# OFFICIAL REPORT OF PROCEEDINGS

## Meeting of 17th June, 1964

### PRESENT:

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

SIR DAVID CLIVE CROSBIE TRENCH, KCMG, MC

BRIGADIER THE HONOURABLE THOMAS HADDON, CBE

SENIOR MILITARY OFFICER

THE HONOURABLE EDMUND BRINSLEY TEESDALE, CMG, MC

COLONIAL SECRETARY

THE HONOURABLE MAURICE HEENAN, QC

ATTORNEY GENERAL

THE HONOURABLE JOHN CRICHTON McDOUALL

SECRETARY FOR CHINESE AFFAIRS

THE HONOURABLE JOHN JAMES COWPERTHWAITE, CMG, OBE

FINANCIAL SECRETARY

THE HONOURABLE KENNETH STRATHMORE KINGHORN

DIRECTOR OF URBAN SERVICES

DR THE HONOURABLE TENG PIN-HUI, OBE

DIRECTOR OF MEDICAL AND HEALTH SERVICES

THE HONOURABLE WILLIAM DAVID GREGG

DIRECTOR OF EDUCATION

THE HONOURABLE JAMES JEAVONS ROBSON

ACTING DIRECTOR OF PUBLIC WORKS

THE HONOURABLE DHUN JEHANGIR RUTTONJEE, CBE

THE HONOURABLE FUNG PING-FAN, OBE

THE HONOURABLE RICHARD CHARLES LEE, CBE

THE HONOURABLE KWAN CHO-YIU, OBE

THE HONOURABLE KAN YUET-KEUNG, OBE

THE HONOURABLE WILLIAM CHARLES GODDARD KNOWLES

THE HONOURABLE SIDNEY SAMUEL GORDON

MR ANDREW McDONALD CHAPMAN (*Deputy Clerk of Councils*)

### ABSENT:

THE HONOURABLE LI FOOK-SHU, OBE

## MINUTES

The Minutes of the meeting of the Council held on 3rd June 1964, were confirmed.

## PAPERS

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

| *Subject* | *LN No* |
|---|---|
| Sessional Papers, 1964: — | |
| No 24—Annual Report by the Director of Medical and Health Services for the year 1962-63. | |
| No 25—Annual Report by the Registrar General for the year 1962-63. | |
| Consular Conventions Ordinance, 1951. | |
| Consular Conventions (Republic of Austria) Order, 1964 ..... | 79 |
| Registration of Persons Ordinance, 1960. | |
| Registration of Persons (Re-registration) (No 21) Order, 1964 | 80 |
| Public Health and Urban Services Ordinance, 1960. | |
| Public Conveniences (Charges) (Amendment) Order, 1964 ..... | 81 |
| Registration of Persons Ordinance, 1960. | |
| Registration of Persons (Re-registration) (No 22) Order, 1964 | 82 |

## QUESTIONS

MR W. C. G. KNOWLES, pursuant to notice, asked the following question: —

> Sir, will Government please confirm that their long term plans for the water supply of the Colony are being framed with a view to providing a 24 hour daily water supply in a year of average rainfall? If this is not so, may I please be informed what is the basis for their plans?

THE COLONIAL SECRETARY replied as follows: —

> Sir, we have recently been considering terms of reference for the survey which must precede the physical planning of our long-term water requirements and resources, and

it has been concluded that this assessment should be related to the following aims: —

first, the provision, in conditions of average rainfall, of a general 24-hour daily supply, taking into account supplies which are likely to be available from outside the Colony; and, secondly, the provision, in drought conditions and from internal sources only, of at least a 4-hour daily domestic supply and, if possible, a 24-hour supply for industry.

## MILK (AMENDMENT) BY-LAWS, 1964

MR K. S. KINGHORN moved the following resolution: —

Resolved, pursuant to section 144 of the Public Health and Urban Services Ordinance, 1960, that the Milk (Amendment) By-laws, 1964, made by the Urban Council on the 2nd day of June, 1964, under section 56 of that Ordinance be approved.

