

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 25th August 1965****PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR DAVID CLIVE CROSBIE TRENCH, KCMG, MC
BRIGADIER THE HONOURABLE PETER CHAMBRE HINDE, DSO
SENIOR MILITARY OFFICER
THE HONOURABLE GEOFFREY CADZOW HAMILTON
ACTING COLONIAL SECRETARY
THE HONOURABLE DENYS TUDOR EMIL ROBERTS QBE, QC
ACTING ATTORNEY GENERAL
THE HONOURABLE DAVID WHINFIELD BARCLAY BARON
ACTING SECRETARY FOR CHINESE AFFAIRS
THE HONOURABLE JOHN JAMES COWPERTHWAITTE, CMC, OBE
FINANCIAL SECRETARY
THE HONOURABLE KENNETH STRATHMORE KINGHORN
DIRECTOR OF URBAN SERVICES
THE HONOURABLE ALEC MICHAEL JOHN WRIGHT
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE WILLIAM DAVID GREGG
DIRECTOR OF EDUCATION
THE HONOURABLE DAVID RONALD HOLMES, CBE, MC, ED
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE JOHN PHILIP ASERAPPA
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE ROBERT MARSHALL HETHERINGTON, DFC
DEPUTY ECONOMIC SECRETARY
THE HONOURABLE DHUN JEHANGIR RUTTONJEE, CBE
THE HONOURABLE KWAN CHO-YIU, CBE
THE HONOURABLE KAN YUET-KEUNG, OBE
THE HONOURABLE SIDNEY SAMUEL GORDON, OBE
THE HONOURABLE LI POOK-SHU, OBE
THE HONOURABLE TANG PING-YUAN
THE HONOURABLE TSE YU-CHUEN, OBE
THE HONOURABLE WOO PAK-CHUEN, OBE
THE HONOURABLE GEORGE RONALD ROSS
THE HONOURABLE SZETO WAI
THE HONOURABLE WILFRED WONG SIEN-BING
THE HONOURABLE MRS ELLEN LI SHU-PUI, OBE
THE HONOURABLE CHUNG SZE-YUEN
MR ROBERT WILLIAM PRIMROSE (*Clerk of Councils*)

ABSENT

DR THE HONOURABLE TENG PIN-HUI, OBE
DIRECTOR OF MEDICAL AND HEALTH SERVICES

MINUTES

The minutes of the meeting of the Council held on 11th August 1965, were confirmed.

PAPERS

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

<i>Subject</i>	<i>LN No</i>
Sessional Paper, 1965:—	
No. 23—Annual Report by the Postmaster General for the year 1964-65.	
Public Health and Urban Services Ordinance 1960.	
Food Adulteration (Metallic Contamination) (Amendment) Regulations 1965.....	106
Public Health and Urban Services Ordinance 1960.	
Colouring Matter in Food (Amendment) Regulations 1965.....	107
Immigration (Control and Offences) Ordinance 1958.	
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Hawker Control Force Ordinance 1960.	
Hawker Control Force Ordinance 1960 (Amendment of First Schedule) Order 1965... ..	111
Commonwealth Countries and Republic of Ireland (Immunities and Privileges) Ordinance 1956.	
Commonwealth Countries and Republic of Ireland (Immunities and Privileges) (Amendment of Schedules) Order 1965.....	112

QUESTIONS

MR LI FOOK-SHU, pursuant to notice, asked the following questions: —

In view of the shortage of drivers for the additional 550 taxi licences authorized last February, will Government consider appointing additional examiners in order to speed up the testing of applicants for taxi driving licences?

Can Government say how many applications for licences to drive taxis have been received as well as how many issued since 19th February 1965 and what has been the average interval between the receipt of an application and the date of the test?

THE COLONIAL SECRETARY replied as follows:—

Yes, Sir, Government will investigate the possible need for the appointment of additional examiners for taxi-drivers' licences.

Since 19th February 1965, 3,446 applications for licences to drive taxis have been received, and 720 licences have been issued.

During this period the *average* interval between the receipt of an application and the date of testing has been about five months, but the interval is at present about seven months.

