

MARIAN JOY LUCAS

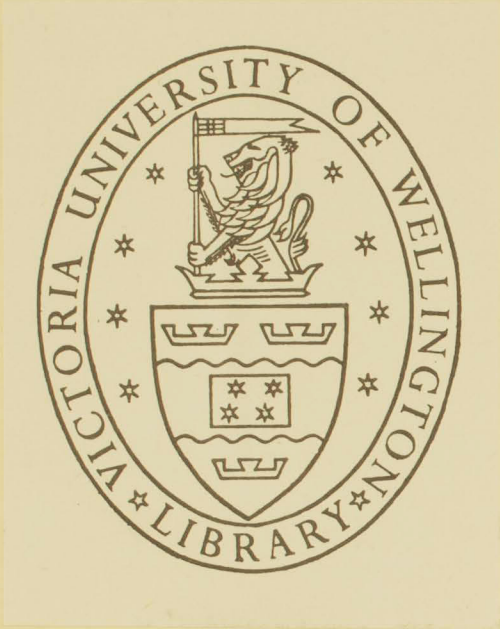
"TAX EVASION PROVISIONS IN NEW ZEALAND

AND THEIR ENFORCEMENT"

Submitted for the LL.B (Honours) Degree
at the Victoria University of Wellington

1 September 1977

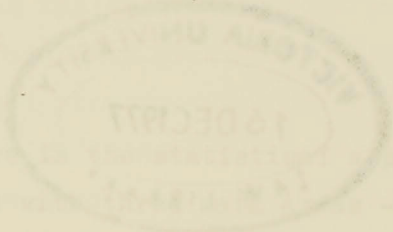
LXLU LUCAS, M.J. Tax evasion provisions in N.Z. ...



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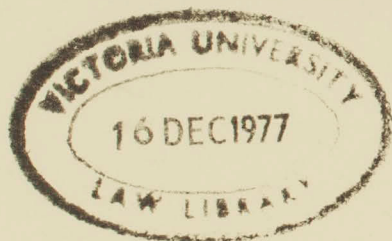
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¹ Investigation into the invoice selling scheme which rocked the city's clothing and textile industries last summer has uncovered 48 separate companies which sold false invoices....

More than 275 concerns are known to have bought fictitious invoices from the 48 vendors which traded under 65 different company names. The practice involved at least \$50 million in false returns on which income taxes of about \$25 million would normally have been paid, according to a Government source.

OBJECTIVE

The objective of this paper is to assess the manner in which the tax evasion provisions of the Income Tax Act 1976 are enforced by the Inland Revenue Department and to discuss possible reform.

The paper is divided into four main sections -

- General Introduction on tax evasion
- Penalties
- Enforcement
- Reform

An essential feature is the statistical aspect of the enforcement section which deals with three main areas -

- the number of evaders punished
- the type of evader punished and whether the evader is dealt with by prosecution or administrative proceedings.
- the extent to which penal tax is imposed.

I TAX EVASION

Tax evasion is viewed as ² "a deliberate evasion of one's duties as a citizen while, at the same time, advantage is being taken of the right of citizenship. Through such action added burdens are thrown on those members of the community who, with integrity, face their proper obligations, obligations which at no time are light.

1 Montreal Gazette, 15 February 1977

2 Maxwell v CIR (1959) NZLR 708, 714 para 30 per McCarthy J.

This class of offence is usually born of greed and should be seen in that light."

A. The Influence of Community Morale

Full compliance with a system of taxation can come about only through acceptance of its goals. A strongly socialised individual will pay his taxes regardless of the existence of any penalty - an extreme example of a strongly socialised individual is Justice Oliver Wendell Holmes who said ³"I live to pay taxes. With them I buy civilisation."

There is a contrasting view which thinks ⁴"Every dollar you pay, they will squander." This view leads to evasion not being stigmatised as anti-social.

'Community Morale' or 'Taxpayer Morality' can rise or fall as a consequence of various factors. It has risen considerably from the time income tax was introduced. This is evident from the comments of Gibbon in 1851 when he described income tax as ⁵"more offensive in its collection than any other tax, being an inquisitorial infringement of the liberty of the subject - violating the sacred reserve and modesty of private life - lowering the dignity of honourable poverty by exposure of it - causing disgust and mortification, and exciting evil passions"....

On the other hand, community morale can be lowered. The Inland Revenue Department claims that New Zealand has a high standard of taxpayer morality⁶ but there is considerable danger of this declining.

3 Report of the Director to the 31st Annual Meeting of the Canadian Tax Foundation 12 April 1977, p.1.

4 P. Samuel "The Big Tax Crackdown" The Bulletin, 2 July 1977, p.17.

5 A. Tranter, "Evasion in Taxation" (1929), 161.

6 Inland Revenue Department - personal communication.

Keeping tax levels reasonable, equitable and accepted are logical methods of maintaining taxpayer morality. For example, in Australia ten years ago 17.2% of a man's average earnings were paid in taxation whereas today the level is 28.8%.⁷ Tax evasion increased over this period and the news magazine, "The Bulletin" commented:⁸ "What sparked off the epidemic of tax evasion is a matter of speculation, but it has to be related to increasingly expropriatory level of taxation on ordinary people and growing cynicism about the system."

