornings as they have tended to do despite repeated advice.

(iii) The constitution and working of the Singapore Improvement Trust is under examination and Government is considering how far a similar organisation would suit conditions in Hong Kong. Meanwhile Government is encouraging factory owners and other large business

houses to provide dwellings for their employees by making land available for workers' housing schemes on specially favourable terms.

- (iv) A number of the recommendations in the Report are addressed to Authorised Architects, Building owners and Contractors. These have been brought to their notice by the immediate publication of the report in the Press, and I should like to take this opportunity to remind them of the very valuable assistance they can render in reducing building costs by the study and application of those recommendations.

MOTIONS.

THE FINANCIAL SECRETARY, pursuant to section 4 of the Dutiable Commodities Ordinance, 1931, moved:—

That the DUTIES ON TOBACCO set forth in the Resolution of Legislative Council published as Government Notification No. 628 in the Gazette of the 29th November, 1946, be revoked with effect from 9 o'clock A.M. on Thursday, the 6th January, 1949, and that thereafter duty shall be payable on tobacco at the following rates per lb :

A.—on UNMANUFACTURED TOBACCO—

(1) unstripped tobacco containing—

(a) 10 per cent or more of moisture by weight:

(i) tobacco of Empire origin	\$3.55
(ii) other tobacco	3.75

(b) less than 10 per cent of moisture by weight:

(i) tobacco of Empire origin	\$3.58
(ii) other tobacco	3.78

(2) stripped tobacco containing—

(a) 10 per cent or more of moisture by weight:

(i) tobacco of Empire origin	\$3.70
(ii) other tobacco	3.90

(b) less than 10 per cent of moisture by weight:

(i) tobacco of Empire origin	\$3.85
(ii) other tobacco	4.05

B.—on MANUFACTURED TOBACCO—

(1) Cigars—

(i) of Empire origin and manufacture	\$4.50
(ii) of Empire manufacture only	5.25
(iii) other cigars	7.00

(2) Cigarettes—

(i) of Empire origin and manufacture	\$4.70
(ii) of Empire manufacture only	5.30
(iii) other cigarettes	6.00

(3) Other manufactured tobacco including snuff and cigar cuttings—

(i) of Empire origin and manufacture	\$3.30
(ii) of Empire manufacture only	3.90
(iii) Chinese prepared tobacco	3.00
(iv) other varieties	4.80

He said: Sir, it recently came to the notice of this Government that, as a result of a change in policy, certain brands of cigarettes which have formerly been imported from the United Kingdom will in future be manufactured locally. The revenue from duty on imported cigarettes represents a very substantial proportion of the total revenue from tobacco duties. The duty on unmanufactured tobacco prior to the increase now before this Council was very much lower than the duty on imported cigarettes, at \$2.25 as compared with \$3.90 per pound. It was obvious therefore that if cigarettes were to be made locally instead of being imported and paying the higher rate of duty, there would be a serious loss of revenue which we could not afford. In these circumstances, it was necessary to take urgent action to safeguard the position by increasing the duty on unmanufactured tobacco to bring it into line with the duty on cigarettes.

There was, however, one complication which was that at least half of the leaf utilised in the locally manufactured cigarettes would have to be paid for in free market dollars, whereas the tobacco used in the manufacture of cigarettes in the United Kingdom is all purchased at the official rate. This means that the selling price of locally manufactured cigarettes may have to be raised. If the duty on imported cigarettes were left unchanged the result would be that any brand of cigarettes which continued to be imported might undersell the local product. In order to restore the balance it was therefore decided to adjust the duty on imported cigarettes to such an extent that the locally manufactured product and the imported article could compete on equal terms. As a consequence of this increase in the duty on Empire cigarettes, it was, of course, necessary also to raise the duty on non-Empire brands.

For the sake of clarity the duties on all the various classes of tobacco have been reproduced in this Resolution, but only the duties on unmanufactured tobacco and on cigarettes have been changed.

