

28th March, 1951.

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**PRESENT:**

HIS EXCELLENCY THE GOVERNOR

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

HIS EXCELLENCY TRE COMMANDER BRITISH FORCES

LIEUTENANT GENERAL SIR ERIC CARDEN ROBERT

MANSERGH, K.B.E., C.B., M.C.

THE HONOURABLE THE COLONIAL SECRETARY

MR. JOHN FEARNs NICOLL, C.M.G.

THE HONOURABLE THE ATTORNEY GENERAL

MR. JOHN BOWES GRIFFIN, K.C.

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR. RONALD RUSKIN TODD.

THE HONOURABLE THE FINANCIAL SECRETARY

SIR CHARLES GEOFFREY SHIELD FOLLOWS, C.M.G.

DR. THE HONOURABLE ISAAC NEWTON

*(Director of Medical and Health Services).*

THE HONOURABLE PATRICK CARDINALL MASON SEDGWICK

*(Acting Chairman, Urban Council).*

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

*(Director of Public Works).*

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

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

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

THE HONOURABLE PHILIP STANLEY CASSIDY.

THE HONOURABLE CHARLES EDWARD MICHAEL TERRY.

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

MR. ROBERT WILLIAM PRIMROSE *(Deputy Clerk of Councils).*

**ABSENT:**

THE HONOURABLE MAURICE MURRAY WATSON.

**MINUTES.**

The Minutes of the meeting of the Council held on 21st March, 1951 were approved.

**PAPERS.**

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

<i>Subject.</i>	<i>G.N. No.</i>
Sessional Papers, 1951: —	
No. 7—Annual Report by the Director of Medical Services for the year 1949-50.	
Report of the Select Committee on the Appropriation for 1951-52 Ordinance, 1951.	
Pharmacy and Poisons Ordinance, 1937.	
Registration of Pharmacists Holding Diplomas Regulations, 1951	A. 50
Defence (Finance) Regulations, 1940.	
Possession of Gold (Goldsmiths) (Amendment) (No. 3) Order, 1951	A. 51
Deportation of Aliens Ordinance, 1935.	
Appointment by the Governor under section 15 .....	A. 52
Quarantine and Prevention of Disease Ordinance, 1936.	
Declaration under section 18 .....	A. 53
Quarantine and Prevention of Disease Ordinance, 1936.	
Declaration under section 18 .....	A. 54
Quarantine and Prevention of Disease Ordinance, 1936.	
Removal of quarantine restrictions imposed against Djakarta (Batavia) .....	A. 55
Defence Regulations, 1940.	
Price Control Order, 1946—Amendments to the Schedule .....	A. 56

**APPROPRIATION FOR 1951-52 BILL, 1951.**

The debate on the Second reading of the Bill was resumed.

THE DIRECTOR OF MEDICAL AND HEALTH SERVICES: —Sir, my Honourable colleague criticised the administration of the Mental

Hospital on the grounds that there was only one medical officer working there. This, I need scarcely say, is not the case, if only because by law a second medical officer is needed to certify a patient or extend the observation period. This work is done by the Deputy Director of Medical Services, who is also in charge of the hospital, and so relieves the resident medical officer of administrative duties which enables him to devote the whole of his time to clinical work.

The second and more important criticism made by my Honourable friend was in connection with the tuberculosis clinics. There was a suggestion in yesterday's paper that because my Honourable friend has criticised Government's policy in this matter there was, therefore, a lack of co-operation between the Anti-tuberculosis Association and the Government. I should like to take this opportunity of stressing that there is the closest possible co-operation between the Association and the Government, and I am sure my Honourable colleague, as Chairman of the Association, will confirm this.

To return to the matter of the tuberculosis clinic; it is not proposed by Government to increase the number of clinics available in the Colony during this coming year, but to replace the clinic at the Harcourt Health Centre with a properly designed building. Honourable members may recall that the Harcourt Health Centre was originally designed as a gas decontamination station and is not, therefore, entirely suitable as a tuberculosis clinic. Moreover, it is not considered to give adequate protection to the staff.

In supporting his argument against an additional clinic, my Honourable friend gave the opinion that the provision of further clinics in Hong Kong, without further beds to accommodate the cases discovered was wrong. As Government does not agree with this view, it will be necessary for me to explain in some detail Government's policy.

Dr. J. B. McDougall, Adviser on tuberculosis to the World Health Organization, and the highest international authority on the subject, has said the following in connection with tuberculosis in China: "The establishment of special sanatoria and hospitals for tuberculosis and other infectious diseases is not only beyond the limits of the budget available, but is not urgently necessary. Special clinics for ambulatory treatment are much more necessary". Honourable members will appreciate that the ratio of

beds available for the tuberculous in Hong Kong is likely to be considerably higher than in China and that, therefore, Dr. McDougall's opinion applies with even greater force to this Colony.

Although the great Majority of tuberculosis workers are in agreement with his views on the value of clinics, I would be inclined to agree with the views of my Honourable colleague if the sole function of the clinics in Hong Kong were to provide, as he put it, "a bottle of medicine and a homily on how to rest", and "to unearth more cases and create a record waiting list". I think my Honourable colleague cannot have visited the Government tuberculosis clinics or he would not give these as their functions.

Their functions, briefly, are these: On a case of tuberculosis being notified, the almoner is informed and one of the tuberculosis visitors calls on the household concerned. The visitor explains the risks of infection that have been run by the contacts and endeavours to persuade them to come to the clinic for examination. In this way a number of contacts are discovered who have tuberculosis in such an early stage that they themselves are unaware of it. For these patients the "homily on rest" with perhaps additional feeding and possibly relief from domestic or financial worries, provided by the almoner's department, is often all that is needed. An average of 20 cases per month under this regime become inactive, making hospital admission unnecessary. In other cases, where something more is required, some of them have been given specific drug treatment.

In the United Kingdom trial has been made with the domiciliary treatment of tuberculosis, based on the tuberculosis clinic, with such drugs as para-aminosalicylic acid, more commonly known as P.A.S., and with streptomycin.

In Hong Kong last July a preliminary trial was made in the treatment of 21 cases with P.A.S. This trial was successful and it was repeated in November. A third group is now being treated. These patients were on a waiting list for admission to hospital and of the 42 patients who have completed treatment, two-thirds have recovered sufficiently to make admission unnecessary. As experience with P.A.S. in Hong Kong increases, more and more selected cases will be treated; I hope with equally successful results.

Domiciliary treatment with streptomycin presents considerable difficulties, but a start is being considered. This will involve allocating one of the medical officers at each clinic to visiting duties which will take him away from his work at the clinic, and it may be that, for the time being, they will not be able to spare the staff. But, should further clinics be built, this will, of course, be possible.

It will be seen that, one way or another, in the last six months an average of 140 cases recovered sufficiently not to require admission. To achieve a similar result with hospital treatment based on the conditions of admission ruling at the Ruttonjee Sanatorium, it would require a hospital of a little more than 200 beds, and the cost of building a hospital for 200 beds, and running it, would be many times greater than the cost of building and running a clinic. The clinic provides a far greater return for the money spent than does a hospital, and as long as money is not unlimited this is an important point. This does not, of course, mean that hospital beds are superfluous. They are needed for many purposes, and there is no other method of ensuring complete isolation; but care should be taken not to over-emphasize their importance.

Based on the clinics in Hong Kong is a staff of almoners who control the work of the tuberculosis visitors and, partly through the aid of the visitors and partly through their own investigations, they are able to find out a considerable amount about the family troubles of the patients attending the clinic. In this way they are, on occasion, able to provide special housing accommodation, financial assistance or home help. Where the mother is the patient or where young children are in close contact with an infective case, the almoners are sometimes able to find temporary foster-mothers or even arrange for the accommodation of the children at a home run for this purpose at Shatin by the Mennonite Mission. None of this work, of course, could be done without the establishment of a clinic as a base of operations.