There are at present 1,797 taxis and about 8,000 persons licensed to drive taxis.

MR LI FOOK-SHU:—Sir, may I ask a supplementary question? Can my honourable Friend the Colonial Secretary inform the Council of the average premium receivable in respect of each taxi licence issued and the number of taxi cabs now being tied up as a result of shortage of drivers?

THE COLONIAL SECRETARY:—No, Sir, I am afraid I can't give those figures off-hand but I can certainly provide them and will circulate the information to honourable Members.

MR LI FOOK-SHU:—Sir, I can tell that the premium paid for each taxi comes to over \$30,000—which is quite expensive.

SUPPLEMENTARY PROVISIONS FOR THE QUARTER ENDED 31ST MARCH 1965

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Supplementary Provisions for the Quarter ended 31st March 1965, as set out in Schedule No. 5 (Final) of 1964-65, be approved.

He said:—Your Excellency, the Schedule before Council is the fifth and final list of supplementary provisions on the 1964-65 account and totals, in all, a little under \$18.5 million. The main items of magnitude are \$8 million for Public Works Non-Recurrent and \$6

million for expenditure incurred as a result of damage done by the abnormal number of typhoons experienced last year.

All items in the Schedule have been approved by Finance Committee and the covering approval of Council is now sought.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

PUBLIC HEALTH AND URBAN SERVICES ORDINANCE 1960

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

Resolved, pursuant to section 144 of the Public Health and Urban Services Ordinance 1960, that the Pleasure Grounds (Amendment) By-laws 1965, made by the Urban Council on the 3rd day of August 1965, under section 109 of that Ordinance, be approved.

He said:—Your Excellency, the Pleasure Grounds (Amendment) By-laws 1965, were made by the Urban Council on 3rd August and provide for an increase in the fees for the use of the squash courts in Victoria Park during certain periods. The purpose is to obtain a more economical return in relation to the operating costs of the courts.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

PROTECTION OF WOMEN AND JUVENILES (AMENDMENT) BILL 1965

THE ATTORNEY GENERAL moved the First reading of a Bill intituled “An Ordinance further to amend the Protection of Women and Juveniles Ordinance 1951.”

He said:—Sir, at present, the power to declare places of refuge under the Protection of Women and Juveniles Ordinance 1951, is vested in the Governor in Council. This is largely a routine matter and the object of the Bill is to vest such power in the Governor instead. Clause 4 contains the necessary transitional provisions.

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 object of this Bill is to enable the Governor, instead of the Governor in Council, to declare which places are to be places of refuge for the purposes of the Protection of Women and Juveniles Ordinance 1951 (the principal Ordinance), thus obviating the necessity for bringing this largely routine matter before the Governor in Council. Accordingly, clause 3 adds to the principal Ordinance a new section giving necessary power to the Governor.

2. The effect of the transitional provisions in clause 4 will be that any place which is a place of refuge under the principal Ordinance when the Bill comes into operation will continue to be such a place of refuge until the Governor exercises the powers conferred upon him by the new section.

DISTRICT COURT (AMENDMENT) BILL 1965

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled “An Ordinance further to amend the District Court Ordinance 1953.”

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Second time.

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

Clauses 1, 2 and 3 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the District Court (Amendment) Bill 1965, had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Third time and passed into law.

HOTEL ACCOMMODATION TAX BILL 1965

THE FINANCIAL SECRETARY moved the Second reading of a Bill intituled “An Ordinance to impose a tax on hotel accommodation charges.”

He said: —Sir, since this Bill received its First reading I have had discussions on some of its provisions with representatives of the Hong Kong Hotels Association and the Association of Hong Kong Travel Agents; and, in consequence, if the Bill receives its second reading. I shall be proposing certain amendments at the Committee Stage. The most important of these will be a postponement of the date of commencement of the Ordinance for a further nine months to 1st July 1966.

THE COLONIAL SECRETARY seconded.

MR S. S. GORDON:—Your Excellency, may I address Council on this Bill?