The high level of inflation in New Zealand is one factor contributing to the undermining of confidence in the system of taxation as inflation has the effect of raising the wage of the worker and of placing him in a higher tax bracket. Tax indexation, which has been introduced in Australia, could overcome this difficulty, as it results in the effective rate on income tax prevailing in previous years being maintained.

Recent letters to the Editor of "The Evening Post" in Wellington have shown increasing concern of taxpayers at the high levels of taxation:

⁹"In answer to J. Bolt's query about how many people are incensed about income tax, I would say that public feeling on the matter is at such a level now, Government had better take note.

The percentage of our incomes that are siphoned off by the big Government grab machine must continue to rise while consecutive Governments refuse to adjust taxation brackets annually to the level of inflation."

The ordinary taxpayer is also paying increased taxation because of rising wages.

This is emphasised in 'The N.Z. Monetary and Economic Council's Report May 1977 which stated that ¹⁰"Reliance on personal income

7 P. Samuel, op.cit. supra p.17

8 ibid. p.17

9 "The Evening Post" July 1977

10 The New Zealand Monetary and Economic Council's Report, May 1977 p.38

tax for revenue growth over this period has greatly affected the distribution of incomes and wealth; in particular, increasing the relative income tax burden on those in the low to middle income range, where average and marginal rates rise rapidly with any increase in nominal taxable income."

To overcome this increasing taxation burden, the Council has recommended tax changes. These would take into account what the Council sees as the basic defect in the New Zealand tax system - the fact that¹¹ "individuals are heavily taxed on their earnings, and lightly taxed on expenditure, however the resources for that expenditure are obtained." The Council has¹² "recommended increased emphasis on expenditure taxes and an associated reduction in the present heavy reliance on personal income tax as a source of revenue." Such a system would also lessen the potential for evasion.

¹³ "In the absence of a capital gains tax, the taxes on income become even larger and less equitable." This inequality can result in taxpayers trying by unlawful means to get what they feel they deserve legitimately. The taxpayer feels¹⁴ "others must be ripping off the system and he is being made to pay the price. The attitude is a clear symptom of incipient deterioration of confidence in the taxing system if not in the system of government itself."

Therefore, although the main concern of this paper is to discuss the penalties for tax evasion and their enforcement, the major influence of conforming conduct is to be found in the economic and social areas. The later examination of the enforcement of these penalties suggests that there is a bias against the smaller evader.¹⁵ The Monetary and Economic Council's Report indicates

11 Ibid.p.38.

12 Ibid.p.38.

13 Ibid.p.39.

14 The Honourable Robert Stanbury, "It's Self-Assessment Time"
- Taxes - The Tax Magazine, March 1974, pp 161-162.

15 Refer to p. 27 Size of the Evader.

that it considers there is inequality in the current tax system with the relative burden of income tax increasingly falling on the low to middle income range - the people who make up a large percentage of the smaller evaders.

B. Measures used to Control Evasion

Evasion can be controlled by making it more difficult to evade taxes by a direct system of administration, e.g. by taxing at the source of income or by expenditure taxes.

In 1803 taxation at the source was substituted for self-assessment and the productivity of the British Income Tax was doubled.¹⁶

The 'Pay as You Earn' (P.A.Y.E.) system, introduced in New Zealand to even the flow of revenue to the Department of Inland Revenue, had the effect of placing the burden of paying taxes on the smaller number of employers, rather than on the many employees. This makes control easier, lessens the opportunity of salary earners to evade tax, and also helps people to budget for the tax they have to pay - thus making economic necessity a smaller cause of tax evasion.

In New Zealand, companies must be registered and different trades have to be licensed making it difficult to commence earning income without attracting the attention of the Department of Inland Revenue.¹⁷

Provisions which require the keeping of proper books and records ensure that there is written evidence of the tax to be paid. If there are no proper books, the Commissioner can resort to the "assets accretion" method to calculate the amount of tax due and the burden of proof is changed.¹⁸ A taxpayer contesting the validity of an assets accretion statement has to prove on the balance of probabilities that the assessment is wrong and by how much, rather than the Commissioner having to prove it is correct.

Penalties are also used to control evasion. Their use is based on the principle that people want to avoid unpleasant circumstances, and the threat of unpleasant circumstances can influence their

16 A. Tranter, op. cit. supra. p.140

17 Inland Revenue Department - personal communication

Examples of trades, professions which must be registered.

- Private eyes, Medical Practitioners, Plumbers, Builders etc.

18 A. Molloy, "Molloy on Income Tax" (1976) 525 para 1813

behaviour.¹⁹ The role of penalties (fines, imprisonment etc) in controlling evasion is open to question. It has been suggested that offences such as evasion,²⁰ "dictated by 'rational' considerations of gain or loss" are more likely to be controlled by penalties than offences resulting from acts committed as a result of emotional impulse²¹ when the consequences of the act are not usually considered. This argument is especially strong where the majority of evaders are not desperately in need of money, but are seeking a capital gain, whether large or small.

