

1st May, 1947

PRESENT: —

HIS EXCELLENCY THE GOVERNOR (SIR MARK AITCHISON YOUNG, G. C. M. G.)

THE HON. THE OFFICER COMMANDING THE TROOPS (BRIGADIER F. H. C. ROGERS,
C.B.E., D.S.O., M.C.)

THE COLONIAL SECRETARY (HON. MR. D. M. MACDOUGALL, C. M. G.)

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

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

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

HON. MR. T. MEGARRY.

HON. MR. V. KENNIFF (Director of Public Works).

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

HON. MR. D. F. LANDALE.

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

HON. MR. LO MAN-KAM, C.B.E.

HON. MR. LEO D'ALMADA E CASTRO.

HON. MR. R. D. GILLESPIE.

HON. DR. CHAU SIK-NIN.

HON. MR. M. M. WATSON.

MR. D. R. HOLMES, M.B.E., M.C. (Deputy Clerk of Councils).

MINUTES.

The Minutes of the Meeting held on the 24th April, 1947, were confirmed.

NEW MEMBERS.

The Honourable the Officer Commanding the Troops (Brigadier F. H. C. Rogers, C.B.E., D.S.O., M.C.), and the Honourable Dr. I. Newton (Acting Director of Medical Services) took the Oath of Allegiance and assumed their seats as Members of the Council.

HONG KONG DOLLAR LOAN AMENDMENT BILL, 1947.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Hong Kong Dollar Loan Ordinance, 1934, to provide for the redemption of bonds due for redemption in past years." He said: By Section 5 of the Hong Kong Dollar Loan Ordinance, 1934, it is required that there should be a redemption in each year of a proportion—one twenty-fifth—of Government bonds issued under that Ordinance. For reasons which need no elaboration such proportion of redemption did not take place in the years 1942 to 1946 inclusive. It is desired to remedy this defect and permit of a proportionate redemption in this year for the years 1942/1946 and for the year 1947 of bonds issued under the Ordinance, 1934. The object of this Bill is to give statutory authority for the adoption of this procedure.

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 redemption in each year of a proportion (one twenty-fifth) of the Government bonds issued under the Hong Kong Dollar Loan Ordinance, 1934, was not effected, as required by Section 5 of the Ordinance, in any of the years 1942 to 1946, inclusive.
2. It is desired to remedy this position by effecting redemption for the years 1942 to 1946 inclusive as well as for the year 1947.
3. The object of this Bill is to effect this purpose by amendment of Section 5 of the Hong Kong Dollar Loan Ordinance, 1934.
4. The opportunity afforded by necessity to amend the Hong Kong Dollar Loan Ordinance, 1934, for the purpose above described has been taken to replace the term "Treasurer" occurring in Section 5 of the Ordinance by the term "Accountant General".

PAWNBROKERS AMENDMENT BILL, 1947.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Pawnbrokers Amendment Ordinance, 1946." He said: It will be recalled that in 1946 the

Pawnbrokers Ordinance, 1930, was amended by this Council. Such amendment was enacted for the purpose of encouraging the resumption of business by pawnbrokers by permitting a reduced period during which ownership of pledged goods could pass. It was intended that such amendment should not have lengthy effect and, in fact, the amending Ordinance of 1946 provided that the Ordinance should expire on the 31st October this year, unless retained by order of the Governor in Council. It was further the intention that when such amending Ordinance of 1946 should expire the position would revert to the position obtaining under the principal Ordinance, 1930. Doubt has, however, arisen as to whether Section 5 of the amending Ordinance, 1946, sufficiently gives expression to that intention. Therefore, this Bill is designed to make it clear that upon the cessation of the amending Ordinance of 1946, the position will revert to that obtaining under the principal Ordinance, 1930.

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. Section 5 of the Pawnbrokers Amendment Ordinance, 1946, provides for a limitation upon the period for which such Ordinance will remain in force. It is the intention that upon the expiration of such Ordinance, the Pawnbrokers Ordinance, 1930, should continue to have effect as if the Amendment Ordinance, 1946, had not been enacted. Doubt has arisen as to whether such intention is made clear in the Amendment Ordinance, 1946.

2. The purpose of this Bill is to remove such doubt by amendment of Section 5 of the 1946 Ordinance so as to state clearly that upon the cessation of the Pawnbrokers Amendment Ordinance, 1946, the Pawnbrokers Ordinance, 1930, shall have effect as if the 1946 Ordinance had not been enacted.

INLAND REVENUE BILL, 1947.

THE FINANCIAL SECRETARY moved the Second reading of a Bill intituled "An Ordinance to impose a Tax on Earnings and Profits."

THE COLONIAL SECRETARY seconded.

HON. MR. D. F. LANDALE. —Your Excellency, When you referred the Draft Bill imposing a tax on earnings and profits which was published in the Gazette on the 7th March to the Taxation Committee, expanded by the inclusion of all Unofficial Members of this Council, the Bill was considered at one meeting only.

At this meeting certain Unofficial Members of the Council submitted their views in writing and as far as I am aware the substance of this written opinion has never been made public. As it sets out briefly my views I would like to repeat it:

“Hong Kong is a free port dependent for its existence on its transit trade and to survive it is necessary for it to be in a position to provide cheap services. While we agree in principle that direct taxation should be imposed it is, in our view, imperative that the standard rate should be low and that it should not exceed 10%. We consider, however, that the Bill which has recently been published requires much more detailed examination than has so far been possible. Our own business interests make heavy demands on our time and we do not feel that we will be able to give the Bill the extensive study it requires in time for it to be introduced during the present financial year. It is our considered opinion, therefore, that the Bill should be referred to a Committee for further examination and that its enactment should be deferred so that it does not come into operation until the 1st April, 1948, which we understand is the date on which Income Tax will be brought into force in Singapore and Malaya.”

These, Sir, are still my views and my objections to the present Bill fall broadly under two heads. The first, for the want of a better name, I will call "Constitutional" and the second "Administrative."

As to the first, my objection is to the speed with which this measure is being 'rail-roaded' through this Council. The present Bill is barely a week old and I must admit I have not been able to give it the close study I should have liked.

We are told the Colony needs further revenue to meet, *inter alia*, an as yet undisclosed liability to the Imperial Government. I submit, Sir, that if this Council and the Colony knew precisely what that liability was, and accepted it, this method of raising revenue to meet it would have been more palatable than it seems to be. It was primarily for this reason that I advocated a delay until 1st April, 1948, before bringing this measure into operation.

As to my objections that fall under the second head, "Administrative", these are more fundamental. I have, on previous occasions, expressed the view that I doubted whether direct taxation could be applied with the same degree of equity in a place like Hong Kong as it is in the United Kingdom. I still have these doubts, and they are based on two immutable factors. The first is the complexities of Chinese businesses and the multiplicity of names for one Chinese individual, and the second is the danger of malpractices that are inherent in a measure of this sort. I will not elaborate on these two factors, but they are inter-related.

The degree of importance that can be attached to these administrative objections varies of course with individual views. In my opinion they stand high but as yet not high enough for me to oppose the principle that direct taxation should be tried through the medium of this amended Bill. I regard it as an experiment. I do not consider the Bill as now re-drafted will have any prejudicial effects on

the economic well-being of the Colony but the measure will stand or fall on Government's ability to administer it equitably, economically and incorruptably. If they fail I, if I am still a member of this Council, will be in the forefront of the movement for its repeal.

HON. MR. CHAU TSUN-NIN. —As a representative of the Chinese community, it had been my intention to oppose this Bill at its second reading. Seldom has a Bill met with such strong reaction from all sections of the community, both Chinese and non-Chinese. It has been made more than obvious that the Chinese community as a whole is opposed to such a Bill. Your Excellency admitted in your speech last week that Government realises that there are many people in this Colony who are opposed to the measure now before us solely because they feel that it is not the best or most appropriate form of taxation for Hong Kong. The Government, you told us, is of the contrary opinion.