He said: Your Excellency, the Milk (Amendment) By-laws, 1964, made by the Urban Council on 2nd June will allow the Council to permit sales of sterilized milk, in sealed containers, in shops without milk shop permits. Application will have to be made in respect of each brand of sterilized milk, thus permitting examination in order to ensure that both the milk and the method of packing are such that no danger to health exists. Technically, there is no reason why sterilized milk should not be sold in shops, since it has been treated in such a way as to destroy all bacteria and will remain good, without refrigeration, for an indefinite time.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

## FOOD BUSINESS (AMENDMENT) BY-LAWS, 1964

MR K. S. KINGHORN moved the following resolution: —

Resolved, pursuant to section 144 of the Public Health and Urban Services Ordinance, 1960, that the Food Business (Amendment) By-laws, 1964, made by the Urban Council on the 2nd day of June, 1964, under section 56 of that Ordinance be approved.

He said: Your Excellency, the Food Business (Amendment) By-laws, 1964, wore made by the Urban Council on 2nd June, 1964. They are complementary to the Milk (Amendment) By-laws, 1964, just

approved and their purpose is to amend the Second Schedule to the main By-laws in order to allow the sale of sterilized milk without permits.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

## INLAND REVENUE (AMENDMENT) BILL, 1964

THE FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance further to amend the Inland Revenue Ordinance."

He said: Sir, income tax, although simple in concept, is a most complicated tax in practice. In most countries income tax legislation is constantly under review and is amended from year to year, very largely in an effort to stop up loopholes discovered by lawyers and accountants. We, on the other hand, have not amended our Ordinance since 1956, except on one or two very minor technical details in 1958, and in 1961 when we extended the standard rate of tax to Property Tax and exempted owner-occupiers from that tax.

Does this mean that we, alone of legislatures, have produced the perfect loophole-proof income tax law? I am afraid not; rather the reverse. What my predecessor called our "ramshackle" Ordinance is at times the despair of our Commissioner of Inland Revenue, presenting such scope for avoidance and evasion that one wonders if mere patching can be effective. That it has proved workable at all is due to a number of reasons, the principal one probably being the comparatively low rate of tax, which has not stimulated avoidance and evasion to the degree experienced elsewhere. But there are signs that activity in this field is increasing significantly. Prevention of avoidance and evasion is not so much a matter of trying to maximize revenue for its own sake as of ensuring equity between taxpayers. I do not think that it would be disputed that it is fairer to raise the same sum at a low rate of tax without loopholes than at a higher rate made necessary by the existence of loopholes.

I must apologize for the length of this exordium but the infrequency of amendments to our tax law tends to highlight any amendment. I hope to introduce a number of fairly substantial amendments later this year, some of which will be in favour of the taxpayer (I have in particular been discussing industrial depreciation rates with the Federation of Hong Kong Industries and accept that there is a case for some further improvement); but there is an urgent need to undertake some first aid work on the matters contained in the Bill now before Council.

The Bill arises from a decision of the Full Court in a case involving the deductibility for purposes of corporation profits tax of expenses incurred by a company in connexion with the holding of investments, the dividends from which are not themselves chargeable to tax. The Commissioner lost the case before the Board of Review, won it in the Supreme Court and lost again in the Full Court.

The main question involved was raised by my honourable friend, Mr F. S. LI, during the 1963 Budget debate, when he alleged that non-deductibility of such expenses in general created a hardship. The actual case in question was at the time *sub judice* before the Board of Review and in reply I said that I thought that the intention of the law was that such expenses should not be deductible and that I certainly thought that they should not be deductible.

On the last day of this year's Budget debate, after the adverse decision of the Full Court, I gave notice that Government proposed to introduce an amending bill to deal with the situation created for the future by that decision. It may seem unusual to take this action when an appeal to the Privy Council is pending, but the question is one of importance both as a matter of principle and for the revenue which could be lost. I shall be happy if the appeal goes for the Commissioner but must take precautions in case it does not. The present Bill does not of course affect any assessment for years previous to 1964-65 and therefore does not affect the case which is *sub judice*.