THE ACTING COLONIAL SECRETARY seconded, and the Motion was carried.

THE SECRETARY FOR CHINESE AFFAIRS moved:—

That the amendment made by the Urban Council on the 21st day of December, 1948, under section 5 of the Public Health (Food)

Ordinance, 1935, Ordinance No. 13 of 1935, to the by-laws under the heading "Markets" published as Government Notification No. A. 74 in Supplement No. 2 to the Gazette of the 5th March, 1948, be approved.

He said: Sir, under the existing Market By-law No. 41 the introduction of fluid or air into the carcasses of animals or birds is prohibited, but, in practice, it has been found difficult to secure convictions unless the offenders are actually caught in the act.

This amendment of the by-law will make it possible to prosecute for the possession of 'a syringe or other instrument the retention of which in a market stall, or on the person of a stallholder or employee, may reasonably be assumed to be for an illegal purpose.

THE ACTING COLONIAL SECRETARY seconded, and the Motion was carried.

COMPANIES AMENDMENT BILL, 1949.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Companies Ordinance, 1932". He said: Sir, the main object of this Bill is fully described in paragraph 1 of the Objects and Reasons which accompany the Bill before Council. In brief, clause 21 of the Bill provides for the repeal and replacement of section 320 of the Companies Ordinance, 1932, to allow companies incorporated outside the Colony to acquire, hold and dispose of immovable property without, as is at present necessary, obtaining the consent of the Governor-in-Council for so doing. This change in law proposed by clause 21 of the Bill will bring the law of the Colony into line with that now existing in the United Kingdom.

For the rest, Sir, the clauses of this Bill are wholly and entirely concerned with adjusting the Companies Ordinance, 1932, to the position which has been reached whereby the status of China Companies and Hongkong China Companies has altered.

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

Objects and Reasons

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

1. The main object of the Bill is to enable foreign corporations to acquire immovable property in the Colony without the prior consent of the Governor in Council. The requirement that in order to acquire land a foreign company should obtain the special consent of the Governor in Council has not only proved irksome to such companies but has entailed application to and scrutiny by the Governor in Council on each occasion. The local provision followed a similar provision in the United Kingdom. This has since been repealed and under section 111 of the Companies Act, 1947, which now permits foreign companies to hold land provided they file certain documents with the Registrar of Companies. It is considered expedient to make similar provision in Hong Kong.

2. The opportunity has been taken to delete from the principal Ordinance all references to China companies and Hong Kong China companies. This is consequential on the registration of such companies under Proclamation No. 27 and the regulations made thereunder.

MERCHANT SHIPPING (AMENDMENT) BILL, 1949.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Merchant Shipping Ordinance, 1899." He said: Sir, this Bill is an amendment of an Ordinance which has been on the Statute Book of this Colony now for 50 years. The Bill as before Council is accompanied by extensive Objects and Reasons, and for that reason I think it is unnecessary that I should elaborate on the purpose of the Bill to-day.

Briefly, the main purpose of the Bill is to effect amendments to the Ordinance which are shown to be necessary by the changes which have taken place since the principal Ordinance was first enacted. Notably, for instance, provision is made to allow of an increase of all penalties attaching to breaches of the Ordinance, that increase being necessary owing to the fact that existing penalties represent the old value of money. There are, in fact, in this Bill only two clauses, that is to say clauses 9 and 10, which introduce new matter rather than amended matter.

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

Objects and Reasons.

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

1. This Bill has ten main objects, namely:—

- A—To add to or amend definitions in section 2 of the Merchant Shipping Ordinance, 1899 (the principal Ordinance);
- B—To enhance penalties provided for breach of the principal Ordinance;
- C—To amend section 4 of the principal Ordinance relating to masters' mates' and engineers' local certificates of competency and examinations therefor;
- D—To repeal section 6 of the principal Ordinance;
- E—To amend section 8 of the principal Ordinance;
- F—To amend section 15 of the principal Ordinance relating to dangerous goods;
- G—To amend section 26 of the principal Ordinance by including provision to prohibit acts endangering the safety of passengers in vessels.
- H—To amend the principal Ordinance by including a new section 27A to ensure the proper salvage of wrecks from the waters of the Colony.