To me this Bill is so patently undesirable and wrong in concept that I hardly know where to begin. Perhaps it would be as well to repeat a comment made during the Budget debate that I find it curious logic to add an item to a tourist's bill to provide funds to attract him back to the Colony. My honourable Friend, the Financial Secretary, takes the view that "it is surely on the consumer that the cost of most advertising falls". This is true, but may I suggest that a manufacturer of soap powder who advertised his product at \$3,00 per packet plus 10 cents advertising surcharge, would soon go out of business. Of course the consumer pays and is already paying. Where does Government income come from? Basically from rates and taxes levied on this community—and a portion of these rates and taxes arise because the Tourist Trade provides our second largest income-producing industry, and has contributed handsomely to our economic health. It is clear that the tourist is already paying his share of the Tourist Association subvention. But apparently this is not enough ! We must ask him to pay an additional contribution.

The rate proposed initially may be relatively small, but I think we would all agree that it is usually the little things that are the most annoying. Already there are stories abroad that Hong Kong is no longer the cheap shopping centre that it was and the Tourist Association is trying to combat this. Now Government is negating part of the Association's efforts by introducing a tax specifically directed at tourists. Next month we have the good fortune to be hosts to an ASTA convention when some 2,000 American Travel Agents will meet in our Colony. Like most good fortune, this came about through long and hard work behind the scenes. Can you imagine the effect on this very powerful body when they hear that we have introduced an ordinance to tax tourists immediately before the Convention? In my opinion the loss to the Colony is sure to far exceed the expected yield from the tax.

Many people have said to me “but I have to pay this tax elsewhere—I can show you my bills”. The first answer is that in many cases it is not the same tax but some form of sales tax which is part of the general fiscal pattern of the country concerned. Secondly, heaven preserve Hong Kong if we take “what is done elsewhere” as a guide for our policies. And thirdly, my honourable Friend, the Colonial Secretary, may recall that it is exactly 8 months ago today that a letter from the Hong Kong Association of Travel Agents was addressed to him drawing his attention to, and supporting, a resolution passed by the Universal Association of Travel Agents Associations at their conference in Athens, calling on Governments to abolish taxes directly or indirectly affecting tourists. It is surely a retrograde step for Hong Kong to introduce a new measure specifically directed against tourists at a time when there is pressure on a world-wide basis to abolish such taxes.

In his introductory speech at the first reading of the Bill, the Financial Secretary rather seemed to imply that the Tourist Association supported this tax. When a Highwayman says “your money or your life”, the fact that the victim opts for the first alternative, does not mean that he supports the legalizing of hold-ups. The Tourist Association is convinced that a reduction in its subvention would be to the detriment of Hong Kong, and accordingly, by a majority, decided that it must yield to the pistol at its head. It is true that it is never possible to demonstrate a clear cause and effect relationship between trade promotion and the expansion of sales, but so long as the number of tourists visiting Hong Kong is increasing at such a rapid rate, it is fair to assume that a great deal of the credit must be attributed to our promotional ventures. While this process is continuing, it is also fair to say that every dollar spent from general funds on subvention to the Tourist Association yields many dollars in additional revenue to the Colony and to Government. There is certainly no need to introduce a special tax to supplement the subvention at the present stage of our development.

The Hotels have been made the unwilling collectors of this tax as if they were the major beneficiaries of the Tourist Trade. The facts are rather different. Some years ago Mr KNOWLES, the then Chairman of the Tourist Association, stated that we could offer less than 2,000 hotel rooms of the standard required by tourists. In 1965 the figure is over six and a half thousand. This tremendous expansion has come about through the investment of vast sums totalling hundreds of millions of dollars. Estimates given to me show that at the present time the Hotels directly employ over 7,000 persons, spend about \$100,000,000 annually in the Colony, plus nearly \$10,000,000 on Promotional activities. While this promotion is on behalf of individual hotels, it is clearly also selling Hong Kong.

During this expansion period the number of tourists has risen from 103,000 in 1958 to 398,000 in 1964, and the first half of 1965 was 21,000 up on the previous year.

From the foregoing I think it is clear that without the greatly expanded investment in the construction of hotel rooms there could be no tourist industry in its present form with a consequent reduction in many sources of Government Revenue.