In considering the Bill, it is useful to recall the words used by the Full Court in delivering their judgement. They said that they had reached their conclusion (I quote) "with no sense of satisfaction because we can see no reason, logical, ethical or otherwise, why expenses incurred in earning profits which are not going to bear tax, should be deducted from those profits which are made assessable."

The basic principles of the Hong Kong tax system are these: —

First, that tax is not charged on income as such or on total income but separately on a number of specific sources or types of income which are not all-embracing. There are some exceptions, in the tax-payer's favour, to the principle of non-aggregation of income, for example, personal assessment in the case of certain aggregable sources; but these sources do not include corporation profits tax or dividends;

Second, that tax is charged only on income derived from or arising in Hong Kong and not also on the foreign income of Hong Kong residents, whether remitted to Hong Kong or not.

In both particulars we are very nearly unique, certainly unique for a country at our stage of economic and social development. I will not go into the economic or social justifications for this but would only

stress the vital importance in these circumstances of ensuring that deduction of expenses be limited to those incurred in producing the income which we do tax. Otherwise our tax yield at a given rate will be seriously reduced by the deduction of expenses incurred in producing untaxed income. The administration of this principle sometimes presents difficult problems of apportionment of expenses between untaxed and taxed income and I will revert later to this point.

I shall now turn to the history of the text of the present Ordinance and evidence of its intended effect.

Section 26(*a*) of the Ordinance (section 26 of the 1951 Ordinance) provides that dividends received from a corporation which is itself taxed under the Ordinance are not to be *included* in the assessable profits of any other person, that is, are not to be taxed as part of the receiver's income. There is little doubt that the legislature's intention all along, as a logical corollary of this provision, has been that expenses incurred in the receipt of dividends by a corporation should not be *deducted* from the assessable profits of that corporation; and it is indeed agreed by all concerned that this was the legal effect of the Ordinance up to 1956 when certain amendments were made which gave rise to the present decision of the Full Court. I shall show that these amendments, together with certain others in 1955, so far from being intended to reverse the position (as the Full Court has decided that they did) were intended to maintain and reinforce it.

The Inland Revenue Ordinance Committee Report of 1956 (which gave rise to the 1955 and 1956 amendments) deals with the question in paragraphs 39 and 40. The Committee said that certain "anomalies" regarding taxation of income from dividends had been drawn to their attention; one of these was that an investment company paid tax on its whole income, largely of course dividends, without deduction of expenses. The Committee recommended an approach to this problem which in effect removed the anomaly by introducing a different concept of the nature of taxation of corporation profits and thereby bringing other recipients of dividends on to the same basis as corporations. Until then Hong Kong law, like United Kingdom law, had regarded the shareholders of a company as, so to speak, partners in the business conducted by the company; dividends were regarded as shareholders' shares of the profits and tax paid by the company on his share of the profit as tax paid by the shareholder. Instead they advocated adoption of the principle in force in South Africa, the United States of America and elsewhere, whereby tax on corporation profits is regarded as being solely a tax on the corporation as an entity in its own right, not to be passed on to the shareholder. (It may be noted that this is also the case with United Kingdom profits tax, although not with United Kingdom income tax). The change was designed to leave unaltered

the position of investment corporations but to put other recipients of dividends on the same basis as corporations in this respect; that is, that expenses incurred in connexion with them could not be deducted for purposes of tax. The Committee said that they advocated this so as to achieve simplicity (this is one object of our whole unusual system) but the principle also has merit in the light both of the legal nature of corporations and of our basic principle of having separate taxes on separate sources of income rather than a full income tax. The Committee recognized that neither principle might remain tenable if the rates were significantly increased.

The Committee's actual recommendation was as follows: —

"We RECOMMEND that the Ordinance be so amended that the tax borne by a company on its profits shall not be passed on to its shareholders. Dividends shall be looked upon as payments out of a taxed fund not subject to further tax in the hands of the recipient. We recommend that section 27 of the Ordinance be repealed."

Section 27 (which permitted companies to deduct tax before payment of dividends) was repealed by the 1955 amendments.