So far, I have dealt primarily with the curative aspect of the work; but there is another and more important aspect—the preventive. Owing to the close relationship built up between the tuberculosis visitors and the patient, it is possible to investigate the details of the patient's mode of living and to point out what customs and habits tend to spread tuberculosis and to give advice on what precautions should be taken to reduce the risk of infecting

others. This education of the many, hundreds, even thousands, who attend the clinics does more, in my opinion, to check the spread of tuberculosis than would isolating a small fraction of them in hospital. Although it is difficult to estimate the relative importance of the different aspects of the work at these clinics, this preventive work probably does represent the most important single item in their programme. By means of these tuberculosis visitors a very great deal can be done of a preventive nature, but the cases must be "unearthed" first before the instruction can be given.

In July last year, Dr. L. O. Roberts, the tuberculosis adviser of the Western Pacific Region of the World Health Organization, which includes Hong Kong, made a full investigation into the tuberculosis problems in the Colony. At the end of it he reported that the existing facilities, with the assistance that might be forthcoming from the World Health Organization and the United Nations International Children's Emergency Fund, would constitute a balanced programme which is more satisfactory relative to the size of the problem than in most other territories he had visited. But he went on to add that that does not mean it is adequate. He further stated that although the number of beds was inadequate, in the present circumstances he did not advise the expenditure of large sums of money on more in-patient beds; and finally, on the subject of the Harcourt Clinic, he said: "The Harcourt Health Centre is the main clinic for the island of Hong Kong itself. Good work is being done by the staff under discouraging conditions, for the building was not constructed as a clinic, has inadequate waiting room, large numbers of patients choke the corridors, there is no X-ray plant and no room to put it if it were available". He then referred to the new Hong Kong clinic, the building of which had been postponed, and said: "I earnestly hope the Government will proceed with the project at the earliest possible moment."

I trust these explanations and quotations from authorities will convince my Honourable colleague that Government is progressing along the right lines, but I would like to extend to him a hearty invitation to visit the Government clinics and see for himself the work that is being done there.

THE ATTORNEY GENERAL: —Your Excellency, in the course of the debate last week, the Honourable Member, Mr. Terry referred to the absence of legislation prohibiting development contrary to the town planning programme. This is a matter to which the Honourable Member made reference in the corresponding

debate of last year. I then explained that the outcome of the Abercrombie Report was to require that a definitive town plan be prepared for the Colony on the basis of which legislation will be framed. I mentioned, however, that an examination of the position was being made and that endeavour was being pursued to prevent development, undesirable development in conflict with town planning proposals. I mentioned further that Government Departments, meanwhile, were attempting to apply his recommendations, i.e., the recommendations of the Abercrombie Report, insofar as legally and financially practical.

Now, Sir, it must be conceded that until very recently the position has remained much the same. Owing, for one reason, to the serious staff shortages it has not been possible to make progress, whether on the definitive plan or on legislation to cover an interim period. But, Sir, recently the problem has been under active examination once again and I am able to say that the view now held is that the most urgent need is for civic planning and work to that end is being carried out with particular regard to the central reclamation scheme. For that purpose legislation would be proposed.

Again in the course of last week's debate, my Honourable friend Mr. M. W. Lo made reference to a matter, namely the congestion in particular of the Magistrates' Courts of the Colony. This is a matter which, in point of fact, has been engaging attention and causing much concern for a considerable time. Honourable Members will recall that at the Ceremonial Openings of Sessions of the Supreme Court the Chief Justice, both last year and this, in the course of his address, gave statistics which graphically describe the increased demands upon the Courts. Statistics in greater detail appear in the Annual Report of the Colony for last year. I therefore do not propose to burden my remarks today by a parade of statistics. It suffices to illustrate if I mention some round figures as regards the Kowloon Magistracy, and that Magistracy alone, to compare the situation prevailing in 1938 with that for the period of eleven months from 1st April, 1950 to the end of February, 1951. As to these statistics in 1938, the number of accused or defendants appearing before the Kowloon Magistracy, whether upon arrest or upon return to writ or summonses was 13,000. In 1950/51 for a period of eleven months only the number of persons so appearing was 115,000. In 1938 the Revenue collected in respect of paid up fines at the Kowloon Magistracy was \$78,000. In the period April, 1950 to February, 1951 the figure was \$1,425,764.

Now, Sir, I submit that these figures suffice to explain how inevitable it is that there should be conditions of congestion, strain and stress in the magistracies to which my Honourable friend has referred. The situation is unavoidable not only because of increased population in the Colony but because the number of magistrates available for the discharge of the mass of work required has remained substantially the same as in 1938, except insofar as valued aid is given in Hong Kong by the Justices of the Peace Court.

Now, Sir, it may be argued that the position being as the Honourable Member has described it, and as I have in fact conceded, why action to alleviate the position substantially has not already been taken. As to this, Sir, the answer is to a large extent to be found in the fact that practical effect and recognition has been given to a warning voiced by my Honourable friend Mr. Cassidy in the course of this very debate. It will be remembered that he warned that the public must appreciate that if more extensive public services are demanded, the public must expect to pay for them and that extensions or elaborations of public services once provided tend to come to stay and provides a recurrent charge. With that factor in mind there has been hesitancy to increase staff, judicial, legal or magisterial, hesitancy to afford increased court accommodation, perhaps with undue optimism in the expectation that there would be a large reduction in the overpopulation in the Colony which has prevailed in recent years. This expectation has not been realized, while the deservedly praised efficiency of the Police in the detection of crime has had unavoidable reaction on the forces of the prosecution and on the personnel of the courts who have been for too long confronted with too heavy a burden. Thus at this date it seems unavoidable that an entirely new appraisal of the position needs to be made and that the requirements of staff and buildings must be reviewed afresh.

In passing, and concluding this aspect of the debate, I would add that the suggestions which were made by my Honourable friend have been considered and will be considered afresh to provide some paliative to the position which we have discussed, but I would mention that in fact an attempt to limit prosecutions in minor traffic offences by the device of issuing warnings instead of proceeding to prosecution has had recently almost altogether to be abandoned since this devise proved ineffective.

The same Honourable Member, Mr. Lo, in the course of his speech also made reference to the revision of the laws of the

Colony which has been in progress and which, with the gradual appearance of volumes, nears completion. The Honourable Member's remarks, which I may say in parenthesis were heard with much appreciation by those engaged in the task, included a suggestion that the Traffic Regulations, having been consolidated and revised, should also thereafter be available in a separate booklet form for the greater convenience of all. I would say that I fully share the views of my Honourable friend as to the exceeding confusion and difficulty attending upon finding the law governing traffic in the Colony today. It is therefore with regret that I am unable to promise immediate relief in the manner foreshadowed by my friend. My reason is that because the traffic regulations are in need not merely of consolidation and amendment, but of complete replacement, a decision has had to be taken not to reproduce the existing regulations in the revised edition. Instead, the aim and ambition is to replace the regulations completely and to do so as soon as possible. As to what date this work can be accomplished, depends on other pressures, priorities and staff reinforcements. The work has been commenced and progress has been made. The hope is that the work can be completed in the second half of this year. In that event traffic legislation will in fact become available in concentrated and accessible form, and thus meet the requirements, with which I fully agree, suggested as desirable by the Honourable Member.