Publicity is used as a control on evasion both by serving as one of the penalties of evasion and means of informing potential evaders of the punishment of others.

Publicity is important as many taxpayers contemplating evasion deal directly with the public or have a high social status, and so have most to lose from the damage to reputation which could result from publicity.

²²"An adequate publicity of all discovered fiscal frauds including names and particulars, penalties will have a deterrent effect comparable to, if not perhaps so great as, that of a criminal prosecution."

In Austria at the turn of the century a schedule of names of taxpayers and the amounts of tax assessed was left at the tax offices for 14 days for inspection by taxpayers in the district.²³ Currently in Sweden the punishment for failure to make a return involves the entering of the assessment on a list which is open to public inspection.

Detection is basic to the control of evasion by penalties and publicity. Increasing the rate of detection involves administration

19 F. Zimring & G. Hawkins, "Deterrence - The Legal Threat in Crime Control" (1973) p.5

20 W. Chambliss "Types of Deviance & the Effectiveness of Legal Sanction" 1967 Wisconsin Law Review, 707

21 F. Zimring & G. Hawkins, op.cit. supra.p.129.

22 A. Tranter, op. cit. supra.p.164

23 ibid. p.121.

cost but the resultant additional tax income may exceed that cost. In Australia, through increasing the detection rate, taxation authorities are ²⁴"hoping to scoop up some \$50 million a year in extra tax and penalties through concentration on outdoor audits rather than indoor assessments."

All these forms of control are used by the Inland Revenue Department. However, ²⁵"little information is available about the efficacy of most of these measures. A useful step in determining how to cope with evasion would be to learn more about its causes and about the effectiveness of anti-evasion techniques."

24 P. Samuel, op.cit. supra. p.17

25 Report of the Director to the 31st Annual Meeting of the Canadian Tax Foundation, 12 April 1977, p.10

II PENALTIES - THE CURRENT PROVISIONS

A. Criminal

1. Actions Covered by the Provisions

Tax evasion is defined in Section 416 Income Tax Act 1976.²⁶ Part (1)(a) and (b) of that section deals with what are, in fact, three distinct offences, although they are not treated as such in the section:

- failing to file a return²⁷ (a strict liability offence)²⁸
- wilfully filing a false return
- negligently filing a false return

Negligence was not a ground for criminal liability in the equivalent provision in the Land Tax and Income Tax Act 1891²⁹ but it was included later,³⁰ probably to help the department's administration of the tax system by making people liable for carelessness.

Tax administration is difficult, not only when people wilfully neglect their duty either to file a return or to file a correct one, but also when people are careless about filing their return. In addition, enforcement is easier when only negligence needs to be proved.

26 See Statutory Appendix - Income Tax Act 1976 s.416

27 Other similar offences concerned with the failure to furnish information etc (e.g. s.17(8) Inland Revenue Act 1974) provide for a penalty determined by the number of days of default (e.g. \$25 for each day of default). Under s.416 the penalty is the same whether the return is 2 years or 20 years overdue.

28 In the Land & Income Assessment Act 1891 it was a half way house type of offence rather than one of strict liability.

29 Land and Income Assessment Act 1891
s.43 Penalty for making false returns for evading income tax
(1) fails...to furnish a return...unless such person shall provide that such failure or neglect was not wilful.
(2) knowingly and wilfully makes...any false return...

There are a number of additional offences relating specifically to the P.A.Y.E. system. These are contained in section 368 Income Tax Act 1976³¹ and, with the exception of an employer who misapplies tax deductions,³² these offences are concerned with failure to deduct tax or to account for it to the Commissioner, making false tax code declarations etc.

2. Penalty

Although the statutory penalty not exceeding \$200 and not less than \$4 applies to the whole section, the court sees wilfulness and negligence as creating two offences. Thus Haslam J in Donnelly v CIR³³ stated, "In my opinion, the words 'wilfully' or 'negligently' create distinct and alternative offences."

The judges have also imposed their own hierarchy of penalties. For failing to file a return fines of between \$10 and \$15 have usually been imposed, for negligently filing a false return the fines are between \$75 and \$100, and for wilfully filing a false return they are closer to the maximum (\$100 - \$200).³⁴

The size of the statutory penalty has not increased since 1891³⁵ despite inflation causing a substantial decline in the relative cost of \$200 to the offender.

Also, the increase in the volume of commercial activity and the increase in tax rates have made it possible for the dollar size of the offence to be much larger. In the years 1947 - 1949 the maximum amount of tax evaded in all of the convictions for evasion was less than \$40,000, whereas in 1975 - 1976 the maximum was \$141,000.

31 See Statutory Appendix - Income Tax Act 1976, s.368.

32 Income Tax Act 1976

s.368(1)(b) an employer is liable to a term of imprisonment not exceeding 12 months or a fine of \$200 or both.