This established the principle that persons in receipt of dividend income could not claim a deduction of expenses against profits tax paid by the company from which dividends were received. This principle remains untouched by the decision of the Full Court. That decision deals with the special situation where a corporation receives both dividend income, which is not taxed, and other income which is taxed, and with the question whether in these circumstances expenses incurred in connexion with receipt of untaxed dividends may be deducted from taxable profits accruing from other activities.

There is clear evidence of the intention in this respect in paragraph 15 of Appendix II to the Report of the Inland Revenue Ordinance Committee, in which certain minor suggestions were made. This particular suggestion reads: —

"Make it clear that the outgoings and expenses referred to in sections 16 and 17 are restricted to the outgoings incurred in producing the taxable profits, by insertion of the word "assessable" before "profits" in the first lines of sections 16(1), 17(1), and 17(2), and by the substitution of the word "those" for "the" before the word "profits" in the fifth line of section 16, the last line of section 17(1)(*b*), and the last line of section 17(1)(*f*)."

These proposals were given effect in the 1955 amending legislation and certain other minor amendments were made with the same purpose. Those were a definition of "assessable profits" in substitution for the

existing one of "profits" and the addition of "assessable" to qualify the profits in which, under s. 26(*a*), dividends were not to be included for purposes of corporations profits tax.

These changes were made, it is abundantly clear, to reinforce the principle that expenses incurred in connexion with untaxed income, including, as is evidenced by the amendment of section 26(*a*), dividend income in particular, are not deductible from taxable profits, and it is generally agreed that these amendments in themselves did not alter the position which had existed from the inception of the tax in respect of dividend income, except perhaps to reinforce it. Further amendments however took place in 1956 and it is one of those which gave rise to the present situation—ironically, because it was not intended to affect the principle but only to remove a possible anomaly resulting from the 1955 amendments which might have adversely affected the taxpayer in some circumstances. A new phrase "chargeable profits" was introduced into section 16(1) which, as amended, read and still reads as follows: —

"For the purpose of ascertaining the *assessable* profits of any person there shall be deducted all outgoings or expenses wholly and exclusively incurred during the basis period for the year of assessment by such person in the production of profits in respect of which he is *chargeable to tax* under this Part."

The reason for these amendments was to distinguish between “assessable profits” actually assessed to tax in a particular year and “chargeable profits” liable to tax in respect of a theoretical "basis period," which might be different. The basis of the judgement of the Full Court against the Commissioner in the recent case was that, although it was correct that under section 26(*a*) dividends were not to be included in "assessable profits" and therefore not to be taxed, dividends *were* included in "chargeable profits" and therefore the expenses incurred in producing them were deductible under the terms of section 16(1).

I think I have very clearly demonstrated that, should the Full Court's decision stand, a principle which fits in with our unusual concept of income tax, which the 1954 Committee endorsed and which the 1955 and 1956 amendments were designed to maintain and reinforce, will have been unintentionally turned upside-down by the unforeseen effect of an amendment designed to avoid an anomaly potentially arising from the 1955 amendments to the detriment of the taxpayer.

Apart from the question of basic principle involved, and of the potential tax loss which may result from abuse of the loophole revealed, if it is not stopped, I should draw attention to three anomalies which

would arise if the decision were maintained and no remedial action taken. Firstly, relief would be available to companies that is denied to individuals; this is a partial reversal of the pre-1955 position, which the 1955 amendments were intended to rectify by giving identical treatment to all. Secondly, as between companies, one receiving nothing but dividend income would not benefit as there would be no taxable profits against which to claim relief; while a company with other taxable income would receive relief. This would surely be absurd. Thirdly, expenses related to receipt of dividend income would be exempted from a principle which applies to all other expenses, viz. that they are not deductible unless incurred in the production of chargeable profits. This too would be absurd.