And have the hotels reaped tremendous profits from their enterprise? I think that if the Financial Secretary cares to have a word with the Commissioner of Inland Revenue he will find that, in relation to capital employed, the returns are very modest.

A number of estimates have been made as to how tourists spend their money here, the shopping proportion ranging from 70% to 84%. The current estimate is that hotels get about 20% of the average expenditure by tourists in Hong Kong.

That is why, in spite of the vast expenditure in capital and overheads, I previously referred to hotels as a small section of the Tourist Industry in Hong Kong. That is why I consider it entirely wrong that they should be forced to act as collectors of a tax which can only create resentment.

To turn to the Bill itself, as originally drafted, I have seldom seen so many offensive clauses in such a brief document. Initially representations and protests from Hotels and Travel Agents were ignored, but I am glad to see that Government has had a last-minute change of heart and we now have before us amendments to be proposed at the Committee stage. These cover most of the main objections, but I see that Clause 5(2) remains under which the Collector may require the proprietor of any hotel to give security and the amount of security has been increased to cover the maximum amount of tax payable for a period of 3 months. The purpose of this Clause is to protect public revenue, but this seems to be adequately covered by Clause 3(3) which gives Government priority in the event of winding up. It seems to me unfair that the Hotels who are being forced into the position of being unwilling tax collectors, should be asked to put up security to cover the proceeds of a tax which they do not want to collect in the first place. The tendency is for such provisions to be exercised as a matter of course, and unnecessary and avoidable hardship could result. Accordingly, I propose introducing a further amendment at the Committee stage to delete this clause, if in fact the second reading is passed.

Before closing, although Government has agreed to defer the commencement date of the Tax to 1st July 1966 which is not unreasonable, I feel it important to place on record why this long notice

is essential. To begin with, it seems from comments I have heard recently that many people, including perhaps members of this Council, have fallen into the trap of considering this as a tax on Hotels. It must be emphasized that this is *not* a tax on hotels but a tax on tourists. By deferring the date of introduction, we are not letting the hotels get away with something—we are merely giving them time to make arrangements to see that Tourists pay the tax: otherwise it would have to be absorbed by the Hotels which would be quite wrong and against the intention of the Bill. I have been advised by Hotel Managers and Travel Agents that a great deal of tourist business (75% is quoted in one case) is now done with “package tours” booked many months and in some cases more than a year in advance. In this class of business the travel agent sells the tour at a stipulated price and contracts with the hotels for accommodation at an agreed rate. The hotels cannot revise the rate to include a tax which did not exist when the agreement was made and, if due notice is not given, would be stuck with 2% on a considerable volume of business. This surely is not only unfair but creates a dangerous precedent. The hotel already pays rates and, if making a profit, profits tax, but here we were and to some degree still are adding yet another tax which could not be recovered and would bring the total tax well above the standard profits tax rate. Would such a precedent mean that differential rates of tax could be applied in future to different industries at the whim of the Financial Secretary?

Another reason why deferment is required relates to printing costs. The leading hotels spend many thousands of dollars in printing promotional material for distribution to the travel industry and travelling public throughout the world. Much of this contains room rates and will become obsolete with the introduction of a hotel tax. To reprint the material before the normal time for revision will involve considerable expense not only for printing but also for distribution. To create a minimum of disruption to an industry which embraces the world, if such a tax is to be introduced at all, very long notice is essential.

Sir, I intend to vote against the second reading of this Bill.

MR DHUN RUTTONJEE: —Your Excellency, my honourable Friend, Mr GORDON, has most effectively attacked the proposal put forward by Government. We have all heard of the three R's—now this Chamber is resounding with the saga of the three T's. We have had the Tunnel, now it's the Tourists and possibly in the near future, we may argue on the third T.