33 (1960) NZLR 469, 471 para.35

34 Estimates obtained from the records of the Magistrates Court, Wellington

35 Land and Income Assessment Act 1891

s.43 "every person shall be liable to a penalty of not less than £5 nor more than £100."

The present minimum penalty is actually smaller than the minimum in 1891.

Other New Zealand statutes, for example the Inland Revenue Act 1974, contain penalties for offences similar to tax evasion and these penalties are higher than those for tax evasion and have been revised upwards in recent years.³⁶

The fact that penalties for tax evasion have not been revised upwards seems to have resulted in a statutory bias against the smaller evader. The modest amount of the penalty is sufficient to punish him effectively but is ineffectual as a punishment for the larger evader.

A hypothetical example of wilful evasion, applying the judges' hierarchy of penalties, is shown to indicate how the size of the penalty would operate against the smaller evader compared with the larger evader.

<u>Years in which he evades</u>	<u>Evader A</u>		<u>Evader B</u>	
	<u>Evades</u>	<u>Penalty</u>	<u>Evades</u>	<u>Penalty</u>
1974	\$1000	\$100	\$20,000	\$200 (maximum penalty available)
1975	\$1000	\$100	\$20,000	\$200 (maximum penalty available)
	<u>\$2000</u>	<u>\$200</u>	<u>\$40,000</u>	<u>\$400</u>
	= 10% penalty		= 1% penalty	

B. Administrative

1. Penalty

Penal Tax, under section 420 Income Tax Act 1976,³⁷ is an administrative penalty³⁸ imposed by the Commissioner and is not dependent

³⁶ Inland Revenue Act 1974

s.19 "If any person required to give evidence under this section refuses or wilfully neglects to appear."

(The maximum penalty for this offence is now \$1,000, in the Inland Revenue Act 1952 the maximum fine of \$200 was the same as that for tax evasion).

s.47(1)(c) "with intent to deceive makes any false or misleading statement...liable on summary conviction to a fine not exceeding \$500.

³⁷ See Statutory Appendix - Income Tax Act 1976, s.420

³⁸ Land and Income Assessment Act 1891, s.43 penal tax could only be imposed following proof of the evasion having been established before any two Justices of the Peace.

on a criminal conviction. Penal tax cannot be imposed on a taxpayer who is merely negligent as there must be an intention to evade tax.³⁹

The penalty in the 1891, 1916 and 1923 Acts⁴⁰ was "penal tax equal to treble the amount of tax evaded." This was modified in 1954 to the current wording "penal tax not exceeding an amount equal to treble the amount of the deficient tax."

The earlier penalty seemed to be an inflexible and high penalty and could have deterred any person thinking about voluntary disclosure of their evasion. The change could have had the effect of helping the department in its control of evasion by removing this possible barrier to voluntary disclosure.

In 1947, the New Zealand Gazette commenced publishing figures of the amount of penal tax imposed, and these show that penal tax rarely equalled treble the amount of tax evaded before 1954, even though the section read "he shall be chargeable with... treble the amount of the deficient tax." 'Shall' seems to indicate a compulsory levy of treble penal tax, but it was obviously not read as the mandatory 'must' but as the optional 'may'.⁴¹ The department's interpretation of this section appeared to be less stringent on evaders than was the attitude of the legislature - which in 1954 accommodated the policy of the department by the change in wording.

Penal Tax is the major monetary penalty for tax evasion and under the legislation it is not imposed by the courts but is administered by the Department. Appeals can be made to the Taxation Review Authority if it is considered that either -

1. Penal tax should not have been imposed at all.
2. The penal tax imposed was too high.

39 Income Tax Act 1976, s.420

40 Land and Income Tax Act 1923
s.152 "he shall be chargeable by way of penalty for that offence with additional tax (thereafter called penal tax) equal to treble the amount of the deficient tax.

41 Income Tax Act 1976, s.420 is still worded "he shall be chargeable with...penal tax...." Although often penal tax is not imposed and the discretion of the Commissioner to decide whether or not penal tax should be imposed is recognised in s.427 of the Act.

If penal tax is rightly imposed it cannot be reduced below the rate of 10% per annum of the amount of the deficient tax.

2. Publicity

⁴²"Publicity as a preventative of evasion has existed for centuries." In 1945 a provision ⁴³ was introduced providing for the publishing in the New Zealand Gazette of names of evaders, occupations, years in which tax was evaded, the amount of tax evaded and penal tax imposed.

This has only limited effectiveness as a punishment as the New Zealand Gazette is not a widely read publication. Initially, newspapers did list the names of those evaders in their circulation area, but this practice has declined.⁴⁴

Voluntary disclosure of tax evasion is encouraged to recover back taxes and increase the likelihood that future taxes will be paid. If there has been voluntary disclosure before the Commissioner has commenced his investigation he has the discretion not to publish the names of the evaders.⁴⁵

An initial comment in the Inland Revenue Department's Annual Report in 1954 on the success of providing this discretion said "recent attention given to the undertaking that where a voluntary disclosure of evasion is made the taxpayer may avoid prosecution and have his penal tax limited to interest on the amount of tax underpaid has already had beneficial results to the revenue."