I—To amend section 30 of the principal Ordinance by including provision to enable police launches to fire at vessels which refuse to stop at sea when lawfully so required.

J—To repeal and replace section 39 of the principal Ordinance relating mainly to junks and similar craft.

2. Reference A, Clause 2 of the Bill will clarify the definition of “motor boat” in section 2(i) of the principal Ordinance by providing that the definition refers only to boats of European build. This will accord with the accepted meaning of “motor boat” in the Colony.

Clause 2 of the Bill will also amend the definition of “ship” in section 2(n) of the principal Ordinance so as to make it clear that junks and lorchas as distinct from merchant ships are not within the scope of sections 8, 9, 10, 11, 12, 13, 14 and 17 of the principal Ordinance; but this proposed amendment will not mean that mechanically propelled junks and lorchas are to be relieved from complying with the International Collision Regulations. The need for the amendment arises from the fact that some 300 mechanically propelled junks (duly licensed under section 39 of the principal Ordinance) are now plying in the waters of the Colony. The number is rapidly increasing. To clarify the position of these vessels it is accordingly necessary to re-define “ship” in the manner indicated in Clause 2 of the Bill.

The reason for including a definition of Port Health Officer is to meet the administrative convenience of the Medical Department.

3. Reference B, the fines in the various sections of the principal Ordinance are inadequate deterrents. Accordingly Clause 3 of the Bill effects necessary increases as set out in the Schedule to the Bill.

4. Reference C, Clause 4 of the Bill repeals and re-enacts section 4 of the principal Ordinance as the most convenient way of effecting the necessary amendments which consist of: —

- (i) the repeal of those provisions in sub-section (2) which relate to masters’ and mates’ river trade certificates. Reason for such repeal is partly because the interests of safe navigation demand it (a river trade certificate being of inferior grade) and partly because no such certificate has been granted during the past twenty two years and it is not proposed to grant any more of them. The rights of existing holders of such certificate’s however (very few in number) will be preserved by sub-clauses (4) and (5) of Clause 4 of the Bill;
- (ii) the repeal of sub-sections (9), (10), (11), (12) and (13) which became obsolete when permanent examiners appointed by the Governor replaced the board of pxaminers;

(iii) the doubling of the fine in sub-sections (4) and (5);

(iv) the renumbering- of sub-sections.

5. Reference D, Clause 5 of the Bill will repeal section 6 of the principal Ordinance as obsolete. There have been no boarding houses for non-Chinese seamen for very many years.

6. Reference E, Clause 6 of the Bill will repeal and re-enact section 8 of the principal Ordinance so as to include: —

(i) necessary increase of fines;

(ii) substitution of Port Health Officer for Health Officer, throughout the section;

(iii) the replacement of sub-section (4) in an amended form because the medical inspection of seamen is in practice carried out, not by Government medical officers but by private medical practitioners employed by shipping companies.

(iv) the repeal of sub-sections (5) and (6) as obsolete.

7. Reference F, Clause 7 of the Bill will repeal and re-enact section 15 of the Ordinance so as to include numerous minor amendments by extending the proposed new section to vessels as well as ships.

8. Reference G, Clause 8 of the Bill will amend section 26 of the principal Ordinance so as to facilitate the prosecution of offences which endanger the safety of persons in vessels.

9. Reference H, Clause 9 of the Bill will require security to guard against abandonment of salvage operations after commencement.

10. Reference I, Clause 10 of the Bill enables police launches to fire at vessels which refuse to stop when lawfully so required. This is mainly desired to combat fast vessels engaged in smuggling but is clearly necessary if a police launch is not to be impotent in the face of a faster vessel which will not bring to. It may happen that innocent persons may unwittingly be involved. The Governor in Council is accordingly empowered to pay compensation.