The Chinese community of Hong Kong is fully aware of the need to increase the revenue of the Colony and to make it, as far as possible, self-supporting. The Chinese community will give its full support to any practical measures towards that end. But to command, to ensure that support, it must be demonstrated that any such revenue-producing measures are, indeed, practical. All sections of the Chinese community are united in their belief that such an epithet cannot be applied to the Inland Revenue Bill.

As it has been made obvious that Government is determined to force the Bill through, no matter what the arguments raised against it are, the Chinese community is now—very reluctantly—prepared to accept three of the four taxes contained in the Bill—namely, the tax on properties, the tax on salaries and the tax on interest. But the Chinese community is still strongly opposed to the fourth tax—the tax on business profits. I have said before, in addressing this Council on the subject of income tax, that the introduction of such a tax in a predominantly Chinese community is bound to be a failure. Apart from the difficulties of obtaining accurate figures on which to base such a tax, there is the great barrier thrown up by tradition.

Both the Chinese and the British, more than any other peoples in the world, are guided in their every-day lives by tradition. One cannot overcome that tradition, and alter the complete psychological concept of a people, by the mere passing of a Bill. I submit that any attempt to pierce the traditional privacy of the inner counter is bound to fail—and a tax on profits will mean such an infringement. It will fail, not because of any deliberate attempt at tax evasion, but simply because it will be an attempt to break down a tradition in Chinese business procedure which has been a fundamental element for centuries.

The Chinese community, therefore, wishes to stress its opposition to such a tax. As an alternative, they put forward the suggestion that a business licence fee should be imposed. The details involved

in the imposition of such a fee could be worked out quite simply and would not require a deep knowledge of Chinese accountancy. I need not deal with it further at this moment, other than to point out that assessment would be a comparatively simple matter and collection an even easier one—quite apart from the fact that evasion would be almost impossible.

Before concluding, I would like to say that, as I understand that a similar Bill in Malaya has been postponed for a year, I see no reason why Hong Kong cannot follow suit.

HON. MR. LO MAN-KAM. —Your Excellency, In introducing this Bill at the last meeting of this Council, the Hon. the Financial Secretary commenced his address by remarking that it would be idle to pretend that there had not been a great deal of opposition to this Bill. The extent and representative character of this opposition on the part of the Chinese community is indicated by the fact that representations were transmitted to, or received direct by, Government from the Kowloon Chamber of Commerce, Chinese General Chamber of Commerce, Chinese Manufacturers Union, Kowloon Chinese Chamber of Commerce, Hongkong and Kowloon Chinese Restaurant and Eating House Merchants' Association, the Medicine Dealers' Guild, Hongkong Sea Products Merchants' Association, Hong Kong and South China Paper Merchants' Association, Pun Yew District Association, Po Yick Merchants' Association, the Chinese bankers, the Hong Kong Property Owners' Association and the Hongkong and Kowloon Chinese Anti-Direct Tax Introduction Committee, that several petitions signed by approximately 100 organisations and associations in Hong Kong and Kowloon were sent in to Government, and that a delegation of the Executive Committee of the Hongkong and Kowloon Chinese Anti-Direct Tax Introduction Committee waited upon Your Excellency last week. You, Sir, have stated that Government has taken into its consideration all the representations that have been made. I understand that another petition signed or chopped by thousands of firms but, as far as I know, without containing any new arguments, was sent in to Government yesterday. Today, on the Second Reading of this Bill, it will be my duty to vote in accordance with my own considered opinion on its merits.

Sir, I am in favour of this Bill and shall vote accordingly. But out of deference to all the representations to which I have referred, and in discharge of my duty to this Council, I propose to set out fully—but I hope not at undue length—my views and position in regard to this matter, which is of such actual as well as potential importance to this Colony.

His Excellency Sir Geoffrey Northcote, in his presidential address to this Council at a meeting held on the 12th October, 1939, foreshadowed the immediate introduction of an income tax for Hong Kong. At this meeting the then Financial Secretary, the Hon. Mr. S. Caine, in moving the adoption of the 1940-41 Estimates, indicated that the standard rate of the proposed income tax would be ten per cent.

Then came the Budget Debates of the 9th and 16th November, 1939, in the course of which unanimous objections to the income tax proposals were voiced by all the Unofficials.

In the meantime the Income Tax Bill had been referred to the Income Tax Committee, of which I was a member, and which held its first meeting on the 3rd November, 1939.

As the result of the recommendations of this Committee the original income tax proposals were dropped, and in lieu thereof a Bill was introduced in this Council, which became the War Revenue Ordinance No. 13 of 1940.

In the Budget Debates above referred to I made it clear that my main objection was that, for a place like Hong Kong, with its chief characteristics as an entrepot, and with a transitory population, any measure of the complexity and intricacy inherent in income tax legislation, cannot be equitably administered in the Colony, at all events for many years after its introduction. That was why, in my view, the Income Tax Bill, even with a standard rate of ten per cent., was not acceptable, whereas the War Revenue Ordinance No. 13 of 1940 received the unanimous support of all the Unofficials.

As regards the proposals embodied in this Ordinance to which I had made some personal contribution, I ventured the following remarks when I addressed this Council on the 14th March, 1940: —

“On December 4th, 1939, Mr. Caine, in view of his impending departure, wrote to each member of the Committee a letter enclosing a draft Report of the Committee, as representing what he hoped the Committee would be prepared to agree to, rather than what had already so far been agreed. In the course of his draft Report the following observation occurred: —

‘The best alternative means of imposing taxation of approximately the same degree of severity and having approximately the same incidence as the proposed Income Tax appears to be a combination of taxes assessed on property, on salaries and analogous incomes and on business profits made in the Colony on basis and at rates calculated to impose very broadly the same degree of sacrifice on the several classes of persons affected. Such a combination of taxes would constitute a partial income tax, covering much the greater part of the income which would be liable to a full income tax but freed of many complications owing to its being partial in scope and only approximately adjusted to individual liability to pay. In particular much of the enquiry into personal circumstances which is apprehended from the administration of income tax should be avoided.’”

(1940 Hansard, page 29).

It was of course realised that Ordinance No. 13 of 1940 might have to be amended from time to time to cure such defects or anomalies which might be disclosed by actual experience, and in fact it was amended by Ordinances Nos. 21 and 29 of 1940, and was repealed and re-enacted with amendments by Ordinance No. 13 of 1941.

On the whole it can be said that the 1940 Ordinance worked well and smoothly. Estimated to yield 6 millions each year it actually produced 9 millions for 1940-41, or 50 per cent. more than the original estimate, and the cost of the War Taxation Department was only 3 per cent. of the total amount collected.

Section 73 of Ordinance No. 13 of 1941 provides:

“No tax shall be collectable in respect of any year of assessment subsequent to the year of assessment in which the war which began on the 3rd September, 1939, is terminated.”

According to Government this Ordinance is technically still in force and will remain in force until a Peace Treaty has actually been signed, or of course until it has been repealed.

It was in these circumstances, which I might describe as the historical background, that I accepted the invitation to serve as a member of the new Taxation Committee appointed by Your Excellency on the 3rd September, 1946, with terms of reference which include—:

(ii)

(c) Whether, and if so by what date, it will be expedient to replace the taxation now authorised by the War Revenue Ordinance (I have underlined those words, Sir) by the introduction of an Income Tax.