I am in complete agreement with my Friend, Mr GORDON, that it is illogical and unfair that a tax be levied on hotel accommodation alone when there are obviously many hundreds of commercial organizations

which benefit from the increasing number of tourists who come here. All these, including hotels, are already paying taxes on the profits derived from tourists and it is inequitable to single out hotels for further taxation, ignoring everything else. I suspect that the idea for this tax came to my honourable Friend, the Financial Secretary, when his eye lit upon the list of subventions in the Estimates: certainly, the Tourist Association receives far more than any other organization. Without thinking the matter through, he then decided that a part of this could be offset by a special tax and here we are today. But as far as I can see, not one of the other miscellaneous subventions can be said to bring a direct financial return to the Colony in the way tourists do. If the Financial Secretary disagrees, perhaps he can explain how the Applied Nutrition Unit, the Hong Kong Rifle Association and the Magistrates Poor Box, to take three random examples, benefit the Exchequer. It may be that the Financial Secretary is not convinced of the benefits of trade promotion and advertising and thinks that tourists would go on increasing in numbers without any assistance from the Tourist Association. If that is so, I should be glad to hear him say so.

I would like to take this opportunity to suggest that the Tourist Association be given powers to issue licences to all business benefitting from tourism. For this licence, they would collect a fee depending upon the size of the organization. Tourists would then be advised, more strongly than they are now, of the wisdom of dealing only with Association members. In cases where disputes arose, the Association could intervene and arbitrate, and flagrant overcharging of tourists could result in the suspension of a licence.

Turning to the original proposal to make this ordinance effective from October, there is nothing I wish to add to what my Friend, Mr GORDON, has already said.

Sir, I have to vote against the Second reading of this Bill.

MR WILFRED WONG:—Your Excellency, on the Hotel Accommodation Tax Bill, I am also not quite convinced as to the wisdom of this Ordinance. I do not think that sufficient time and study have been given to the long range effects of the tax. Under the circumstances, I shall abstain from voting at the second reading of this Bill.

THE FINANCIAL SECRETARY: —My honourable Friend Mr GORDON's views on this tax are, of course, no secret. He spoke plainly against it during the Budget debate and told us indeed that he would vote against it if it came to this Council. I argued with him then on the matters

of principle involved and I do not propose today to go once again into the principles but there are one or two matters which arise from his speech which I would like to comment on.

He has accused me, pretty directly I think, of having misrepresented the Tourist Association's attitude towards this tax. Fortunately, I have with me—but I did not know I would be able to use it in this manner—the text of what I said on this particular matter. What I said was “the Tourist Association advised that while such a tax would be a serious matter for the hotel industry, it would not be so serious as any cutting back of the Association's budgeted expenditure”. I see little difference between this and what Mr GORDON said I did not say.

The second point I would like to speak on is his attempted refutation of my analogy between advertising and this tax, so far as the taxing of consumers is concerned. One of the features of this Bill as compared with other similar tax laws elsewhere is that we have imposed, or are attempting to impose, a tax solely on the charge for the room, not on the total tourist bill. Because of this it should be fairly easy for the hotels themselves, if they wish to do so and feel they should do so in order to moderate any possible adverse influence, to conceal in the bill the fact that the tourist is being taxed. It will not be—or need not be—room plus 'x' percent, as he implied.

The final point in Mr GORDON'S speech—he referred to payment of such subventions from General Funds as something that was desirable, as he spoke at the Budget debate in terms of charging the Tourist Association revenue subvention properly on General Revenue. Now, it is very easy to propose that particular expenditure should be paid for from General Revenue or General Funds which are merely, after all, the sum of the total taxes we have at this moment. Unfortunately, there then fall's to me the unpleasant task of providing money to go into this general revenue which it is proposed we should use for subventions of this kind, and so often I find that when I do propose some new tax to raise general revenue, it is opposed by some people; so that I get the unpopularity and the people who propose expenditure from general revenue get the popularity.

If I may now proceed to one or two points that my honourable Friend, Mr RUTTONJEE made when dealing with the relationship between subventions and the general benefit derived from the recipients of subventions, in relation to the question of taxing them. He rather implied that the more beneficial an organization or trade was to the economy, the less appropriate it is as a source of taxation. I would have thought the reverse was true. Certainly with profits tax I would take the view strongly that profits in general are a good thing for the economy yet they are clearly a very obvious target for taxation.