11. Reference J, Clause 11 of the Bill will repeal and replace section 39 of the principal Ordinance. That section and the regulations made thereunder [contained in Table S, Table T and Table U on pages 855 to. 382 of Volume I of the Regulations of Hong Kong (1937 Edition)] provide for the licensing and control of trading junks, fishing junks, lighters, cargo boats, hulks and numerous other types of small craft in the waters of the Colony.

Marine Department records show that there are 17,357 vessels of all types licensed under section 39 of the principal Ordinance. These craft are inhabited by approximately 100,000 persons.

The regulations contained in Table S, Table T and Table U are now undergoing extensive revision. Such regulations require regrouping and clearer presentation. To carry out this revision effectively, it is considered desirable to rescind Table S, Table T and Table U and to replace them by a single new table (to be known as Table 8) which will contain all the regulations, fees and licence forms affecting these craft. This will necessitate the repeal of various obsolete provisions in section 39 of the principal Ordinance and also the transfer of some of its provisions into the proposed new table of regulations (Table S).

The convenient course is therefore to repeal and replace section 39 of the principal Ordinance by a new section (Clause 11 of the Bill) which will widen the power to make regulations. Sub-sections (22), (2.3) and (27) of section 39 of the principal Ordinance will be re-enacted, see sub-clauses (4), (5) and (7) respectively of clause 11 of the Bill, because having regard to the provisions of section 42(2) of the principal Ordinance, they do not fall within the scope of regulations.

12. Clause 12 of the Bill will effect an amendment to section 43 (1) of the principal Ordinance consequent upon the appointment by the Governor of permanent examiners in substitution for the board of examiners.

INLAND REVENUE (AMENDMENT) BILL, 1949.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Inland Revenue Ordinance, 1947." He said: Sir, the Bill before Council is accompanied by elaborate Objects and Reasons dealing with every clause in the Bill. I think therefore it is unnecessary that I should detain by elaboration of the various clauses.

There is, however, Sir, one aspect, an important one, upon which I would like to touch. It is that the Bill as to two aspects provides for retrospectivity. Clause 18 seeks to add a new section as section 89(A). It is for the purpose of declaring that charitable, ecclesiastical and educational bodies shall be exempt from the provisions of the Ordinance unless they carry on trade or business with a view to profit. It has always been the intention that such bodies should be exempt, but the existing Ordinance by section 89 gives power only to exempt in specific cases, thus requiring that each case would have to go to the Governor-in-Council to obtain exemption. Clause 18 creating a new section as 89 (A) will give a general exemption, as I have said, to charitable, ecclesiastical and educational bodies. As the intention was to give exemption from the commencement of the Ordinance this particular section is made to have effect from the commencement of the Ordinance, that is, right back to the 2nd May, 1947.

Again, Sir, by clause 19 retrospective operation is given to the entire Bill to the first day of April, 1948. Sir, I would explain that the need to amend the Ordinance to repair errors in form also to

explain ambiguities in the principal Ordinance was appreciated before the first April of last year, and this Bill which is before Council was prepared in its present form as long ago as March of last year. However, it became necessary that the Bill should be considered by the various bodies and persons who are in particular interested in the provision of the Bill. For these reasons the introduction of the Bill to this Council has been delayed until to-day. But retrospective operation is necessary, because, in reliance on the Bill, operation of the Ordinance for the year of assessment 1948-49 has proceeded, shall I say, on the assumption that the Bill was before Council and enacted as long ago as April or May of last year.

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

Objects and Reasons.

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

1. The practical application of the Inland Revenue Ordinance, 1947, the principal Ordinance, since it has been in operation has indicated a number of ambiguities and loopholes which it is considered desirable to clarify and close before the year of assessment 1948/49.

2. In view of the recent changes of the constitutional position of India and Burma a revised definition of "British Empire" becomes necessary. This is effected by clause 2(a) of the Bill.