The subsequent history of this matter, from the time of the Report of this Committee to the publication of the Bill now before this Council, embodying all the recommendations of the latest Committee appointed by Your Excellency, was fully set out by the Hon. the Financial Secretary when he spoke in support of the First Reading of this Bill last week. I need only add that to the Reports of the various Committees detailed by him I was an assenting party.

Sir, I have ventured to recall these facts, not by way of *apologia* for the part I have taken throughout this direct taxation controversy, but because I believe these facts are relevant in considering the Bill now before this Council.

In view of the Hon. the Financial Secretary's able analysis of the differences between this Bill and the 1940 Ordinance, I need not take up any further time of this Council in discussing such differences, which are all in favour of the taxpayer. Indeed, the only fundamental difference between this Bill and the pre-war legislation is contained in Chapter VII, under which anyone liable to tax is entitled to elect to be personally assessed, with the consequential rights to personal allowances.

I submit, Sir, that the provisions of this Bill, drafted in the spirit of the 1939 Ordinance, namely, the production of a relatively simple measure freed of many complications inherent in a full income tax legislation, with the fundamental essentials of a low rate, and without any provisions which would harm the economy of the Colony as an entrepot, is a substantial improvement on the pre-war legislation.

It is true that in 1939 there was an overwhelming desire on the part of the community that the Colony should assume its share of the financial burden of the war effort. But this Council, in 1940, was absolutely unfettered, not only in theory but in fact, in regard to the means by which the requisite war revenue, a substantial amount of which was to be devoted as a free gift to H.M. Government, was to be found. His Excellency Sir Geoffrey Northcote had categorically stated—

“What Government has in contemplation is a free gift to H.M. Government while engaged in a life and death struggle; it would be utterly illogical, to say the least of it, to describe as free a gift wrung from an unwilling community by the use of the official majority in this Council: no such thought has ever entered my mind. (16th November, 1939, Hansard page 228).

In point of fact the method of raising the war revenue required, which was acceptable to all the members of this Council in 1940, was that prescribed by Ordinance No. 13 of 1940, on which the present Bill in its fundamental essentials is based. Therefore the crucial question before this Council, as it seems to me, is as to whether or not it is really necessary to raise further substantial revenue. And I venture to think that any doubt which might have existed on this point must have been completely dissipated by Your Excellency's address to this Council last week.

Sir, I cannot pretend that the introduction of a direct tax in peace time in the Colony has come upon me as a surprise. To me certain observations of His Excellency Sir Geoffrey Northcote, in the course of his address to this Council on the 16th November, 1939 were a significant warning. May I quote these observations: —

“Lastly, in order that I should be completely frank on the subject, I admit my belief that the principal contribution to the peace-time—I repeat, peace-time—revenue of this Colony should come from an Income Tax. Trivial arguments can be ranged against its equitability in a community composed of different races with different standards of living: but these arguments have little weight when opposed to the undeniable basic equity of a tax which is assessed in accordance with ability to pay. More than one Unofficial Member has reminded me during the Debate of the shortcomings of this Colony's Administration. I fully, though with deep regret, agree that in primary education, in facilities for poor and sick children, in housing of the poorer classes, in town

planning and in other respects the provision made by this Colony is gravely lacking. I do not attempt to disguise from myself the fact that in order to cure that complexity of social ills it would be necessary to raise a great deal more revenue and I again state my conviction that the only proper way of raising the necessary amount would be by putting the revenue on an Income Tax foundation

These latter remarks at such a time as this may be regarded as inopportune. I have made them because I hope that the day may come when I shall preside over a meeting of this Council with a bill before it for the imposition, or re-imposition, of Income Tax as a peace-time measure, in order that we may begin to tackle in practical earnest those social problems. But that is looking some way ahead” (1939 Hansard, page 229).

It is but inevitable that the discussion of Direct Taxation should be linked with the question of Constitutional Reform. I have no doubt that the consciousness of impending constitutional changes is present in the minds of all of us who are taking part in this Debate today. But the process of government must go on in the meantime, and this Council must continue to function in accordance with its constitution for the time being,

It may be that, having regard to the various concessions embodied in the Bill, the original estimated yield of 16 million dollars cannot in fact be attained. On the other hand, it may well be that the actual revenue will exceed the actual expenditure without the yield from this Tax. Either alternative is of course possible. But both must remain in the region of surmise until next year. But what is certain is that no surplus of revenue over expenditure in respect of the current year, however large and welcome, can possibly be too large for the purpose of rehabilitating the Colony's finances, creating a prudent reserve, and financing the manifold calls for social services.

Sir, I adhere to the view I held before the war that whilst a complicated Income Tax is not suitable to the Colony, a simplified form of direct taxation along the lines of this Bill can fairly and equitably be administered, and that the efficiency of its administration should improve with the years.

Sir, it is not a bad thing for one occasionally to see visions and to dream dreams. One of these visions and dreams which I would like to have is that of the Colony, in which its people, aided by sound education, will assume progressively and in ever increasing measure, the responsibility of self-government; in which social services, like adequate hospitalisation, medical and sanatorium care, universal education, old age pensions, unemployment insurance, workmen's compensation, etc., etc., will gradually become available to its citizens, and in which the burden of providing for the expense of Government and for these services will be equitably distributed amongst all. In any such picture direct taxation, based however approximately on ability to pay, must occupy a place.

The demand for social betterment and social security, and the reliance upon taxation based on capacity to pay, represent a process which, clearly observable for years before the war, has received a tremendously added emphasis from the common effort, common toil and common suffering of the war years. If I may, with profound respect and humility, borrow and—to the extent of substituting "We" for "I"—paraphrase one of the numerous impressive and incomparable utterances of that great war leader the Rt. Hon. Mr. Winston Churchill, in the concluding part of his speech delivered to the House of Commons on the 20th August, 1940, I would say this: —

“For my own part, looking out upon the future, I do not view the process with any misgivings. We could not stop it if we wished; no one can stop it. Like the Mississippi, it just keeps rolling along. Let it roll. Let it roll on full flood, inexorable, irresistible, benignant, to broader lands and better days.”

HON. MR. LEO D'ALMADA E CASTRO. —I shall vote against this Bill and my reasons for doing so are these: —That whereas I approve of direct taxation in principle, I feel, as I felt at the private meeting of Unofficial Members of this Council some time ago, that this is not the proper time for its introduction. My reasons for feeling that, Sir, then as now, are two: first, because due allowance should be made for citizens and firms in Hong Kong to rehabilitate themselves after a period of four years during which nothing was earned and inroads made in many cases into capital saved—leeway, Sir, which in very many cases cannot have been made up in the short period since the liberation of this Colony. That view is not mine alone; it is shared by many, as reference to correspondence and articles in the local press in the last few weeks will have shown; and it is shared also by at least one responsible body in Hong Kong—the Committee of the Kowloon Residents' Association, which debated this Bill and which has expressed its views to Government by way of a letter addressed to Your Excellency.

My second reason for voting against this Bill, on the ground that this is not an opportune time for its introduction, is this; that, as we are on the threshold of a new form of Government in Hong Kong, rushing this Bill through now seems to me to savour very much of forestalling any opposition which may develop from the new Government of Hong Kong—if I may conveniently term it such—when that Government comes into office. On that point I beg to differ from certain remarks, if I have understood correctly, made by the last Honourable Member who spoke. He suggested that, whether or not we do get constitutional reform and a new kind of Government in Hong Kong, nevertheless the work of this present Legislative Council should go on. I agree with him in so far as if it be work necessary for running the Colony at the moment, if it be work which it is imperative that this Council should do and cannot be put off, well and good, by all means let us do it; but to pass a measure such as this now, I can only liken to the present Labour Government in office in

England attempting, in the eleventh month of the fifth year of its term of office, to foist upon the nation, shall we say, for example, the nationalization of the motor car industry—a matter not crying for such urgency as its tackling by a Government about to go out of office.