On the question of licences—licensing by the Tourist Association of shops and other tourist attractions—I have had no time of course to consider such a matter but the Tourist Association itself does have such a system of licensing, in the non-legal sense, certain members or member shops—they put up an Association plaque. I think it would be difficult, on the other hand, to give the Association power to license in a legal sense.

There is only one further point I think I might make. That is in reply to my honourable Friend, Mr WONG, who says that he doesn't think sufficient time and study have been given to this project. My honourable Friend, Mr RUTTONJEE, I think, implied that he agreed with him when he spoke of this tax being introduced without being “thought through”. It is two and a half years now since I first proposed this tax and a year and a half since a majority of the Select Committee endorsed this proposal. I do not think that that is undue precipitation in legislation.

HIS EXCELLENCY THE GOVERNOR:—The question is

MR S. S. GORDON:—Sir

HIS EXCELLENCY THE GOVERNOR:—I am afraid you cannot speak again after the final speaker unless you have a point of personal explanation.

MR S. S. GORDON:—Sir, it is on a point of personal explanation. When my honourable Friend referred to popularity and unpopularity;

I don't think any of my honourable Friends here seek popularity in this Council. We do what we consider to be correct.

The question was put and agreed to.

The Bill was read a Second time.

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

Clause 1.

THE FINANCIAL SECRETARY: —Sir, I rise to move that Clause 1 be amended as set forth in the papers before honourable Members.

The date of commencement in the original Bill is 1st October 1965. It has been represented by the industry that this does not give them time for adequate adjustments, as bookings (particularly for so-called “package” tours) are often made a considerable time in advance. I had thought that, having been given substantial notice of the introduction

of the tax, hotels and travel agents would have made at least provisional arrangements to protect themselves but I am assured, to my surprise, that this is not so.

That this is not so raises two separate problems, a legal one and a public relations one. The legal question whether the new tax may be passed on to customers who have already made bookings is obscure—but the tax must be borne either by the industry or by the customer. As the tax is not intended to fall primarily on the industry there is some case for not putting hotels into the position of having to absorb it, even if they have not taken steps to protect themselves. On the other hand, the public relations effect of requiring tourists to pay a tax which is not in their contracts and which they have had no warning of, could be unfortunate in some cases. It is therefore proposed to postpone the tax until 1st July 1966, which takes the industry over its peak spring season. I understand that this is acceptable to both Associations.

I will not pretend that I do not grudge the loss of \$1 million in revenue which this represents.

Proposed Amendment.

1. Leave out “October, 1965.” and substitute therefor the following:

“July, 1966.”

Clause 1, as amended, was agreed to.

Clauses 2, 3 and 4 were agreed to.

Clause 5.

THE FINANCIAL SECRETARY:—Sir, I rise to move that Clause 5 Sub-section (1) be amended as set forth in the paper before honourable Members.

It has been represented that the original provision whereby tax should be paid monthly within seven days after the end of the month is oppressive because hotel bills are frequently not paid for a considerable time after the tourist leaves, particularly in the case of “package” tours; and because seven days does not give time for the administrative details of payment to be completed. The proposed amendment substitutes quarterly payment, with fourteen days for payment after the end of the quarter.

Proposed Amendment.

5. (1) In subclause (1)
 - (a) leave out “within seven days after the expiration of each month or of such lesser period as the Collector

may stipulate, the amount of the tax payable in respect of that period” and substitute therefor the following—

“within fourteen days after the 30th day of September, the 31st day of December, the 31st day of March and the 30th day of June in each year, the amount of the tax payable in respect of the three monthly periods ending on those dates”;

(b) leave out the full stop and substitute therefor a colon; and

(c) insert the following new proviso—

“Provided that the Collector may require that tax be paid in respect of periods of less than three months and in such case the tax shall be paid within fourteen days after the expiry of such lesser periods.”.

The amendments to subsection (1) were agreed to.

MR S. S. GORDON:—Sir, I rise to propose the amendment which appears before honourable Members to the effect that we should delete Sub-section (2) with consequential amendment to Sub-section (4) of Clause 5. The reasons I have already given earlier.

MR C. Y. KWAN: —Sir, I beg to second.

HIS EXCELLENCY THE GOVERNOR:—No seconder is required.