THE COLONIAL SECRETARY: —Sir, before answering certain of the points made by the Honourable Members, I would first add my tribute, both personally and on behalf of my colleagues in the Civil Service to my Honourable friend and colleague, the Financial Secretary. When Sir Geoffrey Follows goes on retirement in the near future, he will leave a gap in the Civil Service of Hong Kong which will be difficult to fill. I have learned in the course of my close association with him over the past almost two years that no one has a better knowledge of the affairs of this Colony and no one has a sounder judgment than Sir Geoffrey. There is little that we do that does not impinge at some stage or another on the financial affairs of the Government and so the Financial Secretary has an interest in most matters with which we deal. He is the officer responsible to Your Excellency for the financial health of the Government and he leaves us in a robust state of financial health, which contrasts so markedly with the weak state of health obtaining some five years ago. As Sir Geoffrey has said, the prosperity of the Colony as a whole is due to the courage, ability and drive of our bankers and business leaders, but it would be doing less than justice to the Financial Secretary to

infer from that that a general state of prosperity means inevitably a sound state of Government finances. To achieve a sound state of Government finances in any conditions, the Financial Secretary too must have courage, ability and drive, and he must take a long view.

It so happens that the Budget which Sir Geoffrey Follows has introduced on this occasion is that rare sort of Budget, a popular one, but if it had not been popular, I know that both Unofficials and Officials would have felt as sincerely appreciative of his work as they do today. It is not for this Budget that we thank him, but for 5 years of hard and constructive work in a difficult situation.

In wishing Lady Follows and Sir Geoffrey God's speed and many happy years of retirement, I know that the retirement we talk of in this case is not of Sir Geoffrey Follows sitting in an armchair with his life's work finished. Wherever he goes it will not be long before he is found out and presented with some work. And he will do it because he is that sort of man.

Turning now to the criticisms of the Vegetable Marketing Organization, it would seem that these criticisms have been framed around exceptional periods, such as Chinese New Year, when producers are anxious to get as much as possible on to the Market in the hope of obtaining the good prices which prevail at the time of festivities. This was most marked in the New Year which has just passed when there was an increase in vegetables marketed of some 43% over the same period in 1950 and 67% over the same period in 1949, thanks partly to the fine growing weather at the end of January and beginning of February.

This threw a heavy strain on the transport system of the market and it is true to say that at times such as Chinese New Year, the transport system is irregular and inadequate. At present, the organization has 16 5-ton Diesel lorries and 30 3-ton petrol lorries, but some of the petrol lorries are in bad condition and frequently under repair. The organization now wishes to purchase a further 15 5-ton Diesel lorries and in the meantime lorries are being hired when the need arises. Normally there is sufficient time for effecting sales when vegetables reach the Market, but again over the Chinese New Year period, difficulties did arise because during that time the average quantity of vegetables sold in the Kowloon Market rose from the normal 3,000 piculs a day 4,300 piculs a day. As

a result, the quantity of vegetables unsold averaged 2.78% which is very high compared with the yearly average of .1 of 1%. The difficulty of disposing of vegetables at that time was also met with by the commercial importers who normally market on Hong Kong Island, and they added to the congestion in Kowloon by sending vegetables to the Kowloon Market.

The criticism was also made that the Marketing Scheme has increased the vegetable producers' costs of production and also increased the charges which have to be met for marketing as compared with what producers paid when the laans operated in Kowloon. It is not practicable to make an accurate comparison between the Marketing scheme and the laans which operated formerly in Kowloon, but it is possible to compare the Scheme with the laans operating now on Hong Kong Island. These laans charge 11½ to 12% for their services which do not include transport and coolie hire. The average transport charge on the Island is \$1.00 a picul, so that with vegetables at the present price of \$16 a picul the Hong Kong vegetable producers are paying about 17% to have their vegetables marketed, as compared with the 10% charged by the Marketing Scheme in Kowloon.

The rise in the cost of production is not caused by the establishment of the Marketing Scheme, but by a general rise in prices and shortages of fertilizer. In order to reduce marketing costs in the New Territories, farmers are being encouraged to take over vegetable collecting centres which the organization has set up or is in the process of setting up.

In the autumn of last year the decision was taken to put an end to the distribution of raw nightsoil by the Agricultural Department throughout the New Territories. This step was taken on the urgent advice of the Medical authorities in view of the health risk to the public and to Military personnel stationed in the farming areas. There was a significant increase in cases of typhoid last summer. Experiments are now being carried out with the object of preventing the breeding of flies in nightsoil sumps and thus minimizing the risk. Results so far have been encouraging.

Matured nightsoil is being produced at Castle Peak, and there is a small pilot composting plant at Tsun Wan. These, which provide a safe fertilizer, do not however produce enough for all the needs of the New Territories farmers, but a scheme

for setting up a compost factory to produce adequate quantities of fertilizer is being prepared. This scheme, for which, should it prove a practical proposition, it is proposed to make an application for \$1,000,000 from Colonial Development & Welfare Funds, will be formulated when a composting expert comes from England to advise us on the scheme. It is hoped that this expert will arrive in the early summer.

In short, by one means and another, we are doing all we can to meet the needs of the farmer for fertilizer at a cost which he can afford without jeopardizing the health of the community.

As to the shortage of baskets, it was not originally intended that the 10% commission charge should cover the supply of baskets, but during the past two or three years the organization has helped farmers by supplying baskets whenever possible. The ideal would be to provide them all immediately, but this would cost the organization about \$200,000 a year and result inevitably in an increase in the amount of commission charged. It is hoped, however, in the future to achieve economics in other sections of the organization and gradually to provide all the baskets necessary without increasing the commission charge.

Finally, the Honourable Member suggested that a committee should be formed to advise on the running of the Markets and that farmers should be represented on the committee. This is an excellent point which is warmly endorsed by the Government and which has, in fact, been under consideration for some time. Legislation is now being prepared to provide for the setting up of an Advisory Board on which the farmers will be represented.

The operation of the Immigration Office was mentioned and it is correct that the office is hampered by both lack of space and by some shortage of staff. As a temporary palliative for the space problem, the Commissioner has borrowed part of the Police Reserve Club as a reception office for applicants for visas, but I fear it will not be possible to solve the problem satisfactorily until we have the new Police Headquarters. The planning work on this building will, we hope, be carried out this year. The staff unfortunately cannot be increased at present because the Police Force is already 40 Inspectors under strength and it is not possible to allocate more staff to Immigration until the Inspectorate establishment is brought approximately up to strength. However, even though the Immigration Office is

working under difficulties, most visa applications are dealt with in about 5 days and this cannot be regarded as tin satisfactory. It will, I think, have been the experience of Honourable Members who have applied for visas in other countries that it usually takes much longer than 5 days to get a visa. Re-entry permits are only generally issued to Cantonese and Hakka residents of the Colony, but exceptions are made in the case of other Chinese who have been in the Colony for a long period or who have substantial interests here. I regret that it will not be possible to relax this policy.

One Honourable Member referred to the usefulness of the Tokyo office, and while the Government does not wish to give an undertaking in this matter at this stage, the question of continuing the operation of that office when trading relations with Japan are normal will be given sympathetic and careful consideration.

The Ship to Shore Radio Services are a matter for Cable & Wireless and not for this Government, but I understand that the intention is to provide three services consisting of a liner service, which is already available during limited hours, a ship-radiotelephone service from ship to shore and a 'very high frequency service' for use in the harbour. There have been difficulties over wave lengths, but these have now been settled and all the equipment is on order. Much of it is expected to arrive here in May this year. I am assured by Cable & Wireless that the outstanding technical problems are expected to be resolved in the rear future, but I am unable to say when these services will be in full operation.