These, Sir, are the reasons why I shall vote against this Bill, and on the Bill itself I have no comments to make today except this: I see that it is now proposed, as the result of representations, to include allowances free of tax for a fifth child and subsequent children. The fact that the Taxation Committee or the Committee appointed to consider this Bill should have seen fit to recommend that in those cases the allowance be only \$200 per child is, I think, to characterize this amendment as a ludicrous sop, and one which is calculated rather to give offence than satisfaction.

HON. MR. R. D. GILLESPIE. —Your Excellency, I have already made my position clear, at the Annual Meeting of the Chamber of Commerce, with regard to the Bill now before the Council. Therefore it will not be necessary for me to address Honourable Members at any length in this debate.

A measure of this kind cannot be applied with perfect equity to the circumstances of every tax-payer, but I am of opinion that the amendments made since it was first published remove most of the objections which have been expressed.

One alternative suggested and mentioned just now by the Hon. Mr. T. N. Chau, is a Business Licence registration fee. This, as Your Excellency knows, was considered by the Taxation Committee, and regarded as a useful proposal. It would certainly help to provide basic information required by the Inland Revenue Department by bringing into existence a register of firms. But it would not produce substantial revenue, unless it were graduated according to the financial strength of the firms included in its scope. If a registration fee, the same for all firms, is proposed, it would have to be a nominal sum, such as \$100. Graduation according to financial strength will be better achieved by the present measure, which has the great advantage that firms which have made losses instead of profits will pay nothing.

I confess to misgivings as to whether the Government has an adequate staff to operate the present Bill in the current financial year. If the Department is overwhelmed with work, the tendency will be to collect from the obvious, easily reached tax-payers, and let a great number of the smaller ones escape, from sheer inability to cope with the numbers. Complaints of inequitable taxation would then be unanswerable.

I wish to take this opportunity of stating that I do not for a moment suggest that any one section of the community is likely to be less scrupulous than another in the matter of making returns for the purpose of taxation. But it has to be remembered that many here are unaccustomed to this method of raising revenue. Chinese accounts will cause the Department much trouble and delay.

In due course I shall invite Government to give, not the details of tax collection, of course, but at least an indication whether any section of the community has manifestly paid substantially less than it ought to have done. I sincerely hope that that information will refute suggestions that tax evasion is likely to be prevalent.

Finally, I would say that, unless Government can give the Council full assurances as to adequacy of staff, there is, in my opinion, a strong case for postponement of introduction of the measure for another year.

HON. DR. CHAU SIK-NIN. —Your Excellency, Without going into all the details embodied in the Draft Bill, I crave the indulgence of Your Excellency and my honourable colleagues for stating at some length the reasons for my opposition to it. My senior Chinese colleague, the Hon. Mr. T. N. Chau, has already made certain observations on the Bill with which I concur. So many other reasons have also been advanced by others that I need not dwell upon them here. I would like, however, to stress a few points which appear to me of some importance. It has been advanced as an argument in favour of an income tax that in addition to the need of raising revenue to meet the Colony's commitments, it is the most equitable form of taxation. I do not question the necessity for raising the required revenue, which is apparent to us all. Indeed, the public is most willing to pay, but what it does object to, and objects most strongly and strenuously, is the method of taxation.

If Government wishes to raise sixteen million dollars, there are plenty of other alternatives whereby the money could be raised without those features to which objections have been raised. It seems that this tax is introduced on the principle that, though only sixteen million dollars are required this year, the foundation must be laid on which the taxation structure can be increased, with hardly any limitation.

Income Tax is a product of the West, that of a political state with a representative government which has advanced to the stage when the maxim "No taxation without representation" has long been accepted as a principle of the constitution. It is a condition of the tax that those who are called upon to pay it should have an effective voice in its imposition as well as in the control of its expenditure. In the circumstances now obtaining in Hong Kong there is no popular representation on the Western basis, and it cannot be said by any stretch of imagination that the population would have any say in the imposition of the Colony's taxation or in the control of its expenditure. True, we have been promised some measure of self-government, but it is still in the embryonic stage. The tax during the first year may be limited to 10%, but nothing that the taxpayers can say will prevent this rate being raised at the will of the Government.

Hong Kong is also predominantly identical with South China in its social structure. The unit of the Chinese society is that of the family. Where Income Tax has been applied in a society which is highly individualistic it is easy to separate persons who are subject

to tax either individually, or as corporations, or as partnerships with a definite legal status. It is difficult to apply a principle of Income Tax to a people whose earnings are gained from the combined efforts of a family or clan groups and are spent for the maintenance of those groups, and are largely owned in common. The imposition of Income Tax cuts across the whole fabric of the Chinese social structure.

To take but one example. The proposed allowances for dependents in this Ordinance, though they might appear liberal enough to ordinary Britons, ignore the fact that in Chinese families dependants are rarely limited to a wife and the children. If one member of a Chinese family is comparatively well to do he is looked to in a large measure to provide for the financial needs, in part at any rate, of his parents, his brothers and sisters, and even of nephews and nieces and more remote kin. No family allowance system devised on western lines could adequately deal with the traditional commitments of the head or the wealthiest member of a Chinese family.

One of the worst consequences of Income Tax is its demoralising tendency to promote evasion. In a Chinese society evasion does not arise merely from an unethical attempt to avoid paying, but from the essential difference between the social units in the East and in the West, and from the inherent difficulty, if not impossibility, of imposing on the family unit a mode of taxation designed for, and produced by, the individualistic society. In spite of the ready acceptance by the British people of this form of tax, it was only a century ago that their social structure and Parliamentary representation has advanced sufficiently to justify the imposition of Income Tax, and to apply this now to a predominantly Chinese population is to ignore the essential and historical difference between the communities affected.

The main opposition to the Income Tax proposition appears to be that systematic and possibly progressive tax of this kind can only be fairly imposed by the freely-elected representatives of the people on themselves, with the assurance that these representatives have full facilities in gauging the amount of money required and in applying its expenditure. In the case of Hong Kong at present, the taxpayers do not know what the requirements are; they are simply told that the Colony is in debt to the mother-country, but they do not know to what extent or in what respect, and they are in a state of comparative ignorance, on which Government does not enlighten them. The Government has not made any statement as to its plans for the rehabilitation or for the expenditure of the money to be collected. It is asking for a blank cheque.

The taxpayers are entitled to have some say, as they are in England, not only in the imposition of the tax, but in the expenditure of the money, and it is not considered sufficient that the tax has been recommended by a small *ad hoc* committee which cannot be said by any means to be representative of the taxpayers. While it has been said that the tax has not been imposed without consultation with and recommendation by at least two committees, these, however, were committees appointed by the Government.

Adam Smith, the great economist, said that the ideal tax should be collectable at a convenient time without extravagant expense, armies of collectors, or sheaves of tax banks, which should keep the citizens distracted from their pursuits of earning a living. The tax should be levied with a minimum of interference with free enterprise and the normal ebb and flow of economic tides.

I am of the opinion, Sir, that the advocates of Income Tax, in their impatience to consolidate Government revenue, have overlooked the fact that the major wishes of the Chinese population, representing 95% of the Colony's total inhabitants whose business acumen and extensive financial investments are to a large extent responsible for its traditional prosperity, are being ignored. The Right Honourable the Secretary of State for the Colonies, Mr. Arthur Creech Jones, in his recent pronouncements to the people of colonial territories has urged closer co-operation between the native populations and their governments, and in view of such manifestations it is logical that the Chinese should oppose any governmental measures which may affect their well being and business enterprises. Needless to say, the Chinese in Hong Kong will not be found wanting when equitable and fair financial schemes to support Government are proposed.