I am aware that there is some feeling that the question of apportionment of expenses between taxable income and dividend income is an excessively difficult one, and one where the impossibility of laying down precise criteria may result in some cases in unreasonable assessments. This can be, I would agree, a matter of some difficulty but I do not think that the application of an equitable principle of taxation should be abandoned on such grounds. To argue that it should is to strike at the root of our present law as the administration of several vital parts of our not particularly equitable system of taxation is dependent on the practicability of making such apportionments of expenses. Were I to hear it claimed, for example, that we should, like other countries, tax the foreign as well as the domestic profits of Hong Kong residents because of the difficulty of segregating the expenses incurred in each type of transaction, then I would myself be more ready to be convinced by the same argument when propounded in the favour of a particular class of taxpayer. I might add that it is, strictly speaking, for the taxpayer to claim and provide evidence that particular expenses have been incurred in the production of chargeable profits, rather than for the Commissioner to investigate and prove the contrary; although the actual process of assessment is more often than not the reverse and much of the trouble comes from the assessor being given inadequate facts on which to arrive at a correct apportionment. For these are matters of fact.

There is, of course, one easy remedy, or perhaps two; we could follow the Australian or American systems to their logical conclusion, as they have, and impose a separate tax on dividends in the hands of the receiver, allowing expenses against that tax; or, more radically, introduce a full income tax. I would, of course, be happy to consider either.

I think I have spoken already at excessive length on this, probably the more controversial part of the Bill, but I thought it important that both the issues of principle and their history should be fully stated.

The amendments necessary to give certain effect to the original intention of this Council are in clauses 2, 6, 7, 8, 9 and 10 of the Bill now before Council.

Opportunity has been taken to introduce a number of other amendments on aspects of the law which are connected with or potentially affected by the judgement or the arguments used in the case which gave rise to the main amendments.

*Clause 3 and*

*Clause 7 (section 16(2) only).*

These provide, in respect of salaries tax and profits tax respectively, that, where only part depreciation is allowed on the grounds that depreciation arose only partly from the production of chargeable profits, subsequent allowances will be calculated from a fully depreciated figure. This is in fact current practice but some doubts have been expressed whether it is in accordance with the law, and it is desirable to place the point beyond doubt.

*Clauses 4 and 5.*

Although the definition of assessable profits in section 2 of the Ordinance excludes profits arising from the sale of capital assets, the charging sections for corporations profits tax and business profits tax (sections 14 and 15) do not. These provisions remove any doubt as to the non-assessability to tax of capital gains. They, of course, reflect current practice.

*Clause 7 (sub-sections 16(1)(c) and (d).).*

Deductible outgoings and expenses are defined as being "wholly and exclusively" incurred in the production of profits chargeable to tax and as "including'" certain specific expenses listed (*a*) to (*h*). In all but (*c*) (depreciation) and (*d*) (bad debts) there is a reference to "such profits" (*e.g.* in (*a*) "interest on money borrowed for the purposes of producing such profits."). Two doubts have been expressed: —

Firstly, whether the word "including" is enough to limit deductions for depreciation and bad debts to those incurred in the production of profits chargeable to tax. It is axiomatic from the basic principles of the tax that this should be so.

Secondly, whether depreciation of assets only partly employed in the production of chargeable profits may be deducted in proportion to such employment in spite of the phrase "wholly and exclusively incurred." It would clearly be inequitable to deny such deductions.

The amendments reflect current practice and are intended to remove all doubt.

*Clause 11*.

Section 70 of the Ordinance lays down the circumstances in which assessments are to be regarded as final. The Inland Revenue Ordinance Committee commented in paragraph 95 of their Report that this was excessively harsh in that even an obvious error could not be adjusted after the assessment had become final. They recommended that a provision be made whereby an assessor might reduce an assessment if it were proved to his satisfaction that the assessment was incorrect by reascon of an error or mistake in any return or statement submitted or in the calculation of the assessed income on profits or of the tax charged thereon. Section 70A was introduced in 1956 to give effect to this. Doubts have been expressed, however, as to whether this section does not also permit re-opening of assessments to make adjustments for mistakes or misinterpretations of law, as well as mistakes of fact or calculation. The amendment makes it clear that this is not so and in doing so follows English precedent.