Unfortunately it has not been possible to make a decision about the Airport, but Honourable Members may rest assured that everything possible is being done to reach conclusions on that difficult problem and they will be informed of the position as soon as the Government is able to do so. The Director of Civil Aviation is going to the United Kingdom early next month for discussions with the Colonial Office and the Ministry of Civil Aviation, on certain matters including the Airport.

One Honourable Member again referred to the need in the Colony for a Sports Stadium and to the application from the South China Athletic Association for a loan to assist in the building of such a Stadium. Another proposal is that the Government should construct a Stadium and both these proposals are now under consideration. A suitable site for such a Stadium

would be at Causeway Bay when the existing typhoon shelter there has been reclaimed and a new shelter built. Honourable Members will notice that this project is included in the 5-year plan which the Financial Secretary has placed before the Council at this session. The result of such a scheme would be to provide the public with a splendid recreational area of about 50 acres in a central position and also with a better and larger typhoon shelter.

Finally, Sir, I would thank those Honourable Members who have made appreciative references to work done by Government Departments. It is the lot of the Government to receive more kicks than hapence, so the hapence are all the more welcome.

THE FINANCIAL SECRETARY: —Your Excellency, May I in the first place express my thanks for all the very kind references which have been made to my work in the course of this debate. When I was transferred here, the restoration of the finances of Hong Kong was of course the task which took first place in my thoughts and any degree of success which I may have achieved is naturally a great source of satisfaction to me.

I am sorry that two Honourable Members should have suggested that, because the financial position is satisfactory at the moment, we should take the opportunity to reduce our standard rate of tax under the Inland Revenue Ordinance to the former level of 10 per cent. Although the position at the moment may be satisfactory I think that these Honourable Members will agree that the future gives cause for concern. I fear that the harm already done by the American embargo will adversely affect certain sources of revenue in 1952/53 and in particular we must expect a reduction in the yield from profits tax for that year. We do not know how the coming financial year 1951/52 will develop and it may well be that there will be short falls on certain revenue heads. I think therefore that we shall require all the revenue which we can obtain and it will not in consequence be possible for Government to agree to any reduction in the rate of tax.

Then the same two Honourable Members have suggested that the proposed business registration tax should be deferred. The points which I have just made show, I submit, quite conclusively that it would not be prudent to agree to any deferment. There is an additional reason to which the Honourable M. W. Lo has drawn attention, namely that the new measure will ensure that the Inland Revenue Department is in a better position

to see that direct taxation is borne by all those who are liable to the tax. I suggest that this alone provides sufficient justification for the proposed registration of businesses even if we could manage without the additional revenue which, I submit, is not the case. Expenditure which cannot be foreseen in advance has a habit of piling up during the year and we will almost certainly have to make a considerably larger payment to His Majesty's Government than the token sum in respect of the present emergency which is provided for in the estimates.

It has been represented that the tax will increase the burden on the commercial community at a moment when business is already on the decline. But the proposed tax as scaled down only represents approximately 50 cents a day. If even a small business cannot stand that, it must be in a pretty bad way and it is noteworthy that the Honourable P. S. Cassidy, who is the spokesman for the commercial community, considered the tax to be justified and expressed the hope that it would prove low enough to discourage evasion. Having regard to all these considerations, Government regrets that it is unable to agree to any postponement in the introduction of this tax.

The Honourable P. S. Cassidy referred to the tax on neon signs which was proposed last year and expressed the hope that when additional taxation became necessary this possible source of revenue and in fact the general field of advertising should not be neglected. I can assure my Honourable Friend that the neon sign tax has only been put into cold storage. There were certain technical difficulties but I feel that these can be overcome and it represents a source of revenue which can readily be tapped when the need arises.

Several Honourable Members paid a well deserved tribute to the excellent work of the Police Force in their difficult task of maintaining law and order. Unfortunately their supremacy over the forces of disorder has only been gained at the cost of a number of lives and Honourable Members are naturally concerned whether the dependants of these gallant men have received adequate compensation. No monetary compensation can of course remove the sense of loss suffered by the family but, in addition to the pension due under the Widows' and Orphans' Pension Scheme and the usual payment of one year's pensionable emoluments, the Pensions Ordinance provides for the payment of an additional pension to the widow and to each child. Where the officer meets his death in the sort of circumstances envisaged, the pension granted to the widow is at the maximum

rate of one quarter of the husband's annual pensionable emoluments instead of the normal rate of one sixth which would be applicable if the officer for example had met his death by accident whilst travelling on duty.

The Honourable P. S. Cassidy also made certain comments on the accounts of the Supplies and Distribution Department. There was certainly no intention to make a mystery of them. There is quite a difference between ordinary Government revenue and expenditure and these trading transactions. In the case of the latter the gross receipts and payments do not really matter. What does matter is the net result whether it be a profit or a loss, and only if there is a loss are public funds committed. It would really have been extremely difficult to have made any earlier statement on this question. It would only have been possible to have said that progressively effective steps were being taken to straighten out the somewhat chaotic conditions which had been the inevitable result of being forced to operate a Department without experienced or even adequate staff. Only when the accounts had been brought up to date was Government in a position to furnish this Honourable Council with an exact statement of the position. There was certainly no deliberate withholding of information and it may have been noticed that, in their report, Messrs. Lowe, Bingham and Matthews pointed out that so far as the marketing section was concerned no reliable yearly accounts could be produced from the records. My Honourable Friend will no doubt also recollect that, in reply to a question which he asked on the 13th December last, I explained that it was necessary to review the profit and loss accounts when first submitted last September in order that they might reflect the effects of the Financial Settlement with His Majesty's Government which was reached earlier in the year. Admittedly the administration of this department was far from perfect but when you start off with a staff which is inadequate in numbers and which has absolutely no previous experience of the type of work to be performed, and when the few people who have had experience are so fully occupied that they are quite unable to undertake the task of reaching others, I think that it is quite remarkable that we have finished up with the satisfactory surplus which has been achieved. Serious mistakes could have occurred so easily and they might have been very expensive. In the circumstances, I submit that the results reflect much credit on those who were responsible for the control of the department during this difficult period.

The Honourable C. E. M. Terry drew attention to the large expenditure on defence and security. \$53½ million or nearly 23 per cent of our total expenditure is certainly a high figure. He has quoted a figure of 3 per cent as representing the total defence expenditure in the United Kingdom between 1920 and the early 1930's. Apparently however this figure relates to national income and not to total Government expenditure and I would also point out that, whereas we include the whole cost of our Police Force in our figure of expenditure on security and defence, in the United Kingdom only a fraction of the total police expenditure is reflected in Central Government expenditure as the major part is met from the budgets of local authorities. According to figures recently quoted in the Economist, defence up to recently was absorbing almost 24 per cent of the United Kingdom expenditure and if police expenditure had been included the percentage would have been a good deal higher. As a result of the re-armament drive the percentage of total expenditure in the United Kingdom devoted to defence will no doubt increase further and it is perhaps natural that His Majesty's Government in considering the expenditure which can reasonably be borne by this Colony tend to view the problem in relation to the revenue which might be obtained if the Colony were taxed up to the maximum capacity.

My Honourable Friend also enquired whether, as the Railway Workshops are presumably not at the moment working to capacity, they could not be used for repairs required by other departments. These workshops in point of fact, even when the Railway was operating normally, carried out a good deal of work for other departments. They have for example done quite a lot for the Fire Brigade, and have successfully turned out armoured cars for the Police. We will certainly consider the diversion of more repair work to them but most of the work of this nature which has recently been put out to tender relates to craft belonging to the Marine Department and I am assured that in most cases it would be an expensive business to lift the engine out of a vessel and transport it to the railway workshops, and that where it is necessary to remove the engine bodily it is usually cheaper to work on it on the slipway.