Thus, a tax evader can reform, admit his offence and face no penalty, penal tax being approximately equal to the interest on the tax due. Any other offender on reforming and admitting would still face punishment.

Publicity encouraging voluntary disclosure has not continued to

42 A Tranter, op. cit. supra, p.121

43 See Statutory Appendix - Income Tax Act 1976, s.427

44 Cases which are prosecuted do tend to get wide publicity in the commercial newspapers, but biggest press is given to larger cases of evasion and this publicity loses much of its value if the Commissioner loses the case. Even if he wins, penalties resulting from a conviction are so light as to only have a limited value as publicity.

45 Income Tax Act 1976, s.427(2)

be given special emphasis. However, sometimes inspectors of the Inland Revenue Department deliberately make their presence in a smaller centre obvious so as to worry people into confession.⁴⁶

C. Time in which Penal Tax can be Imposed and a Prosecution Taken

The 1891 Statute provided that an information could be laid within three years of the year in which the offence was committed and there was also a three years' limitation on the imposition of penal tax. This time was extended to four years in 1916 and in 1947 to 10 years.

In 1968 the time limits for investigating fraudulent or wilfully misleading returns and assessing penal tax were extended but the time limit for laying an information remained unchanged.⁴⁷

Under this statute, penal tax can be imposed, or investigations instituted, for any length of time as far back as 1958 but an information cannot be laid beyond 10 years.⁴⁸

The change is an acknowledgement of the difficulty in detecting evasion and of the nature of the offence in that taxes are not evaded spasmodically. If a taxpayer is found guilty of evasion in one year, it is highly likely he will have committed the offence in earlier years.

Increasing the number of years over which a prosecution can be taken has effectively, although marginally, increased the size of the penalty which can be imposed as a separate conviction can be obtained for each year of the offence (Graph V).

In Canada, an information can be laid within five years of the offence or within one year from the date on which the Minister became aware of sufficient evidence to justify a prosecution. This means there is no time limit on a summary prosecution, but the Minister cannot delay prosecution after he has sufficient evidence. There is no time limit on a prosecution on indictment.

46 Personal communication, Inland Revenue Department.

47 The current provisions in the Income Tax Act 1976 are:
s.419, s.422 - see the Statutory Appendix
s.25(2) - where the returns are fraudulent or wilfully misleading the Commissioner may alter the assessment at any time.

48 Refer to graph X. This shows that some evaders were prosecuted for 11 years. (in the appendix)
In 1975, for example, one evader had a conviction entered against him in the years 1959-1969, the first evasion being 16 years previously.

III ENFORCEMENT

A. Basic Data

Tables and graphs have been prepared to show trends in and other aspects of enforcement.

A majority of the tables and graphs were based on information in the New Zealand Gazette.

Since 1947 names of tax evaders have been published annually under schedule headings.⁴⁹ The current schedule headings are:

Schedule I - persons convicted under Section 416(1)(b) Income Tax Act 1976 of wilfully making false returns of income or of giving false information or of aiding and abetting or inciting any person to commit that offence.

Schedule II - persons other than those in Schedule I who have been charged with penal tax under Section 420 Income Tax Act 1976 for evading or attempting to evade the payment of income tax or making default in the performance of any duty imposed by the Act with the intent to evade the payment of income tax.

Schedule III - those charged with penal tax under section 369 Income Tax Act 1976 for failing to make tax deductions or having made such deductions for failing to account for them to the Commissioner.

As has already been said, the Commissioner may, in his discretion, omit from publication the names of evaders in some cases of voluntary disclosure. Therefore, when using the figures published in the Gazette, two possible areas of discrepancy are:

1. The degree to which penal tax disclosed in the Gazette is representative of the penal tax actually imposed.

To test the accuracy of the Gazette's figures, the total penal tax imposed on evaders listed there was compared with the amount of penal tax imposed by the Department according to the Department's annual reports (for those years in which the Annual Report

49 See Statutory Appendix - Income Tax Act 1976, s.427

published penal tax figures).⁵⁰ This showed the following:

Table 1
Percentage of Total Penal Tax which is published
in the Gazette

1959	94%
1960	83%
1961	81.5%
1962	90%
1963	94%
1964	96%
1965	100%
1966	100%
1967	91%
1968	100%
1969	98%
1970	100%
1971	98.5%
1972	97%
1973	93%
1976	89%

} 51

2. The number of evaders whose names are not published in the Gazette:

Table 2
Numbers Convicted

	<u>Schedule I</u>	<u>Annual Report</u>	
1960	72	83	
1965	17	19	
1970	14	14	
1975	55	63	
1976	13	24	
1977	<u>31</u>	<u>35</u>	
	<u>202</u>	<u>214</u>	= 94% ⁵²

50 Penal Tax figures were not published in the Annual Report of the Inland Revenue Department before 1959 nor in 1974 and 1975.

51 During the years 1964-1966 L.J. Rathgen was the Commissioner and during these years Graph I shows a significant drop in the number of evaders detected even though a high percentage of the cases in which penal tax was imposed were published in the Gazette.