Clause 2(b) of the Bill renders liable to tax the profits made on sub-letting by principal tenants. Under the principal Ordinance there is some doubt as to whether such sub-letting was a business assessable to tax.

Clause 2 (c) removes uncertainty as to the liability of annuities.

3. Paragraph (v) of the proviso to section 6 of the principal Ordinance provides that "Property tax shall not be charged on any land and/or buildings which are exempt from rates by virtue of section 39(2) of the Rating Ordinance". In so providing regard was not had to the fact that rates are chargeable on an occupier whereas Property tax is chargeable on the owner of the land or buildings. As a consequence the income derived by the owners of premises occupied by Government and the various other bodies affected by section 39(2) of the Rating Ordinance is exempt from Property tax. The purpose of clause 3 (a) of the Bill, is, therefore, so to amend paragraph (v) of the proviso to section 6 as to charge all owners of property and to exempt only land and buildings owned by the Government or the Governments of any part of His Majesty's dominions. But properties which are exempt from rates by virtue of section 39(2) of the Rating Ordinance but which would become liable to Property tax by reason of the amended proviso (v), are frequently let at a rent which is not an economic rent. To protect an owner of such property from an excessive charge to Property tax by virtue of paragraph (ii) of the

proviso, the new paragraph (vi) inserted by clause 3(6) of the Bill provides that the tax on such an owner shall be the tax on the rent (if any) actually paid to him.

4. There has been some doubt in the minds of taxpayers as to the meaning of the words “or free conveyance” in section 10(1)(i) of the principal Ordinance and it has been claimed that the purchase of a means of transport, such as a motorcar, came within this meaning. This was not the intention, the word “conveyance” being intended to mean conveyance whilst proceeding on leave. It is thought that the word “passage” alone should be sufficient and the amendment to be effected by clause 4(a) so provides.

In the drafting of section 10(2) of the principal Ordinance the word “value” had become displaced and the opportunity is taken by clause 4(b) to effect the necessary correction.

5. Cases have arisen of married women in receipt of income from office or employment of profit whose husbands are not liable to Salaries and Annuities Tax by reason, for instance, of non-residence. Section 11 of the principal Ordinance provides that the income of any married woman shall be deemed to be income of her husband. Therefore a married woman whose husband is not liable to Salaries and Annuities Tax escapes tax on the income from her office or employment. Clause 5 is designed to close this loophole by rendering such married women assessable as a ‘feme sole’.

6. Cases have arisen where taxpayers in partnership have claimed interest on their capital as a deduction under section 17(1) (a) of the principal Ordinance. In order to make it clear that interest on proprietors' capital is not an allowable deduction from profits, clause 6 makes necessary amendment by restricting allowable interest to interest on money borrowed for the purpose of producing the profits.

7. Section 18(1) (g) of the principal Ordinance provides that only tax paid or payable under Chapter IV of the Ordinance shall be disallowed as a deduction from profits. This is not the intention, nor is it consistent with the general principle that a tax on profits is an appropriation of those profits and not a deduction therefrom. Clause 7 provides the necessary amendment whilst at the same time preserving to the taxpayer the right to deduct from his profits any tax which he may pay on behalf of his employees, such tax being, of course, part of the remuneration of the employee.

8. Cases have arisen where it has been necessary to apportion income in order to arrive at the profits for one year and where, owing to the requirements in section 19(7) of the principal Ordinance, the apportionment has had to be made according to the number of days in the respective period despite the fact that the resultant figures do not accord with fact. For instance, where a person trades at a loss for three months and at a profit for the following twelve months and makes up his account for the full fifteen months, an apportionment

of the net profit for the whole of the fifteen months over a basis of days does not show the true profit for the final twelve months. It is desirable to give the Commissioner some discretion in such cases in order to protect the revenue. The necessary amendment is effected by clause 8.

9. Section 26 of the principal Ordinance has been found in practice to be liable to misunderstanding in that it does not sufficiently define what land or buildings come within its meaning. Clause 9 is designed to clarify the position and the opportunity has been taken to grant to taxpayers the right to carry forward any Property tax paid in excess of Profits Tax liability.