The Honourable C. E. M. Terry also called attention to the present price level in the Colony. I am afraid that in some cases it is only too true that advantage has been taken of the

American embargo not only to increase the prices of goods of American origin but also of goods which have not even a remote connection with that country. But in a large number of cases increases in price have been unavoidable because of shortages resulting from stock piling and the inflationary trend elsewhere.

However, as far as staple foodstuffs are concerned, the price of rice on Government ration has been maintained at a steady level throughout the year and so has the price of bread which was in fact reduced from 55 cents to 50 cents a pound early last year. Nor so far as our records go, has the price of free market rice varied except within very small limits. My Honourable Friend has suggested that rice be sold at a loss but he may be interested in an experiment which was made last December with the co-operation of the Employers' Federation. At that time good quality broken rice was issued on the ration at the special price of 38 cents per catty as against the normal price of 48 cents. The theoretical offtake should have been 4,400 tons but in actual fact only 250 tons were sold. This experiment seemed to indicate that the population could not have felt that the cost of living was unduly high if they preferred to buy this free market rice at a much higher price.

In so far as coal and firewood are concerned, Government has been obliged to raise the price of coal on three occasions since the commencement of this year. It has been driven to this course by increased costs and above all by increased freight rates. Not only have freight rates trebled, and are likely to increase again, but ships are becoming increasingly difficult to obtain. Government is making no profit whatever on firewood. In fact it has incurred a severe loss by maintaining stock-piles against the emergency which has now occurred. No criticism of the price at which Government is selling has been received nor can I agree that it is unreasonable in relation to the landed cost.

As regards price control generally, I am informed by the Director of Commerce and Industry that he is putting the question of additional controls before the Price Control Advisory Committee. But it must be realised that in a Colony like this it is useless to apply controls to many commodities unless an export control is enforced at the same time, for it is quite clear that a merchant who has the opportunity to sell locally at a small profit or to export at a large one will certainly choose the latter course, with the result that commodities will disappear from the local market. The Director of Commerce and Industry has told me that on one occasion when he endeavoured to resist

a price increase on one commodity, which I do not propose to specify, he received a very definite hint that, if the price increase were not agreed to, future shipments would be diverted to other places where the price control authorities would not be so severe.

Moreover whether we like it or not we have got to face the situation that prices are rising all over the world. In the early part of last year it proved possible by revision of the distribution arrangements locally to bring down the price of Government meat. It is sad to record that since that date it has been necessary to increase prices on several occasions as a result of increase costs in Australia, where inflation appears to have assumed serious proportions. The same position obtains as regards all other goods imported from Australia.

Hitherto Government's policy has been to maintain the prices of essential foodstuffs and fuels at a reasonable level and I think that they have not been unsuccessful in this. The question of reducing foodstuff prices and selling at a loss as the Honourable member has suggested is not an easy one, but the question is worthy of further consideration.

These are some of the difficulties but not the only ones. Unfortunately in Hong Kong there is singularly little consumer resistance against prices which appear to be unreasonably high, and, if complaints are lodged, the complainants are rarely willing to give evidence in Court. All this makes price control difficult. Nevertheless the question of a stricter price control has been considered, and is being considered, together with drastic measures against any who may be guilty of hoarding foodstuffs and keeping them off the market. Naturally it would be greatly preferable if we were not forced to resort to such measures and it is hoped that the Chambers of Commerce, wholesalers and distributors will take any action which may be within their power to see that unreasonable profit margins are not demanded.

The question was put and agreed to and the Bill was read a Second time.

THE COLONIAL SECRETARY moved that the Report of the Select Committee to which was referred the Appropriation for 1951-52 Bill together with the draft Estimates, be adopted.

THE ATTORNEY GENERAL seconded, and the Motion was carried.

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

Clause 2.

THE FINANCIAL SECRETARY: —Your Excellency, I beg to move that in clause 2 for the words "two hundred and thirty-three million four hundred and sixty-five thousand one hundred and thirty-seven dollars" there shall be read the words "two hundred and thirty-four million six hundred and sixty-nine thousand and fifty dollars."

Schedule.

THE FINANCIAL SECRETARY: —Your Excellency, I beg to move that the Schedule be amended in every detail as recommended by the Report of the Select Committee so that for the total of \$233,465,137 there shall be read the figures \$234,669,050.

Preamble.

THE FINANCIAL SECRETARY: —Your Excellency, I beg to move that in the Preamble for the words "two hundred and thirty-three million four hundred and sixty-five thousand one hundred and thirty-seven dollars" there shall be read the words "two hundred and thirty-four million six hundred and sixty-nine thousand and fifty dollars."

Enacting Clause and Title.

THE FINANCIAL SECRETARY: —Your Excellency, I beg to move that in the long title for the words "two hundred and thirty-three million four hundred and sixty-five thousand one hundred and thirty-seven dollars" there shall be read the words "two hundred and thirty-four million six hundred and sixty-nine thousand and fifty dollars."

This was agreed to.

Council then resumed.

THE FINANCIAL SECRETARY reported that the Appropriation for 1951-52 Bill, 1951, had passed through Committee with certain amendments recommended by the Select Committee and moved the Third reading.

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

**ESTIMATES FOR 1951-52.**

THE FINANCIAL SECRETARY moved the following resolution: —

RESOLVED that this Council approves that the estimates for revenue and expenditure for 1951-52 incorporating the amendments proposed by the Select Committee should be adopted and further that this Council approves the expenditure of \$17,830,259 on the items in the Revised Schedule of Expenditure under the Rehabilitation Loan in the aforesaid Estimates which sum shall be met from loan funds and shall be charged as an advance from the surplus funds of the Colony pending reimbursement from loan funds.

He said: Your Excellency, this resolution is necessary in order that the present procedure should be continued whereby the financing of loan expenditure is met from surplus funds.

THE COLONIAL SECRETARY second, and the Motion was carried.

**SUPPLEMENTARY APPROPRIATION FOR  
1949-50 BILL, 1951.**

THE FINANCIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to authorise the appropriation of a supplementary sum of eleven million five hundred and sixty-five thousand six hundred and ninety-nine dollars to defray the charges of the financial year ending 31st March, 1950."

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

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

Council then resumed.

THE FINANCIAL SECRETARY reported that the Supplementary Appropriation for 1949-50 Bill, 1951 had passed through Committee without amendment, and moved the Third reading.

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

**BY-LAWS UNDER PUBLIC HEALTH (FOOD)**  
**ORDINANCE No. 13 OF 1935.**

HON. P. C. M. SEDGWICK moved—

That the By-laws made by the Urban Council on the 13th day of March, 1951, under section 5 of the Public Health (Food) Ordinance, 1935 (Ordinance No. 13 of 1935) be approved.

He said: Your Excellency, a Fish Prices Committee was set up last year under the chairmanship of Mr. W. J. Carrie to consider and advise upon any action which might be taken to effect a reduction in the retail price of fish. The additional Market By-law made by the Urban Council, the approval of which I now move, is designed to implement certain of the Committee's recommendations, by making it obligatory for market stallholders selling marine fish to purchase their fish from the wholesale fish market through nominated and approved buyers, to maintain an adequate supply of marine fish daily at their stalls and to exhibit price tags.

THE COLONIAL SECRETARY seconded, and the Motion was carried.