The years preceding 1964 show the lowest percentage of the penal tax imposed published in the Gazette, yet Graph I shows that the highest number of evaders were detected in these years. Probably the trends shown in Graph I are, in fact, even more accentuated than are actually shown.

52 Slight differences could result because of different dates of printing.

The high proportion published in the Gazette would be expected because it is presumed that, in the cases of voluntary disclosure, the Commission would generally not prosecute.

There is no way of ensuring the validity of the numbers of evaders in Schedule II, although the closeness of the amount of penal tax published in the Gazette to the penal tax figures in the report suggests that, in most cases where penal tax is imposed, the names of the evaders are published in the Gazette.

The Gazette has therefore been taken to be a reasonably accurate guide as to the total amount of penal tax imposed and as to the number of evaders detected each year. It is, however, acknowledged that there is some degree of error inherent in the graphs and statistics but it is assumed that this error will not distort general trends, or the validity of the information disclosed.

B. The Extent of Evasion Detected

Little is known of the extent and nature of tax evasion. The only indication of its extent is found in lists of those convicted or those charged with penal tax without prosecution, lists which are influenced by policies of different Commissioners, staffing priorities etc.

Evasion of taxes is neither a new problem nor is it peculiar to New Zealand. In England in 1905 it was estimated that evasion was running at 20% of the taxable income⁵³ while an article in "The Bulletin" 2 July 1977 states⁵⁴ "Possibly a million Australians are involved in tax evasion, some officials guess."

Whether evasion is increasing or not in New Zealand is a relevant question as taxpayer morale must be maintained if the incidence of evasion is not to increase to an unacceptable level. In this respect, Mr T.G.C. MacKay, Chief Inspector of the Inland Revenue Department, said in July 1977 that⁵⁵ "Tax Evasion has

53 A. Tranter, op.cit. supra p.24 - an estimate of Sir Leo Chiozza Money

54 P. Samuel, op.cit. supra p.17 Two years ago the Tax Office in Australia estimated that a quarter of the taxpaying public was evading tax.

55 "Evasion Now Rates New Zealand's Biggest Growth Industry", the Evening Post, Tuesday 5 July 1977.

become more prevalent over the past few years."

Evasion was seen, by the Commissioner of Inland Revenue, as a problem during the immediate post war years as he commented that⁵⁶ "With sharply rising incomes, the period of seven years since second World War has seen an almost doubling of the peak wartime revenue with the high rates of taxation and the irregular commercial practices which grew up during the second World War and immediate post war period widespread evasion of taxes on income was practised. At that stage there was barely enough staff to cope with the annual assessment of taxes and ^{staff} was unable to give more than passing attention to the detection of evasion. Later as the staff position improved every endeavour was made to build up the ranks of inspectors to deal with the problem."

The figures indicating the number of evaders either charged with penal tax or convicted do not reflect exactly the extent of evasion in the community as the Department does not punish a constant percentage of evaders each year. This is because different Commissioners use in different ways their discretion to prosecute or not, or to impose penal tax or not.

In the 1950s, Commissioner Oburn, because he saw evasion as problem, maintained an aggressive policy of prosecution, whereas Commissioner Rathgen, in the mid 1960s, based his approach on control by improving public relations and relied on the penal sanction only as a last resort.⁵⁷ However, had death not cut short his term of office, he may have increased enforcement of the penal sanction after the initial relaxation had improved public relations.