I, and I am sure the bulk of the Chinese community here, fully realise that Hong Kong must find additional revenues to avoid a further drain upon the already overtaxed homeland. But we are not the only Colony where this is true. Gibraltar is another example. It is faced today with an urgent housing programme the cost of which during the next two years is estimated at £ 1,750,000 or about \$25,000,000. The Secretary of State has authorized the institution of a Government Lottery which is expected to provide interest and sinking fund for this outlay. The Governor of Gibraltar in referring to the question of the introduction of Income Tax, indicated that such a step must be seriously considered, but thought it undesirable that such a measure should be introduced until discussion was possible by the elected representatives of the people. Sir, what is not considered expedient for Gibraltar can hardly be considered expedient for Hong Kong. What is not considered immoral for Gibraltar, Malta, Southern Rhodesia—all of which will now meet part of their administrative expenditure out of lotteries, can hardly be considered immoral for Hong Kong. We already have, in a modified form, a betting tax. There was formerly a similar impost in Great Britain. In his budget speech of only a few days ago the Chancellor of the Exchequer stated that the reimposition was an attractive proposition, and that "though it would unite against it strong and varied resistance ranging from bookmakers to Bishops" he would advise the Committee to face even this powerful combination if it seemed likely that he could get substantial revenue from this new tax.

I am convinced that most members of this Council, and the public, both Chinese and non-Chinese, would welcome experimenting with this painless method of raising revenue, which would yield substantial funds for our social services even if the income tax project is not abandoned.

In conclusion, I must impress upon Government the necessity of revising and reconsidering the whole question before forcing its will upon a reluctant public, and in face of such strong opposition from all quarters. It is already suggested that to oppose would be useless, since Government is determined to pass the Bill. Nevertheless, I sincerely hope that, in this particular case at least, Government will heed the pleading of a long docile public.

HON. MR. M. M. WATSON. —Your Excellency, On this very important and controversial measure I feel the importance of making my position quite clear, not only in accordance with my duty to this Council but also to the Unofficial Justices of the Peace who paid me the honour of electing me to the Council.

In the course of one of the earlier meetings of the Unofficial Members of this Council the principle embodied in this Bill was accepted, but for various reasons some of the members were not prepared to agree to the enactment of this present measure.

I think that I can also safely say that the majority of people with whom I have discussed this bill have also agreed on the principle being sound if it can be equitably applied.

The principle, as I understand it, being conceded, I will not say on all sides, but by the majority of people who have considered the matter, it is unnecessary on this point to say anything more than that I am with the majority.

The question is, therefore, in my opinion, the consideration of the objections to this particular case, and alternative taxation.

The fear amongst some sections of the community that the Bill will in practice operate inequitably is more than a question of imagination and it is essential that an efficient department for the collection of the tax should function from the beginning. If this is not so, such fears will, I am convinced, prove to be well founded.

That there will be evasion no one will deny; it is a question of keeping it within bounds, and the relative merits of other forms of taxation.

In connection with such other forms of taxation, I have read most of the suggestions that have appeared in the press, where they appear to have been well ventilated.

The three most persistent suggestions have been, I think, import duties, purchase tax and lotteries.

The import duty suggestion seems to have died out as being contrary to all hitherto recognised principles in the conduct of this port as a free port. I do not profess to have sufficient knowledge to deal with this point with authority, and it would now appear to be unnecessary.

The suggestion of a purchase tax or a tax on luxuries has been prominently advocated.

Whether such taxes could bring in any revenue comparable to that on the basis of the present Bill is to me exceedingly doubtful. However, I have a much stronger objection, and that is that it would not catch the man with money; on the contrary, the poor man would relatively be the one to pay.

I think it would be a fair thing to say that a person in receipt of a substantial income does not spend any more money than one in receipt of a moderate income on his living expenses. After a time a man with a large income will use the surplus in his business or other investments. The result is that such a tax will not only relatively hit the poor man harder than the rich one, but at the same time you will fail to obtain a fair share of the payment of taxes from the man with money, which is what one might call a legally inequitable tax.

Another suggestion is a lottery. I have no moral objection to lotteries from a personal point of view, but I am not so convinced that there are no such objections when it becomes a matter of state.

In England, and I believe at the present time in China, such lotteries as are contemplated in this suggestion are not permitted; on the contrary there is active opposition to them.

Whether, in the circumstances of this Colony, having regard to such objections, they should be permitted, I have very grave doubt and so far as I am personally concerned I should be very much against them.

Apart from the moral or political angle, I do not think they would be effective to produce the necessary revenue.

There are state lotteries in Australia, but I did not find any particular interest taken in them, and they can form only a small part of the revenue which is raised.

A further point I should like to make is that under this Bill public and other companies will contribute very large sums of money, sums much beyond those that are at the disposal of individuals. But, Sir, is it realised that none of this money could be put into a lottery, as I have yet to come across a company where one of its objects was to invest in lotteries, and clearly in no case could the directors do so, however anxious they might be to help in a good cause.

Can it be seriously suggested that the subscriptions of individuals could approach the sums that would be collected under any form of direct taxation, however modest, from these wealthy companies?

I at least am satisfied that the millions that it is said would come from this source is only wishful thinking, and if it were not I should be even more firmly opposed to the idea.

Perhaps I should also refer to a suggested business licence or capital tax. I am not clear how this would operate, but it would be interesting to know how it is applied to professional men and women. I can only assume that this is one of the cases, which I am very glad to note have been considerably cut down in this bill, where the matter would be left to the discretion of the Commissioner.

The consideration, however, that has weighed most with me in connection with this bill is that the cost of living in this Colony is extremely high, at such a height that perhaps we may hope it is only temporary, and this certainly involves the proposition that nothing shall be done to make it higher. This is the point where many will disagree with me, but I am convinced that any form of taxation which is not based on the income or profits of the individuals in the Colony who can afford to pay will lead to that result. I cannot say that persons who are not intended to pay these taxes will not have them passed on. I have already come across a case where the interest tax has sent the interest up, but it is, I hope true, if it is not obvious at the moment, that supply and demand will deal with this problem. On the other hand, so far as I can see, any effective tax which has been suggested will automatically cause a demand for increased wages from the many people in this Colony who will not be directly affected by this bill, demands which it would be difficult, if not impossible, to refuse.

This Colony has up to date, in my opinion, enjoyed a great measure of freedom from post-war labour trouble, and it would be disastrous in the extreme to bring in taxes which, directly affecting persons who will not generally be affected by this bill, would cause industrial trouble that could be avoided.

In connection with this point, Sir, I am further influenced by the fact that we know it has been agreed that a general increase in rents in the Colony will shortly be permitted, and it would be more than unfortunate if this coincided with a general increase of prices from indirect taxation. I venture to make the last observation as I feel that many will, so long as the bill is reasonable, pay their share of the tax without regard to recouping themselves from others, even assuming, as I have suggested, that competition may prevent this being done in the majority of cases.

This brings me to a point which I regard as of great importance.

Much of the opposition to this bill, and it is very considerable, arises from the feeling that this is the beginning of the end. That as the evaders succeed in evading, the others will be forced to pay in their stead, and furthermore that the breach having been made it will be enlarged for the benefit of Government officials who, they consider, are already, compared with their opposite numbers in private life, very comfortably placed. In the past these fears have not been groundless, but, as I remarked in a previous speech in this Council, I felt that there was much more harmony between the parties than before the war, harmony which, however, was not being helped by requisitioning.

On this aspect of the matter I feel very strongly that the imposition of a moderate tax is not only a question of amount but of principle in the circumstances of this Colony.