**CONSULAR CONVENTIONS BILL, 1951.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to confer upon the consular officers of foreign States with which consular conventions are concluded by His Majesty certain powers relating to the administration of the estates and property of deceased persons, to restrict the powers of police officers and other persons to enter the consular offices of such States; to make consequential amendments to the Probates Ordinance, 1897, and the Births and Deaths Registration Ordinance, 1934, and to make amendments in the Merchant Shipping Ordinance, 1899, so as to enable such consular officers to exercise certain powers in relation to the property of deceased seamen and to wrecked foreign ships and to property thereon." He said: Sir, the Bill as in the hands of Honourable Members is accompanied by Objects and Reasons which, I feel, sufficiently explain the purposes of the Bill. I feel also that no useful purpose will be served by my adding remarks on this occasion.

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

*Objects and Reasons.*

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

1. The main object of this Bill is to give effect in Hong Kong to the United Kingdom/United States Consular Convention and to agreements of a similar character which may be made by His Majesty's Government in the United Kingdom.

2. The Convention largely embodies existing practice between the United Kingdom and the United States but legislation is required—

- (a) in respect of the qualified immunity of consular premises from search (Clause 5);
- (b) to enable a consular officer to administer the estate of a deceased person in which his nationals are beneficiaries (Clause 3);
- (c) to empower the Director of Marine to hand over to the appropriate consular officer the estate of a deceased seaman who is a national of the consular officer's country, if it does not exceed two thousand Hong Kong dollars (Clauses 6 & 7); and
- (d) to enable the appropriate consular officer to act as agent of the owner of a foreign ship wrecked on or near the coasts of the Colony and as agent of the owners of the cargo on such ship (Clause 8).

3. The Bill is based on the United Kingdom Consular Conventions Act, 1949, which it follows closely. In Hong Kong, however, certain provisions relating to the estates of deceased seamen and to wrecks which were already law in the United Kingdom by virtue of sections 175, 176 and 521 of the Merchant Shipping Act, 1894, were not law in Hong Kong. The provisions in questions have been incorporated by clauses 6 and 8 of the Bill. In the case of clause 8, which reproduces section 521 of the Merchant Shipping Act, 1894, as section 27B of the Merchant Shipping Ordinance, 1899, the section has been expanded to extend to the wrecked ship itself, an amendment which in the United Kingdom was effected by section 5(2) of the Consular Conventions Act, 1949.

**HONG KONG AND YAUMATI FERRY COMPANY  
(SERVICES) BILL, 1951.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to authorize the Hong Kong and Yaumati Ferry Company, Limited to maintain and operate ferry services."

THE COLONIAL SECRETARY seconded.

HON. C. E. M. TERRY: —Your Excellency, the Objects and Reasons to this Bill and the introductory remarks of the Honourable Attorney General when moving the first reading, both refer to pending legislation on similar lines in connection with the "Star" Ferry Company, Limited. My association with that Company, Sir, is well known, and I therefore have an indirect interest in the Bill now before this Council. I now formally declare that interest, Sir, but I rise to speak on this Bill only because it contains in the Schedule two clauses which, in my opinion, are wrong in principle and contrary to the public interest, and I should be failing in my duty if I did not express that view.

I refer first of all, Sir, to Clause 5 of the Schedule to the Bill, which provides that the Company shall pay by way of Royalty to Government a percentage of their Gross Receipts. I do not object to the fact that a Public Utility Company should pay a Royalty to Government, but I consider the assessment of that Royalty on Gross Receipts is wrong in principle, in as much as it amounts to differential taxation. That is to say, that one section of the community only, in this instance those who live in Kowloon and earn their living in the Island or conversely the comparatively small number who live in Hong Kong and earn their living in Kowloon, are being assessed a direct tax which is not applicable to the remaining population of the Colony. I consider also, Sir, that this clause is contrary to the public interest in that it makes no provision for the normal operating expenses and servicing of the Company which, as a Public Utility Company, must have as their first consideration the maintenance of an adequate and efficient public service, and who should be permitted to make reasonable provision to that end before being assessed in what amounts, in effect, to an additional tax by Government. I am convinced that the only method of assessing Royalty in such a case which is fair in principle both to the travelling public and the Company, is one based on nett profits, and I have therefore, sir, given notice of an amendment to this clause which I propose to move in Committee. This will, of course, entail a consequential amendment later.

The second clause to which I object in principle, Sir, is clause 17 of the Schedule, which provides for compulsory purchase of the undertaking by Government during the course of the franchise on a basis of the depreciated value of the physical assets only. I know of no precedent for such a basis of acquisition. Even at the height of Nationalization in England no such arbitrary purchase value was ever envisaged. The actual value of the undertaking, including good-will and other intangible assets, has always been the basis of acquisition, and in fact the history of the acquisition of major undertakings in the United Kingdom by Government shows that invariably one of three bases has been adopted, either the market value of the shares of the Company on the Stock Exchange, or the physical assets value plus good-will paid on an earnings basis, or just a straight forward earnings basis. My authority for making that statement is that of a leading and prominent Chartered Accountant of the City of London who, I think, is recognized as the leading authority on the subject in the United Kingdom, namely Sir Harold Howitt. It is, I think, apparent from what I have just said that this proposed clause, which gives to Government the right of compulsory purchase "without any addition in respect of goodwill, compulsory purchase, expectation or possibility of renewal, or of any profits which might have been made from the undertaking", is wrong in principle, contrary to all established precedent and, I submit Sir, contrary to the public interest, in as much as if it remains in the Bill as it stands it removes any incentive to the operators of a Public Utility Company to improve their services, or even to maintain it at the best possible measure of efficiency.

I have therefore given notice of my intention to propose an amendment deleting the words I have just quoted.

I am aware that both the clauses are included in the Company's existing franchise, but I do not consider that presents any reason why they should be maintained. The fact that an injustice exists is no excuse for its perpetuation.

Finally, Sir, may I refer to the Annual Report of the Colony of Hong Kong for 1950, which was tabled at a meeting of this Council some weeks ago. On page 110 of that Report, in the course of a eulogy of Government by Government, it is stated, and I quote: "Public utilities are given every encouragement"—I suggest that the two clauses to which I have referred are a complete negation of that statement.

HON. P. S. CASSIDY: —Your Excellency, I rise to offer a few comments on the Bill although I approach it from rather a

different angle than my Honourable Friend who has just sat down. In my opinion there are two main objections and if my Honourable friend the Attorney General can remove them I shall be only too glad. Firstly, I think the terms of the Ordinance disclose a rigid control by Government which, in my opinion is not in the public interest. Secondly, paragraphs 4 and 5 of the Objects and Reasons indicate that as negotiation for the regulation of the Star Ferry Company's services was proceeding concurrently and a decision reached in regard to both companies, consideration of the present Bill should be deferred until the Star Ferry Bill is ready for a first reading.

As regards my first objection, I deplore the Government's tendency to stifle private enterprise. This Colony has benefited enormously through the initiative and vision of financiers and business people who have provided the public with new services and nursed fledgeling companies through all the troubles which beset infant enterprises. These people may have been influenced by the motive which is deprecated by many of our academic economists of today but the profit motive has thoroughly justified itself, in my opinion, as far as this Colony is concerned. Our public utility companies were developed on sound lines with the consequence that when they resumed operations after the occupation they were able to rebuild from their own resources with little if any outside help. The profits they have made during the past five years have aroused a certain amount of jealousy but no one can fairly accuse directorates of improvidence, for a great portion of the profits has been ploughed back into the business and, of course, the Treasury has benefited through the increased payments on account of Corporation Profits Tax. There is, perhaps, justification for imposing a royalty system on public companies provided it does not involve higher service charges. I feel quite sure, however, that it is wrong to charge royalty on gross receipts, as my Honourable friend who has just sat down suggested, but at the moment I am unable to quote authorities in support of my contention. I shall be glad to hear from my Honourable friend the Attorney General the grounds on which gross receipts have been taken as the basis.