Clause 1 deals with timing. It gives retrospective effect to 1st April, 1964, to all but Clause 11, so that the provisions may be effective for the current year of assessment (but will not affect, of course, the case under appeal). Clause 11, however, which deals with mistakes, is given retrospective effect to the date of the original enactment of clause 70(A) which it amends.

Sir, because of the rather special circumstances surrounding this bill, and of the technical problems which can be involved in apportioning expenses between different elements of income, it is the intention to allow an interval of six, instead of the normal four, weeks between first and second reading so that the public and the professional associations with special interest in these matters may have adequate time to study, and if they think fit, comment on the Bill.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

*Objects and Reasons*

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

The main object of this Bill is twofold; first, to make it clear that no deductions may be made in respect of expenses incurred in the production of profits which are not themselves chargeable to tax, and secondly, to clarify certain doubts that have arisen concerning section 70A of the Inland Revenue Ordinance.

2. With regard to the first main object of this Bill, deductions are dealt with in section 16 of the Inland Revenue Ordinance where both assessable profits and profits in respect of which a person is chargeable to tax are referred to, and in ascertaining his assessable profits under that section a person is permitted to deduct all outgoings and expenses wholly and exclusively incurred in the basis period for the year of assessment in question in the production of the profits in respect of which he is chargeable to tax. It has been thought, until recently, that the references to assessable profits and to profits in respect of which a person is chargeable to tax meant the same thing with this difference only, that assessable profits referred to profits (in respect of which a person is chargeable to tax) arising in the basis period for any particular year of assessment, while the other expression, namely, profits in respect of which a person is chargeable to tax, referred to the same profits whenever arising, that is without being limited to any particular basis period. If this were the correct interpretation of these expressions, expenses incurred in the production of profits which are not themselves chargeable to tax would not be deductible.

3. In a recent case before the Full Court, however, this interpretation was not accepted. Dividends are excluded from assessable profits by section 26 of the Inland Revenue Ordinance and are not therefore taxable. In the case referred to, however, the expenses incurred in earning dividends were allowed as deductions on the grounds that, although the dividends were not part of the assessable profits, they were nevertheless part of the profits in respect of which the Company concerned were chargeable to tax. In reaching this conclusion the Court stated that they did so "with no sense of satisfaction because we can see no reason, logical, ethical or otherwise, why expenses incurred in earning profits which are not going to bear tax, should be deducted from those profits which are made assessable.".

4. It was accepted in the above case that prior to the 1956 amendments to the Inland Revenue Ordinance, this situation would not have arisen. It is clear from the Objects and Reasons of the 1956 Amending Bill that this effect was never intended.

5. Similar reasons to those that persuaded the Court to reach this conclusion could also be advanced in support of a claim that bad debts incurred in the course of a trade, profession or business in connexion with activities the profits from which are not taxable could nevertheless be deducted from the profits arising from other activities of the same trade, profession or business which are taxable; for example, a claim to deduct bad debts incurred outside Hong Kong in the course of activities carried on outside Hong Kong, from the profits of the same trade, profession or business from activities carried on in the Colony.

6. In the light of the above, clause 7 of this Bill seeks to replace section 16 of the Ordinance by a new section intended to avoid the above

situation both as regards outgoings and expenses generally and as regards bad debts, and with similar intention clause 10 rewords section 26 of the Ordinance and clauses 2, 4, 5, 6 and 9 make corresponding alterations to the wording of other relevant sections.

7. In seeking to replace section 16 of the Inland Revenue Ordinance the opportunity is taken to make it clear in paragraph (*c*), that allowances under Part VI are permitted even where the relevant assets are not wholly or exclusively employed in production of the profits, subject, however, to reduction of the amount of the allowances in such cases. This will bring the provision into line with similar provisions in section 12 dealing with allowances in respect of the Salaries Tax. It is also made clear, by subsection (2) of the proposed new section 16 and by the proposed subsection (2A) inserted in section 12 by clause 3 of the Bill, that any such reduction shall not effect the calculation of subsequent allowances and charges.