I do not think it necessary to elaborate this point at the present time, as I am satisfied that the present bill is within this principle, but I certainly reserve freedom of action if it is proposed the Bill should be expanded beyond its present limits.

I have, Sir, endeavoured to give the reasons that have led me to the opinion that I should support this bill as being the most appropriate form of taxation for this Colony in raising the revenue that is needed.

I should perhaps add that the original form of this bill which based this year's taxation on last year's income I could not have supported as, in my view, which I have also previously expressed, last year was such an abnormal year that nothing could fairly be based thereon. However, the alternative that has now been embodied as a result of the reference to the last Taxation Committee, so far as I am concerned, meets this objection.

In conclusion, Sir, I feel that this bill, moderate in tone, is suited to the present circumstances of this Colony and is desirable in preference to other forms of taxation on the ground that in the final analysis it is a measure which, if efficiently and justly enforced, is orderly, effective, and the least likely to add to the general cost of living and cause consequential unrest.

THE COLONIAL SECRETARY. —It is obvious from some of the things said here this afternoon, particularly by my Honourable Friend Mr. Landale, and obvious also from the representations that have reached Government in regard to the Bill that there is some anxiety about the way in which the proposed tax machinery will work, and, how efficiently it will work. There is a fear that while the honest man will pay, the rogue will escape, and there is also a fear which is held largely by smaller concerns that a host of Government Tax Inspectors will descend on their premises and pry into their secrets and perhaps disclose them. Very briefly just now I would like to try to allay some of these anxieties.

I think, it worth remembering, as the Honourable Mr. M. K. Lo remembered, that the Taxation Department is not starting quite from scratch. It was going on in 1941. I do not think many people would quarrel with me if I were to say that it was in successful operation in 1941. At any rate, I do not recall any very serious protest impugning either its efficiency or its methods. Indeed I think it would be true to say that the relationship between that Department and the public was fairly good, and I would like to assure Council that it will be Government's intention to maintain and foster that relationship in the future.

Under the Bill now before us the Commissioner is given very considerable powers. Mr. Pudney, who has also read Adam Smith, has the specific intention of exercising those powers wherever possible with an eye on the spirit rather than the letter of the law, reasonably, and without undue interference with the legitimate privacies of private and commercial life; and he will depart from that policy only where he has good reason to suspect an attempt at evasion.

Now, some smaller business concerns have the fear that their whole traditional system of accounting will be overturned and that something else compulsory will be put in its place, at expense to themselves and confusion to their enterprises. Quite categorically, this is not Government's intention, nor is it a probable result. On the Commissioner's staff there will be officers expert in drawing from Chinese accounts the information required under this Bill for the purpose of tax. These officers have been specially selected and a number of them were in the 1941 Department and on the basis of the experience they had then they are confident that in very few cases indeed will any taxpayer be required to recast his accounts; certainly he will not be lightly asked to do so.

And that brings me to the question of evasion. There will be some evasion, and it would be stupid to seek to deny it. The question is, how much evasion? Since the whole matter both now and in the future will be largely guess-work, and is not susceptible of proof, all I can do here is to state that Government has most carefully considered the problem of potential evasion. Government has reviewed the staff required, the staff available or shortly to be available, and in the considered opinion of Government it will not be nearly so easy to attempt and succeed in evasion as seems to be supposed in some quarters. Moreover, it will become progressively more difficult. The world wide experience of tax gatherers is that successful concealment of profits over an extended period is by no means an easy matter, and we do not expect to find any different result in Hong Kong. And in Hong Kong also we may take comfort from the experience of 1941. So far as we know, and as my Honourable Friend Mr. Lo has pointed out, there was no materially successful evasion in 1941; and where there were suspicions the Government was confident that the corrective measures planned for the following year would have satisfactory results. It would not have been perfect, —no tax is—but it was reasonably certain that there would be no material evasion, and the Government sees no reason to suppose that the same situation which obtained in 1941 will not obtain again this year.

And lastly, there is the disclosure of commercial secrets which is so much contrary to the traditions of Chinese or any other business. Honourable Members will have seen the provisions of Section 4 of the Bill and will have observed the obligation of stringent secrecy laid upon the personnel of the Taxation Department. I assure Council that these provisions are there to be obeyed and will be enforced to the best of Government's ability to the letter.

THE FINANCIAL SECRETARY. —I am sorry that some Honourable Members remain unconvinced that the Earnings and Profits Tax is the best or the most appropriate form of taxation for this Colony. I do not think, however, that anyone will dispute the fact that direct taxation is theoretically the fairest form of taxation. If it is properly administered, it is also in practice the fairest form of taxation and I hope that what my Honourable Friend the Colonial Secretary has just said on this aspect will have convinced Honourable Members that it is the firm intention of Government to see that the administration of the tax is efficiently carried out. Moreover, direct taxation such as is dealt with in this Bill has this great advantage over the various alternative suggestions which have been put forward in petitions and also in the course of this debate, namely, that the incidence of the tax varies in proportion to the capacity to pay. It is equitable alike in times of prosperity and when bad times set in.

Of the alternative methods of taxation which have been proposed, perhaps the most wide-spread suggestion has been that some form of business licence should be substituted for the proposed Profits Tax, but a Sales Tax and a Customs Tariff on a limited range of luxury items have also been proposed. There is one general objection to all these alternatives and that is that in none of them can the rate of tax be adjusted to the capacity of the individual to pay to the same degree as is possible in the case of a tax on incomes. Moreover, all these proposals, and indeed many others, were examined with great care by the Taxation Committee at the end of last year. They were all rejected as unsatisfactory. There is a further objection suggested by the Honourable Mr. Watson this afternoon: he pointed out in the course of his speech that any form of indirect taxation which might be substituted for the present Bill and which might result in an increase in the cost of living might lead to a demand for an increase in wages from a class which is not affected by the terms of the present Bill.

The Honourable Mr. T. N. Chau explained that the Profits Tax was quite contrary to Chinese tradition. But he was prepared to accept the other three taxes covered by the Bill. He suggested that the Profits Tax should be cut out of the Bill and replaced by some form of business licence. He seems to be under the impression that this would work out quite simply and that assessment would be a comparatively simple matter. But when one analyses the proposal I think that one is forced to the conclusion that it would give rise to many complicated administrative problems. The Honourable Mr. Gillespie in the course of his speech has already dealt with some of the difficulties which would arise. As he pointed out, some form of business licence is most desirable from the registration point of view in order to provide certain basic information, and a small licence fee to be deducted from any Profits Tax ultimately paid was recommended by the Taxation Committee. For purposes of registration only a small tax would be necessary, but of the four taxes covered by the present Bill the Profits Tax is of course the one from which

the greatest amount of revenue will be derived. If it were to be replaced completely by some form of business licence, the position would be very different and the licence fee would have to be fixed at quite a high figure in order to produce the necessary revenue. Obviously, the smaller businesses could not afford to pay a high licence fee of this kind and it would be necessary to create administrative machinery to consider hundreds—or more probably, thousands—of applications on their merits with a view to scaling down the fee to an appropriate figure to meet the circumstances of each individual case. This would be a formidable task. Considerable extra staff would be required and whether each case was considered on its merits or the alternative and equally difficult method was adopted of fixing a graduated scale of fees and attempting to classify the various businesses accordingly, the results would I fear be far from satisfactory. How much simpler it will be to tax these concerns according to their actual profits as is now proposed! And how much more equitable will be the results! For it must not be forgotten that a business which actually made a loss would, under the scheme which has been proposed, still have to pay some form of licence fee.