Coming to my second objection, I have no interest to declare as, so far as I recall, I have never owned a single Star Ferry share. I hasten to add this is no reflection on the Company itself because I have the greatest admiration for the way in which the affairs of the Company have been handled. And I rather suspect that it is because this able management and directorate has refused to surrender the interests of its shareholders that the Star Ferry

Company's Ordinance is not before us today. I suggest that the two Ordinances are so closely linked that they should be considered together and I appeal to my Honourable friend to postpone further stages of this Bill until the draft Ordinance for the Star Ferry Company is ready.

There is one minor point I wish to make. The shares of the Hong Kong and Yaumati Ferry Co., Ltd. are not quoted on the Hong Kong Stock Exchange because under the Articles of Association the Directorate have discretionary power to refuse to register the transfer of shares from a holder to a transferee and have, in fact, exercised this power. This means that a member of the public wishing to acquire shares in this public utility company may be prevented from doing so without the Directors giving any reason why they refuse the transfer. On these grounds the Stock Exchange naturally exclude the share from their official lists. It seems to me highly objectionable that the fully paid shares of a public utility company should not be freely transferable and I suggest that Government require the Hong Kong and Yaumati Ferry Company, Limited to amend their Articles and so bring them into line with those of other public utility companies.

HON. LO MAN-WAI O.B.E.: —Your Excellency, I desire to say a few words on the two clauses of this Bill which were dealt with by my Honourable Friend Mr. Terry.

It appears to me that there are three parties who are concerned with the terms of this Bill, namely first, the Government, second the Company and third the members of the public making use of the ferry services. These two clauses, no doubt, are unfavourable to the Company, but I think the interests of the third party are amply protected by clause 7 of the Bill and clause 4 of the Schedule. Clause 4 of the Schedule provides for a minimum charge so that in any case where there is any increase the Company can apply to Government to reduce the rate of royalty. As the Company seems to be satisfied with these two clauses, I, speaking on behalf of the taxpayers of the Colony, can see no reason to oppose them.

If these terms of this Bill affect only the Hong Kong and Yaumati Ferry Company, Limited, I would be content to make no further comments. But as I understand that the terms and conditions applicable to the further operations of the ferry services operated by the Star Ferry Company Limited would be based on this Bill, I feel bound to make some further observations.

These two clauses, to my mind, constitute a new departure from the established principles governing the terms of a government franchise.

As regards clause 5 of the Schedule to the Bill providing for payment of royalties on gross receipts, I think this is contrary to the usual formula which is based on the annual profits. This is the formula applied in the case of the Hong Kong Tramways. I have no doubt this is a fairer method and I can see no difficulties in adopting such method, now that there is an efficient Government organ, namely, the Inland Revenue Department whose duty is to assess the profits of a company.

As regards clause 17 of the Schedule, providing for the compulsory purchase, the reason why I say that it is a new departure, is because it confers a right of compulsory purchase not only at the expiration of the concession, but at any time during the subsistence thereof, on giving six months' notice. I have no objection to this clause if such right is to be exercised at the expiration of the concession.

In fact, the Tramway Ordinance contains a section which confers such a right of compulsory purchase, but only at the expiration of the term of franchise. This section, I find, is based on similar legislation governing the grant of franchise in England for the operation of tramways.

I agree with my Honourable Friend Mr. Terry that the terms set out in clause 17 of the Schedule are not appropriate or fair in the case of a compulsory purchase during the subsistence of a concession.

For these reasons, I would like to make it clear that in not opposing this Bill, I reserve my right to comment on the Bill governing the Star Ferry when it is presented to this Council.

THE FINANCIAL SECRETARY: —Your Excellency, it has been suggested in the course of this debate that the measure now before Council may stifle, or may tend to stifle, public enterprise. I hardly think that the Hong Kong Government can be accused of this. On its record since the reoccupation I think it can be said that it has gone out of its way to encourage private enterprise. The Bill which is now before Council sets out in detail the terms for the future operation of the Yaumati Ferry Company. As the Honourable M. W. Lo has just remarked, there are three parties to this agreement. The terms met with the entire approval of two

of those parties, namely the Government and the Company. There has been no dispute over them whatsoever. The Yaumati Company has expressed its willingness to operate on these terms. They are, in fact, less onerous than those under which the Company is now operating because as it was necessary for the terms of the franchise for both ferries to follow the same model we have, during the course of the negotiations made certain concessions in order to meet representations put forward by the Star Ferry Company. We have four undertakings, two bus companies, the Yaumati Ferry Company and Star Ferry Company. The first three of these are already operating under franchises which all follow the same general model and provide for royalty on gross receipts. The Tramway Company agreement is very much older and therefore is not in line with the others, but we have these more recent agreements—the two bus companies and the Yaumati Ferry Company—and the problem is to fit in the Star Ferry Company, for it is obvious that both ferry companies must operate under parallel terms. A good deal of criticism has been levelled against this gross royalty system, but whether it is a good thing or a bad thing it is an established part of our system of indirect taxation. It has already worked satisfactorily in the case of the bus companies and the Yaumati Ferry Company. The fact is that fares, because of change difficulties, have to be fixed in multiples of five cents; they could probably be a cent or two less and still produce an adequate return to the Companies. The Companies thus earn a certain amount of fortuitous revenue through no effort on their part, but merely because of these change difficulties and it seems right that some of this money, which the public must pay because they must utilize these forms of transport, should be diverted into Revenue. If this were not the case the public, as well as paying these few cents extra, would have to pay some new form of tax which would be levied to make up for the deficiency which would be caused by the lack of these royalties.

Therefore the royalty system passes back to public funds a contribution out of the change which it is not practicable for the Company to hand back to passengers. But it provides a much more useful function from the point of view of the travelling public because if net revenue falls below the point where it is providing the Company with a reasonable return, Government can agree to a temporary suspension of the royalty clause rather than countenance an increase in fares. Therefore from the public point of view it does provide quite a valuable buffer. Whether Government collects its share of the excess profits as a proportion

of the net profit or as a percentage of the gross profit, is really not material because the scale is so arranged that if the revenue falls below operating costs no royalty is payable. The great advantage of basing royalty on gross revenue is that it avoids any interference whatsoever with the Company. If the royalty were calculated on net profits, questions might arise over the debiting of certain charges to operating expenses and there would be room for argument on a variety of points.

I think for this reason it is very desirable that the Companies should be left entirely to themselves. The Government system of auditing is a complicated one. We have an audit not only here, but the Director General of Colonial Audit in London comes into this question and Honourable Members will be quite surprised at the very wide variety of audit queries that are raised in the course of the year, and the Audit Department, quite naturally, feel it their duty to look into all the details of every sort of agreement into which the Government enters. I cannot therefore help feeling that both for our own part and on the part of the Company, the gross royalty system would work out with very much less friction.

Another question was raised about the shares of the Yaumati Ferry Company not being quoted on the Stock Exchange, and reference was made to a certain clause in their Articles of Association. My information is that that clause is not something peculiar to the Yaumati Ferry Company. It has quite a wide application and is quite a common practice over a large range of companies, and therefore we hardly feel that it would be for Government to intervene on this question which appears to be largely one between the Stock Exchange and the Yaumati Ferry Company.