8. The amendments referred to in the foregoing paragraphs are given retrospective effect from the beginning of the current year of assessment.

9. The second main object of this Bill is dealt with in clause 11. It is essential, under any tax system, that finality as regards assessments be achieved. In Hong Kong this is provided by section 70 of the Inland Revenue Ordinance, but to safeguard the position of taxpayers who for one reason or another disagree with their assessments, an assessment does not become final and conclusive under section 70, until the objections, if any, raised by the taxpayer have been disposed of on appeal in accordance with the successive rights of appeal granted to every taxpayer or agreement is reached between the taxpayer and the assessor, or, if no objection is raised, until the time limited for raising objections has expired. Section 70A, however, creates an exception to this finality and conclusiveness in permitting the correction of errors and omissions in assessments within six years or, in certain cases, within a longer period. This section, which was added to the Ordinance in 1956, was intended to cover only errors and omissions by the taxpayer in any return or statement made by him which, if they had not been made, would have resulted in a reduced original liability, or errors and mistakes purely of an arithmetical or similar nature, but doubt has arisen as to whether, on its present wording, it may not be capable of a wider application than that intended. If it were to have a wider application, it would not only make appeal provisions, referred to above, of little practical use; it would also, for practical purposes, negate that finality and conclusiveness, provided by section 70, which is essential. Clause 11 of this Bill, therefore, seeks to replace section 70A, with effect from the date when this section was originally enacted, by similar provisions more clearly stating the original intention.

## MEDICAL CLINICS (AMENDMENT) BILL, 1964

DR TENG PIN-HUI moved the First reading of a Bill intituled "An Ordinance to amend the Medical Clinics Ordinance, 1963."

He said: Sir, in the Medical Clinics Ordinance 1963, the word "Clinic" means “any premises used or intended to be used for the medical diagnosis or treatment of persons suffering from, or believed to be suffering from, any disease, injury or disability of mind or body.” Since the enactment of this Ordinance applications have been received from certain organizations for registration or registration with exemption of medical clinics set up in vehicles or vessels.

Doubts have arisen as to whether the word "premises" as used in the Ordinance includes activities which in the ordinary sense of the word amount to running a medical clinic, when such activities are carried on in mobile vans or floating vessels. This Bill, accordingly, for avoidance of doubt, seeks the insertion into the Ordinance of a definition of the word premises which will bring such activities within the purview of the Ordinance.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

*Objects and Reasons*

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

The Medical Clinics Ordinance, 1963, was enacted to provide, as its long title states, for the registration, control and inspection of medical clinics. Clinics are defined as "premises" used or intended to be used for the purposes stated in that definition, but doubts have arisen as to whether the word "premises", as used in the Ordinance, includes activities, which in the ordinary sense of the word amount to running a medical clinic, when such activities are carried on in mobile vans or floating vessels. This Bill, accordingly, for avoidance of doubt seeks the insertion into the Ordinance of a definition of the word "premises" which will bring such activities within the purview of the Ordinance.

HIS EXCELLENCY THE GOVERNOR: —The Constitutional Instruments formally permitting an enlargement of this Council have recently been received, as honourable Members are no doubt aware, and this is the last meeting of the Legislative Council as it has been constituted for a number of years. The next meeting will be of the enlarged Council and I take this opportunity therefore of thanking the members of the

present Council, although, with the exception of one member, virtually all will be serving on the enlarged Council, for the most valuable services they have rendered to Hong Kong. It is common knowledge that a very great part of the work of Council Members falls to be done outside this Council; work which has been increasing in volume year by year, and which has had to be shared between comparatively few members. The burden on individual members has, I know, often been a heavy one.

Finally, may I thank Brigadier HADDON, whose last meeting this is, for his attendance at our deliberations.

## ADJOURNMENT

HIS EXCELLENCY THE GOVERNOR: —That concludes the business for today, gentlemen. When is it your pleasure that we should meet again.

THE ATTORNEY GENERAL: —Sir, may I suggest this day three weeks.

HIS EXCELLENCY THE GOVERNOR: —Council stands adjourned until this day three weeks.

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