Then there is the Sales Tax. This proposed tax was not introduced in the United Kingdom primarily as a revenue-producing measure but rather to restrict the demand for consumer goods at a time when they were in very short supply. The tax is normally collected through the wholesalers but this would not be practicable here and it would be necessary to rely on collection through retailers. The opportunities for evasion would be extensive and there would be far more incentive than in the case, say, of the restaurant meals tax in respect of which large-scale evasion is nevertheless taking place. Moreover, if a general rise in the already extravagantly high cost of living were to be avoided it would be necessary to exempt a long list of articles which could be regarded more or less as necessities. If Honourable Members will consider for a moment what proportion of their normal purchases are not really necessary and can be regarded purely as luxuries, they will I think agree that the range of goods which could reasonably be taxed without affecting the cost of living would not be very extensive. The luxury of yesterday is always tending to become the necessity of today, and if the range of goods taxed were very wide the burden would fall more heavily on the man with a large family and on those with modest incomes than would the tax payable under the Bill which is the subject of this debate. Indeed, the effect of the Sales Tax would be that the amount of tax paid would be proportionate to the amount which the unfortunate individual was forced to spend to maintain his family.

The proposal that Customs Duty should be levied on luxury goods has not been so widely supported, and as the Hon. Mr. Watson has remarked in the course of his speech, the suggestion seems rather to have faded out. Unless the range of goods affected extended beyond the real luxury class into the necessity class the nett yield would be unlikely to be very great. A considerable increase in the staff of

the I. & E. Department would be necessary and the imposition of a Customs Tariff, even on a limited range of goods, would give rise to a mass of restrictions and complications which would lead to constant irritation and delay. This would inevitably have a very harmful effect on the entrepôt trade of Hong Kong, and I can hardly imagine that any such scheme would be welcomed by the business community.

In a rather different class is the state lottery proposal which has been advanced by the Hon. Dr. S. N. Chau, and also mentioned by the Hon. Mr. Watson. There are of course many arguments against the institution of such lotteries, both on moral and other grounds, but I agree that the suggestion merits further consideration. I would point out however that this is really quite outside the present discussion. It is hardly appropriate that a Government should depend upon a lottery as one of its major sources of revenue. My own view, and one which I gather is shared at least by the Hon. Mr. Watson, is that the role of a lottery, if it were decided to introduce one, would rather be to supplement normal revenue in order to raise funds for a specific purpose. In practice, therefore, it might be desirable to credit any funds raised by such means to some special account. In point of fact the best use of a lottery is probably as a means of financing some desirable development project of a non-productive character.

Before passing on to other matters, I should just like to say a word or two about a point raised by the Hon. Mr. Leo D'Almada e Castro. He took exception to the allowance given in respect of children after the fourth. These allowances may look low, or may even look niggardly when considered by themselves, but they must be considered in relation to the scale of personal allowances as a whole. The allowance for which a family of father, mother and five children will qualify amounts to \$18,200, and I hardly think that that can reasonably be regarded as ungenerous.

I should like to take this opportunity of informing Honourable Members that a final examination of this Bill has disclosed a few points which will necessitate amendment, and it is proposed that these should be moved in the course of the committee stage. With two exceptions they are of a very minor character and are merely the results of a tidying-up process. For example, in some sections of the Bill a company is referred to as a corporation and in others as a company. We propose to standardize on "corporation."

Then there is an amendment designed to prevent a non-resident possessing a few Hong Kong shares from recovering the tax deducted by claiming the full personal allowances which of course would be quite unjustifiable, and finally there is one designed to promote equity as far as possible in the valuation for purposes of tax of accommodation either free or at a reduced rental provided by an employer either in a hotel or in a house or flat. I shall explain these two amendments in detail during the Committee stage.

H. E. THE GOVERNOR. —Honourable Members of the Legislative Council, It falls to me to wind up a debate to which all of us have been looking forward for some time past not only with interest and expectation but also with a determination to try to do justice to the important subject with which we are dealing, and between us to represent the diverse views, while each one of us serves what he conceives to be the best interests, of the people of this Colony. And since it is very possibly the last debate, and almost certainly the last debate of importance, in which I shall participate in this Council, may I say that Hon. Members both official and unofficial who have taken part in this debate seem to me to have fulfilled most thoroughly the intentions which I have ascribed to them.

There are four fundamental questions which have had to be considered by the Government and which have to be considered by this Council in connection with the subject matter of this Bill. They are: —

In the first place, is the additional revenue which we seek to raise really required?

Secondly—If additional revenue is really required is this a fair and appropriate method of raising it?

Thirdly—If the method is in itself fair and appropriate is it in fact practicable?

Fourthly—If it is fair, appropriate and practicable is this the right time to introduce the measure?

On the first question, whether the revenue is necessary, I need not add much to what has already been said by others and by myself. We have set out in the Estimates of Expenditure to which this Council has assented the actual expenditure which it is agreed that the Colony requires to meet during this financial period; and it is perfectly clear from a study of the figures that in order to meet that estimated expenditure additional revenue is required. It is moreover clear—and this is a point which I have been glad to hear brought out in the course of this debate—that should the year's working prove favourable beyond our present expectation, so that an actual surplus accrues, our commitments and our great needs are such that this present Council will not need to fear the future reproaches either of an embarrassed Legislative Council of the coming days nor yet of an unnecessarily despoiled body of taxpayers.

And the second question is this: —Is the method which we are now proposing the fairest and the most appropriate method of raising the revenue? And of course when the first question has been answered in the affirmative, as I believe we are all agreed that it must be answered, this second question leads us into the fascinating field of enquiry, if the word fascinating may properly be used in connection with taxation, the enquiry into possible alternative methods of raising the money. It has been a large field with many well-backed entrants. One of the favourites has been the method which

my Hon. Friend Dr. S. N. Chau has so ably advocated, the method of a lottery, a method which has also been discussed by my Hon. Friend Mr. Watson; and many other methods have been fully discussed both outside this Council and in the press, and in the course of this debate. It is not necessary for me to go through them in detail, because my Hon. Friend the Financial Secretary has dealt very comprehensively with these various suggestions and with the intrinsic merits as well as the relative superiority of the form of direct taxation which this Council is now considering. After much consideration of this question, after studying the numerous proposals which have been put forward and after hearing both the Financial Secretary's and other members of this Council's expositions of their views on this matter, I am left, and I trust this Council is left, with the conviction that the method which we are considering in this Bill is the fairest and the most appropriate expedient which could have been brought before this Council at the present time for establishing our financial structure on a proper basis and for meeting the needs of this Colony.

The third question, the question whether it is really workable, has been dealt with by my Hon. Friend the Colonial Secretary. He has made it very clear that the Government is fully alive to the many difficulties and that it does expect to be able satisfactorily to surmount them, not shutting our eyes on the one hand to the possibilities of evasion, nor on the other hand making undue inquisition or effecting undue disturbance of existing habits and methods.

Finally I come to the question of the timing of this measure. The suggestion that this Bill, though in itself not unreasonable, and perhaps even necessary, is at the present juncture inopportune and premature—this suggestion has been put forward on two grounds. The Honourable Mr. Landale reminded us in his speech of one of them. Some five weeks ago, when the proposals of Government were under examination by the Taxation Committee, enlarged by the addition of all the unofficial members of this Council, the view was expressed that the Bill, as it then stood, needed very careful expert examination, and that this would necessarily take so long that it would be impossible, if the examination were properly done, for it to be completed in time for the tax to come into operation in 1947-48. The Government concurred in the need for thorough and expert examination and, as the Council knows, that examination and the consequent amendment of this Bill were completed before the Bill was read a first time a week ago. I have already expressed our debt of obligation which we owe to the Committee which undertook this important and difficult task. Its work was done with remarkable thoroughness as well as with remarkable expedition, and its result has been, in my judgment, completely to dispose of the first reason for which it has been suggested that the whole matter ought to be deferred for a whole year.