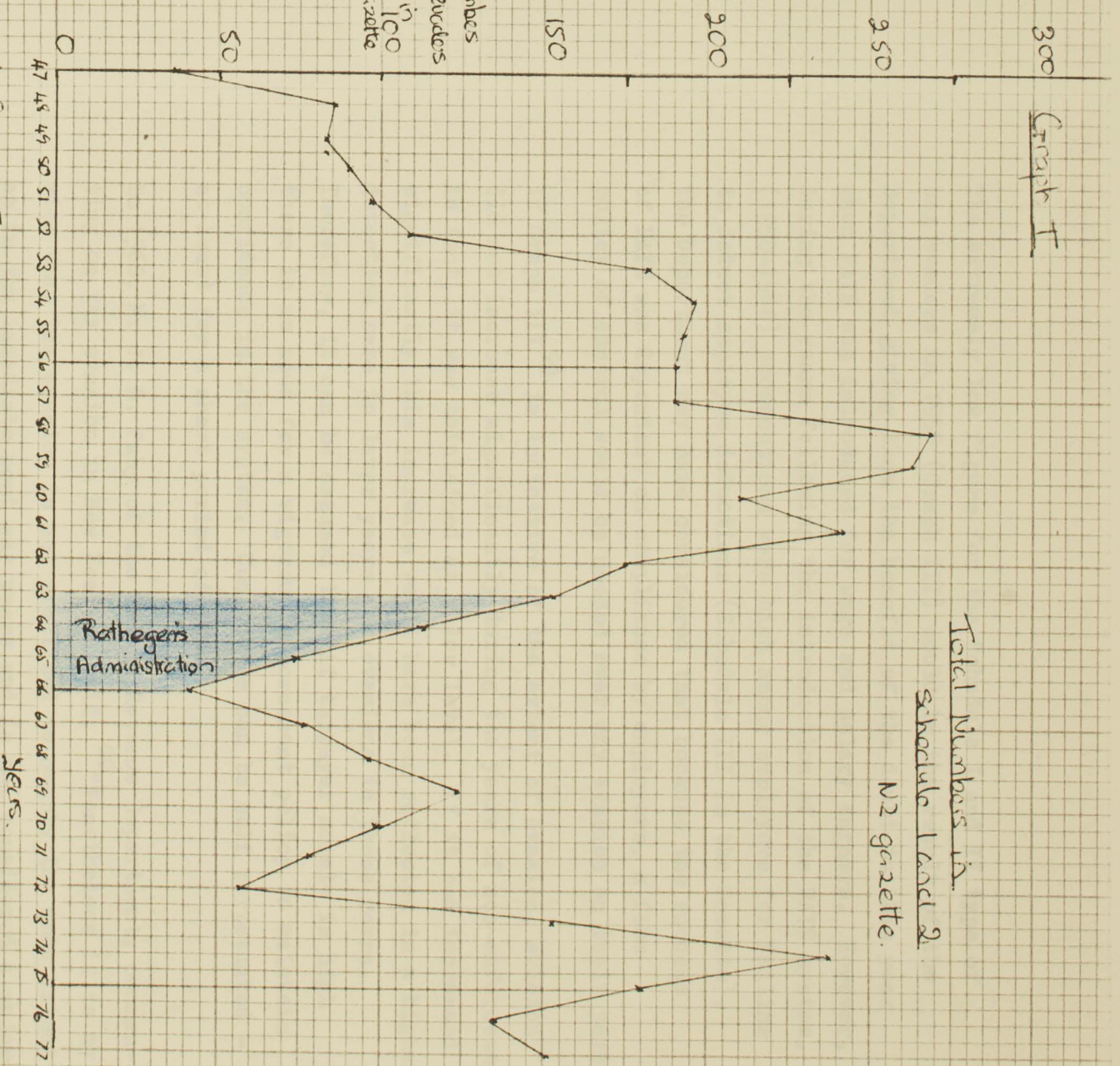
This difference in approach is seen clearly in a graph showing the number of evaders convicted in each year and the number of evaders on whom penal tax was imposed. (Graphs I and II)

The number of evaders detected increased in the 1950s not because evasion was necessarily much higher than in the late 1940s, but because staff was available to investigate possible evasion.⁵⁸

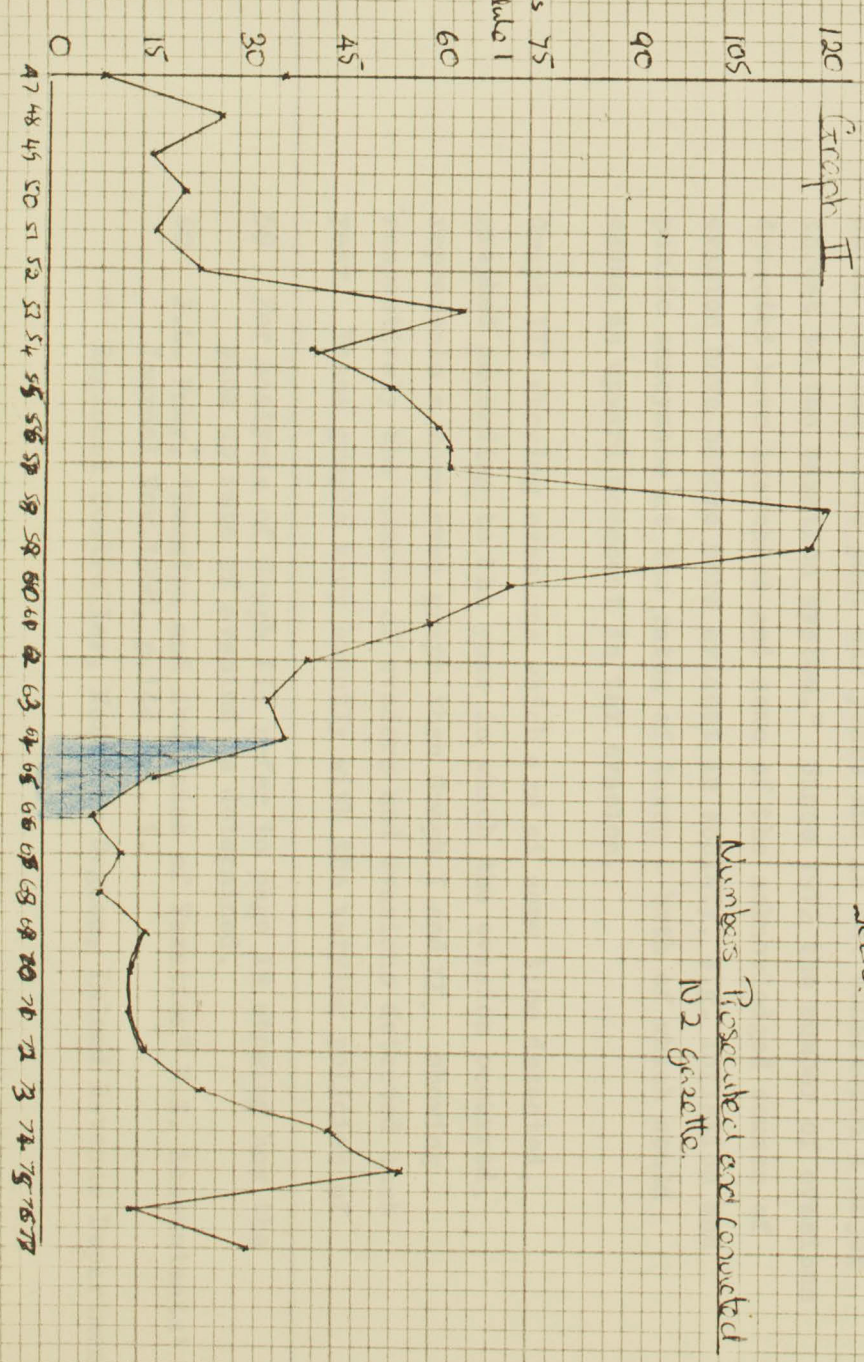
56 The Annual Report of the Inland Revenue Department 1953