THE ATTORNEY GENERAL: —Your Excellency, as the Member in charge of this Bill, it falls to me to wind up the debate on this Second reading. I hope, Sir, I may be pardoned if I obtrude a personal aspect into the few remarks that I have to make. It is this: that while I do not deny that I have greatly enjoyed performing the duties of the office which I have now held for four and a half years, I still look with envy upon those of my predecessors who held office during periods of what I might call concession doldrums, that is to say, at a time when concessions had not run out and did not cry aloud for renewal. But my fate has been otherwise and among the fairly numerous examples of cases where work has needed to be done on consideration of the

important problem of concessions for public utilities it has fallen to my lot to be concerned, not for one year but for three and a half on the subject of the renewed concessions affecting the two main ferry companies.

Away back in 1948 the concession granted by way of licence to the Hong Kong and Yaumati Company in 1932, in 1948 that concession expired. It then became necessary to consider the future and this was done at considerable length, as I am well aware because I was Chairman of the Committee which considered this matter and other settlements in connection with that Company for a period of nearly six months. The outcome of that was that assurance was given to the Company that they could go ahead with their rehabilitation and resumption of their ferry services in the expectation of receiving a renewal of their concession on very much the same terms as previously. Now those terms had provided, by way of licence, for pier rental and for payment of royalty on the basis of gross receipts, not on the basis of net profits. Furthermore, in all those years since 1932 the Company had functioned under the threat—if it was a threat—of having the provisions of Regulation 57 of the Ferries Regulations applied to them upon a compulsory purchase. That Regulation made precisely the same provision for compensation on compulsory purchase as that appearing in paragraph 17 of the Schedule to this Bill, that is to say, the factors to which Honourable Members have referred were omitted, the factors of being paid compensation which would have regard to goodwill, expectation of profits and the like.

Now, Sir, that was in 1948; a licence having been prepared, there was delay because it was considered desirable by Government to explore the possibilities of setting up a Central Transport Board, and consequently hesitation in committing Government to future concessions in the transport sphere. Furthermore, by that time, in 1949, the lease under which the Star Ferry Company was operating was due to expire and, as had been made known to both companies, it was necessary that the conditions attaching to any concessions given to one or to the other should be exactly parallel insofar as matters of principle were concerned.

Now, today, Honourable Members in the course of this debate have attacked two main provisions of this Bill on the grounds of principle and public interest. The remark was even made that because injustice had been perpetrated under the

terms of the licence given in 1932 to the Hong Kong and Yaumati Ferry Company, there was no ground for perpetuating that injustice. Furthermore, the point was taken that by insistence upon the principles of gross receipts and of incomplete compensation upon compulsory purchase, incentives were removed from operating companies to improve and maintain their services.

Now, Sir, those arguments advanced by Honourable Members have certainly, to me, caused much surprise, because I reflect again upon the fact that these precise terms and conditions which were regarded by Honourable Members, or some of them, as being unjust, unprecedented, have been under consideration by a company, the Hong Kong and Yaumati Ferry Company, which has had for so long such profound experience in the operation of a ferry service, and which has, I think it must be generally conceded, given to the public at all times a good service, and which, all this time, has shown no trace of any breaks upon incentive to operate and maintain a service should this concession, on the enactment of this Bill, be granted.

Thus the essence of my argument is this: that if an experienced company, guided by businessmen of considerable ability and experience, see no detriment to their company and their company's interest in accepting the conditions enshrined in the schedule to this Bill, it is very difficult for me at least to understand why there should be any hesitancy by Honourable Members of this Council in acceding to all provisions of this Bill. I feel I need say little more because my remarks will I hope have emphasized sufficiently that the conditions, terms and conditions, in the schedule to this Bill are, by and large, a repetition of the licence which the Yaumati Company operated under for so many years in the past, that is to say—and I repeat for emphasis—this Bill provides for conditions as regards the manner of computation of royalty, as regards the provision for compulsory purchase and compensation thereon which merely reproduce what has gone before and which provides conditions to which the company, who after all are the people affected, are prepared to accede.

There is I think one other matter. My Honourable Friend the Financial Secretary has dealt in some detail, but there is just one matter to which I would like to refer. My Honourable Friend Mr. Cassidy has suggested that I might ask the leave of this Council to defer the further stages of this Bill. As to that, Sir, paragraph 5 of the Objects and Reasons

published with the Bill, and as I recall that I made mention of the fact upon the First reading of this Bill, state that a companion measure relating to the Star Ferry Co. is contemplated which would reproduce, if you will pardon a lawyer's expression, "mutatis mutandis", the terms and conditions which are proposed for the operation of the Yaumati Ferry Company's further activities. That Bill has been drafted and has been with the Star Ferry Company. That Company's intimation of acceptance of the conditions proposed for its future operation is awaited, but I cannot see that that serves any justification for postponement of this Bill further since, as I have indicated on introducing the Bill, we have now awaited nearly three years the culmination of negotiations by the formal accord to the Yaumati Company of a concession for future years upon enactment of this Bill.

For these reasons, Sir, I advocate that Council passes on to the further stages of this Bill.

The question that the Bill be read a second time was put to the Council and agreed to. The Honourable Chau Tsun-nin, C.B.E., declared an interest and did not vote. The Bill was read a second time.

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

H. E. THE GOVERNOR: —I suggest that when we come to the Schedule, we take paragraphs 1 to 4 straight off and then deal with paragraph 5 separately. Will that suit you?

HON C. E. M. TERRY: —Thank you, Sir.

SCHEDULE Para. 5.

HON. C. E. M. TERRY: —Sir, I move that the words "gross monthly receipts" appearing in the third line of the printed copy of this Bill be deleted, and that the words "net profits" be substituted therefor.

THE ATTORNEY GENERAL: —Sir, I rise to oppose the motion of My Honourable Friend and for the reason that "gross monthly receipts" has been included in paragraph 5 with the consent of the company to whom the concession will be given upon enactment of this Ordinance.

A division was taken on the amendment. The Honourable P. S. Cassidy and the Honourable C. E. M. Terry voted in favour of the amendment.

Dr. the Honourable Chau Sik-nin, C.B.E., the Honourable Leo d'Almada e Castro, K.C., the Honourable Lo Man Wai, O.B.E., His Excellency the Commander British Forces, the Colonial Secretary, the Attorney General, the Secretary for Chinese Affairs, the Financial Secretary, Dr. the Honourable I. Newton, the Honourable P. C. M. Sedgwick and the Honourable T. L. Bowring, O.B.E., voted against the amendment. The Honourable Chau Tsun-nin, C.B.E., declared an interest and did not vote. The Chairman did not vote.

The Chairman declared that two votes have been cast in favour of the amendment and eleven votes against it and that the amendment was not carried.

#### SCHEDULE Para. 17.

HON. C. E. M. TERRY: —Your Excellency, I move that the words appearing on page 8 of the printed copy of the Bill "without any addition in respect of goodwill, compulsory purchase, expectation or possibility of renewal, or of any profits which might have been made from the undertaking", be deleted.

THE ATTORNEY GENERAL: —Sir, I rise to oppose the motion for the reasons which I have advanced in connexion with the proposal to amend paragraph 5 of the Schedule.

The amendment was put to the Committee and lost.

#### APPENDIX III.

HON. C. E. M. TERRY: —Your Excellency, as the proposed amendment to paragraph 5 has failed, the consequential amendment to this Appendix cannot possibly succeed, and I ask leave to withdraw it. This was agreed to.

Council then resumed.

THE ATTORNEY GENERAL: —Sir, I have to report that the Hong Kong and Yaumati Ferry Company (Services) Bill, 1951 has passed through Committee without amendment, and I move that it now be read a Third time.

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

#### **ADJOURNMENT.**

H. E. THE GOVERNOR: —Council will adjourn to this day fortnight.