THE FINANCIAL SECRETARY: —Sir, I am afraid that I cannot wholly agree with my honourable Friend, the more particularly as the most closely comparable tax laws, e.g. Entertainment Tax, do provide for security in some circumstances, because those called upon to give it are in a sense custodians, however unwillingly, of public funds. I agree, however, that the provision of security could be onerous and unreasonable, if used indiscriminately, but this was never the intention and I believe I had persuaded the representatives of the Hotels Association that it was not. I do not however propose to oppose my honourable Friend's amendment but must at the same time make it clear that, if there is any evidence of public revenue being lost because of the absence of security, I will at once propose the reintroduction of this power.

HIS EXCELLENCY THE GOVERNOR:—The amendment is that in clause 5, subsection (2) be left out and that in subsection (4) the word “or” at the end of paragraph (a) be left out, and that paragraph (b) be deleted. Is that correct, Mr GORDON?

MR S. S. GORDON:—Yes, Sir

The amendments to subsections (2) and (4) were agreed to.

Clause 5, as amended, was agreed to.

Clause 6 was agreed to.

Clause 7.

THE FINANCIAL SECRETARY:—Sir, I beg to move that clause 7 be amended as set forth in the paper before honourable Members.

This amendment deals with rights of appeal and I am indebted to my honourable Friend Mr GORDON for it. The original clause provides for appeal to the Governor in Council on certain matters where a dispute of fact arises between taxpayer and collector. It is more appropriate to give a right of appeal to the courts and the proposed amendment does this.

At the same time it introduces a further right of appeal against the Collector's use of his discretion to require payment at shorter than the regular interval. As this is an appeal not on the facts but on the use of discretionary power, it is appropriate that this appeal should be to the Governor in Council.

Proposed Amendment.

7. (1) In subclause (1), leave out “section 4 or 6” and substitute therefor the following—

“the proviso to subsection (1) of section 5”.

- (2) After subclause (2), insert the following new subclauses—

“(3) Any person aggrieved by a decision of the Collector made under or in exercise of the powers vested in him by section 4 or 6 may, within one month of the day on which he received notification of such decision, appeal against such decision to the District Court.

(4) The District Court may determine the practice and procedure on any appeal under subsection (3).”.

Clause 7, as amended, was agreed to.

Clause 8.

THE FINANCIAL SECRETARY:—Sir, I rise to move that clause 8 be amended as set forth in the paper before honourable Members.

The hotels have a fear that the Collector will use the power given him by the original clause to determine the form of hotel records and accounts in such a way as to interfere with their sometimes intricate

accounting systems. I do not myself believe that he would do so but the fear appears to be a genuine one. It is therefore proposed to restrict the Collector's powers to requiring adequate records and accounts and, in case of dispute as to adequacy, this would be a matter for the courts to determine. This could lead to difficulties in the administration of the tax but we can see how it works.

Proposed Amendment

8. Leave out subclause (2) and substitute therefor the following—

“(2) The collector may require the manager of a hotel to keep adequate records relating to the occupancy of the accommodation of the hotel and to keep adequate accounts relating to accommodation charges.”.

Clause 8, as amended, was agreed to.

Clause 9 was agreed to.

Council then resumed.

THE FINANCIAL SECRETARY reported that the Hotel Accommodation Tax Bill 1965, had passed through Council with amendments and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Third time and passed into law.

BUILDINGS (AMENDMENT) BILL 1965

MR A. M. J. WRIGHT moved the Second reading of a Bill intituled “An Ordinance further to amend the Buildings Ordinance 1955.”

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Second time.

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

Clauses 1 to 11 were agreed to.

Council then resumed.

MR A. M. J. WRIGHT reported that the Buildings (Amendment) Bill 1965 had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Third time and passed into law.

NEXT MEETING

HIS EXCELLENCY THE GOVERNOR:—That concludes the business for today. This is Mr HAMILTON'S last meeting as Acting Colonial Secretary, and I would like to express our appreciation of the manner in which he has arranged the quite complicated business of this Council during the period in which he has acted.

The next meeting of Council which will be held on the 15th September will be the first at which the new Colonial Secretary will be present.