The other grounds for deferment which have been put forward, both in the course of this debate and outside this Council, are these: We are on the eve of constitutional changes; a Municipality is to be

set up, and certain changes in the constitution of this Council are contemplated; both of these changes are designed to give the people of Hong Kong a fuller share in the management of their own affairs; would it not be better, it is asked, to leave it to the new Legislative Council and to the new Municipal Council to decide both on the manner in which taxation is to be levied and also on the manner in which the money so raised is to be expended.

Honourable Members, we are closing no door. I do not myself suppose, and I do not think that any Member of this Council can suppose, that the Legislative Council of Hong Kong is to-day for the last time debating, considering and deciding what method as well as what rate of taxation is best suited to the needs of the Colony. The Council may be very sure that the introduction of other methods of taxation and even the modification of this method of taxation will fall to be discussed and decided for the Hong Kong of the future by its future Legislature.

And so far as the purposes of our expenditure are concerned let me call the attention of the Council to the fact that such specific provision as has been made in our 1947-48 Estimates for expenditure by the newly constituted Municipality has not been allocated to any specific purposes. We know, of course, that the Municipal Council is going to need in a full year far more than the provision which has been made in these Estimates as an initial grant, besides what it will need for services at present covered in the expenditure estimates of existing departments of Government. The point is that what we are now providing, and of course all that will be provided in the future, will fall to be expended in accordance with the wishes and views of the Municipal Council itself. And to some extent also the same is true of the expenditure which is controlled by this Council. There is within the framework of our Estimates a very considerable degree of latitude, and it is open to the Legislative Council and to the Finance Committee of the moment to exercise its influence on the expenditure of the Colony at all times in the financial year and not only at the moment of the passing of the annual Estimates. So that much of the original yield of this year's tax, and all of the surplus which in the opinion of some it is going to produce, together of course with all the yield of future years, will be expended in accordance with the votes, views and wishes of the reconstituted Legislative Council.

And for the rest, Honourable Members, if further justification is needed for the present actions and financial policy of the Government and of this Council, I have only this to say. We to-day must act in accordance with our lights, the lights of to-day. The lights of the future may be brighter and show us the way to better paths. Every one of us can work for that, in hope and confidence. But we must not for that reason stand still and wait for the brighter light. Ours is the responsibility to-day.

H.E. THE GOVERNOR. —The question is that the Bill intituled "An Ordinance to impose a Tax on Earnings and Profits" be read a Second time. Those who are of that opinion say "aye", those who are of the contrary opinion say "no". I think the "ayes" have it.

HON. MR. CHAU TSUN-NIN. —Your Excellency, I beg to ask for a division.

The Council divided and the motion was carried by 13 voles to 3. The Honourable Mr. D. F. Landale, the Honourable Mr. Lo Man-kam, C.B.E., the Honourable Mr. R. D. Gillespie, the Honourable Mr. M. M. Watson, the Officer Commanding the Troops, the Colonial Secretary, the Attorney General, the Secretary for Chinese Affairs, the Financial Secretary, the Honourable Mr. T. Megarry, the Honourable Mr. V. Kenniff, the Honourable Dr. I. Newton and the President voted for, and the Honourable Mr. Chau Tsun-nin, C. B. E., the Honourable Mr. Leo d'Almada e Castro and the Honourable Dr. Chau Sik-nin voted against the motion.

The Bill was read a Second time.

On the motion of the Financial Secretary, seconded by the Colonial Secretary, Council then went into Committee to consider the Bill clause by clause.

Clause 10.

THE FINANCIAL SECRETARY. —I beg to move that sub-clause 2 of this clause be amended by the insertion of the words “the rental value payable by the employer or if the place of residence is owned by the employer” between the words “shall be” and “the rateable value”.

I also move that the expression (*a*) be inserted between the words “over” and “one-sixth” in line 4, and that the words “or (*b*) four thousand dollars whichever is the lower amount” be inserted between the words “sub-section (1) (i)” and “shall be” in line 5.

The Bill at present provides that the rental value of any place of residence provided rent free by the employer shall be the rateable value. In many cases, owing to the housing position, employers are forced to accommodate their employees in hotels. The rooms have no separate rateable value but clearly if the value of free quarters or quarters at a reduced rental is taken into consideration for the purposes of the assessment of tax, hotel accommodation provided free by the employer must also be included in the assessment.

As the Bill is at present drafted, any addition to chargeable income in respect of free quarters or quarters at a reduced rental is limited to one-sixth of the income before any addition is made in respect of such accommodation. Owing to the very high cost of hotel accommodation the effect of the amendment might be to put hotel residents in the higher income groups at a disadvantage as compared with those residing in houses or flats provided by their employers. The difficulty arises as a result of the abnormal conditions under which we are living but after much consideration Government has come to the conclusion that the best way of removing any inequity on this score will be to place an overriding limit of four thousand dollars on the amount which can be added in respect of the value of quarters.

The amendments were agreed to.

Clause 28.

THE FINANCIAL SECRETARY. —I beg to move that in this section there shall be substituted for the word "company" wherever it appears the word "corporation".

The amendment was agreed to.

Clause 41.

THE ATTORNEY GENERAL. —I rise to move the insertion of a marginal note reading "Expenditure on Machinery or Plant."

The amendment was agreed to.

Clause 42.

THE FINANCIAL SECRETARY. —I have an amendment to propose. I beg to move that for clause 42 there shall be substituted the amending clause set out in the slip which has been circulated to Honourable Members.

"42. (1) Any individual being a resident of the Colony may, by notice in writing to the Commissioner, elect to be personally assessed on his total income. Such election shall be made not later than the last day of the year following the year of assessment to which it relates;

(2) For the purpose of this Section—

"resident of the Colony" means an individual who stays in the Colony for a period or a number of periods amounting to more than one hundred and eighty days during the year of assessment in respect of which the election is made or for a period or periods amounting to more than three hundred days in two consecutive years of assessment, one of which is the year of assessment in respect of which the election is made."

All profits arising in or derived from the Colony are liable to tax, and this applies whether the recipient is a resident or a non-resident. If the Bill were not amended as now proposed, a resident say, of Canton, who had a few shares in some Hong Kong company could set off the various personal allowances to which he might be entitled against this income, which would in fact only represent a fraction of his total income, and so escape tax altogether. The amendment now proposed limits the election for personal assessment to residents of the Colony as is defined in the new sub-section 2. I feel sure that Honourable Members will agree as regards the desirability of this amendment.

The amendment was agreed to.

Clause 43.

THE FINANCIAL SECRETARY. —I beg to move that for the word "section" in line 1 of sub-section 2 there shall be read the word "chapter".

I also move that for the word "company" wherever it appears in the sub-section there shall be read the word "corporation".

The amendment was agreed to.

Clause 44.

THE FINANCIAL SBORETARY. —I beg to move that for the word "company" in line 3 of sub-section 2 there shall be read the word "corporation".

The amendment was agreed to.

Upon Council resuming,

THE FINANCIAL SECRETARY reported that the Inland Revenue Bill, 1947, had passed through Committee with some amendments and moved that it be read a Third time.

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

MERCANTILE MARINE ASSISTANCE FUND BILL, 1947.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Mercantile Marine Assistance Fund Ordinance, 1933."

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

On the motion of the Attorney General, seconded by the Colonial Secretary, Council then went into Committee to consider the Bill clause by clause.

Upon Council resuming,

THE ATTORNEY GENERAL reported that the Mercantile Marine Assistance Fund Bill, 1947, had passed through Committee without amendment, and moved that it be read a Third time.

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

ADJOURNMENT.

H. E. THE GOVERNOR. —The Council will now adjourn until Thursday, 8th May, 1947.