10. In practice it has been found that there is considerable uncertainty as to the rate at which tax should be deductible from dividends. Clause 10 of the Bill is designed to remove such uncertainty by providing that the tax deduction shall be at the rate in force at the time when the dividend is payable. This is in accordance with the practice in the United Kingdom and elsewhere.

11. Doubt has arisen as to whether the interest paid by Government on its various public loans is liable to tax under section 29 of the principal Ordinance. Clause 11 is designed to make clear that such interest is liable.

12. Sections 35, 36 and 37 of the principal Ordinance were designed to allow the writing off of an industrial building or structure during a period of 50 years from its construction. By the use, however, of the term "year of assessment" in section 37(3) of the principal Ordinance, it would appear that buildings existing at 1st April, 1947, could be written off over the 50 years from that date, and not from the date of the original capital expenditure. Excessive depreciation on old buildings would thereby be allowed. Clause 12 of the Bill makes the necessary amendment.

13. There is a defect in paragraph (b) of section 39(4) of the principal Ordinance where reference is made to paragraph (ii) of section 38(2) instead of to proviso (ii) to that subsection. Clause 13 remedies this defect.

14. Under the principal Ordinance a married woman carrying on a trade, business or profession on her own account may elect to personal assessment and obtain a personal allowance of \$7,000, allowances in respect of any children she may have, and the benefit of reduced rates, despite the fact that her husband may have received an allowance of \$5,000 in respect of her and may also have received allowances in respect of the same children, and may have enjoyed some or all of the reduced rates. Clause 14 and the words "and, save where she is entitled to be and has elected to be personally assessed, his wife" in Clause 15 are designed to remove this anomaly and to apply to personal assessment the usual principle of aggregating the incomes of husband and wife before granting allowances and reduced

rates. The right of -a married woman, living apart from her husband under the decree of a competent court or a duly executed deed of separation, to be personally assessed is preserved.

15. The definition of “total income” for the purpose of Personal Assessment in section 43(2) (a) of the principal Ordinance is possibly inconsistent with section 27, while at the same time, it does not render liable to inclusion any interest received from a bank which, by virtue of proviso (a) to section 29 of the principal Ordinance, is not made subject to tax by deduction. Clause 15 is designed to remove the possible inconsistency and to include bank interest in “total income”.

16. Section 49 of the principal Ordinance was incorporated in Chapter VIII as it was intended to apply only to non-residents. However, it has been held that insertion in Chapter VIII did not restrict its application to non-residents. Clause 16 of the Bill remedies this defect, leaving resident shipping companies to be taxed according to the same principles .as are applied to other resident businesses. In practice it has been found difficult to apply the proviso to the effect that section 49(1) shall not apply to goods which are brought to the Colony solely for transshipment. The difficulty arises from the entrepot nature of Hong Kong's trade. Clause 16 is also designed to overcome this. Its effect generally will be to restrict the application of the proviso to goods passing through the Colony on a through bill of lading.

17. It is not thought desirable to impose tax on institutions of a charitable, ecclesiastical or educational nature except in so far as such bodies may be engaged in trade or business. Under section 89 of the principal Ordinance the Governor in Council has power to exempt any person, office or institution from the payment of tax, but as this power refers to specific cases and does not grant general powers, it is desirable to provide general exemption by means of a new section. Clause 18 of the Bill makes the necessary provision to which retrospective effect is given.

IMMIGRANTS CONTROL BILL, 1949.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled “An Ordinance to control the entry into, exit from and movement within the Colony of persons not born therein. He said: Sir, it will be observed from a table of comparison which accompanies the Bill before Council that the Bill represents an attempt to consolidate into one Ordinance features of the existing Ordinance No. 32 of 1940, Ordinance No. 12 of 1939, features of the Straits Settlements Ordinance, Chapter 93 and the United Kingdom Aliens Order 1920 as amended. Such consolidation is aimed at achieving modernisation and simplification of legislation on the topics of immigration and registration of persons.

Sir, as the long title of the Bill indicates it may broadly be stated that this Bill concerns and has reference to immigrants. A definition of immigrant is provided by clause 2(d) of the Bill. It reads as follows:—

“ ‘Immigrant’ means any person other than a person born in the Colony and in possession of documentary proof of such birth”.

Thus the Bill upon enactment will have application to all immigrants, that is including British subjects if, on seeking to enter the Colony, they appear to be undesirable immigrants. Sir, under the existing law, the Registration of Persons Ordinance, 1939, the requirement of report and registration is imposed upon all aliens other than aliens of Chinese race. That Ordinance can also impose the requirement of registration upon British subjects where a notification is especially made by the Governor-in-Council to require such registration by British subjects. In this Bill before Council Part III requires or imposes a duty of registration and report upon all aliens, and Part V provides that where that part is brought into force by proclamation of the Governor, an obligation to make returns to the Commissioner of Police is also imposed on immigrants who are not aliens, but are British subjects. Generally and otherwise the Bill is concerned with giving to the Immigration Officer and his assistants the powers which he already has in existing legislation or given to such officers in modern legislation, and in particular it extends the powers of the Immigration Officer to aircraft in recognition of the method of transport which has so far advanced since the existing legislation was enacted. But the Bill, just as in existing legislation, gives safeguards against arbitrary uses of powers by the officers empowered to carry out the provisions of the Ordinance upon enactment, because the right of appeal is given to the Governor-in-Council and furthermore the right of recourse to the Supreme Court is preserved.

Sir, at the outset of my remarks I indicated that the Bill upon enactment would apply to all immigrants as they are denned in clause 2 (*d*) of the Bill, but I invite attention in particular to the powers given by clause 34 of the Bill. That clause, clause 34(*f*) empowers the Governor-in-Council to make regulations exempting any person or class of persons either unconditionally or subject to such conditions as may be specified from complying with all or any of the provisions of this Ordinance. Thus it will be possible, if regarded as necessary or practicable, for regulations to be made which would have the effect, for instance, of exempting from all or any of the provisions of the Ordinance, immigrants of Chinese race.

Finally, clause 37 delays the coming into force of this Bill upon its enactment until it is brought into force by a proclamation of the Governor. Thus it is ensured that the Ordinance, on coming into force, will do so after the necessary administrative arrangements have been made for its operation and after any necessary regulations have been prepared.

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

Objects and Reasons.

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

The main objects of the Bill are—

(a) to revise and consolidate, legislation relating to the entry into and residence in the Colony of persons who are not born in Hong Kong;

(b) to provide for the better control of aliens;

(c) to provide for a check on the movements of persons who are not born in Hong Kong.

2. The control of immigration is at present governed by Ordinance No. 32 of 1940. The control of immigrants after entry is, to a certain extent, provided for by the Registration of Persons Ordinance, 1939. One of the main defects of the former Ordinance is that it contains no provision for controlling the immigration of British subjects who may be undesirable immigrants. Another defect is it does not make adequate provision for persons arriving in the Colony by air. In general, the Ordinance requires provision to bring it into line, so far as regards immigration, with the practice common to the ports in Malaya, Singapore and Ceylon.

3. With regard to the control of aliens, it is considered that control should follow the general lines laid down in the United Kingdom by the Aliens Order, 1920.

4. A comparative table has been prepared which shows how far the provisions of Ordinance No. 32 of 1940 have been maintained and the sources of new provisions.

5. Clause 34 of the Bill gives power to the Governor in Council to exempt 'any person or class of persons either unconditionally or subject to such conditions as may be specified from complying with all or any of the provisions of the Ordinance.

ADJOURNMENT.

H.E. THE GOVERNOR:—That concludes the business, Gentlemen. Council will adjourn until Thursday, 20th January, at 2.30 p.m.