57 D. McAllister 'The Philosophy of Administrator, L.J. Rathgen'
A paper presented at a Seminar on Public Relations at Victoria University of Wellington, 28 February 1968.

58 Refer to earlier guide of the Commissioner of Inland Revenue (Commissioner Oburn) from the Annual Report of the Inland Revenue Department, 1953.



Total Numbers in
Schedule I and 2
N2 gazette.



Numbers Prosecuted and convicted
N2 gazette.

The extremely low figure for the Schedule I and II type of tax evaders in 1958 (Graph III) could be the result of the Department giving them the benefit of the doubt in this year when PAYE was introduced for wage and salary earners. However, during the years following the introduction of the PAYE system, (1958-1964) prosecutions were high among employers for failing to deduct employee deductions (Schedule III in the Gazette). The Department may have considered that because the success of PAYE was dependent on compliance by employers, a firm policy of control would be needed over any evasion on their part.

If Graph III⁵⁹ is indicative of the extent of evasion, evasion did not increase significantly during the years of non-enforcement, in fact, it was maintained at a low level. If it had increased significantly this increase would have been reflected in a higher detection rate in later years for evasions in these years. Therefore, it can be assumed that if taxpayer morale is high there is no need for a vigorous enforcement policy to maintain confidence in the system. Confidence can be self perpetuated - at least for a short period of time.

In 1968, Mr J. L. Fahy of the Inland Revenue Department, commenting on tax evasion in New Zealand said,⁶⁰ "Nonetheless it is my view that tax evasion is not practised to nearly the same extent as in the immediate post war years and is not considered a major threat to the taxation system." Since 1972 the number of evasions detected have increased and some of the acknowledged causes of evasion have become more evident in society, e.g. inflation and public annoyance at the rates of taxes - both of which could cause an upward movement in tax evasion.

Graph III showing evasions which are at some time detected, graphed according to the year in which the evasion occurred, represents a more even graph than Graph I and XI, showing respectively the number of evaders and evasions detected each year. These graphs vary exactly with the varying policies of

59 For analysis of Graph III refer to page 19 showing how the pick up rate of evasion is determined.

60 J.L. Fahy,* "Evasion and Avoidance of Taxation" N.Z. Accountants' Journal Nov.1968, p.144 col. 1.

* Regional Controller, Northern Region, Inland Revenue Department

different Commissioners.⁶¹

However, in Graph III, for example a policy of non enforcement in one year would result in fewer evasions in all the years preceding the year in which that policy came into force. This is because evaders punished in 1965 do not represent the numbers who evaded in 1965 but people who evaded in earlier years, for example 1961 - 1964.

1. Method used to calculate Projection for Graph III

To discover a true picture of the number of evaders in the late 1960s and 1970s, evasions figures for the 1980s would need to be known as detection follows a few years after the offence.

In an endeavour to gain an idea of the number of evaders for the years from the late 1960s to 1977 a projection was made of the numbers of evaders likely to be detected in the years 1977 onwards.

This projection has two main variables:

(a) The distribution of evasions⁶² according to the year in which the evasion occurred, related to the year of detection, e.g. the percentage of evasions detected in 1977 which occurred in 1972, 1973, 1974 etc.

(b) The total number of evaders detected in 1977, 1978, 1979 etc.

(a) Distribution Pattern

It was assumed that the distribution pattern would be similar to that of the average of 1975 and 1976. The average was used to lessen the effect of irregularities in the distribution in either one of the years.

The years 1975 and 1976 were chosen because they are typical of

61 Graph I reflects the Commissioner's policy as to enforcement or non enforcement. Graph XI when compared with Graph I also reflects whether the evaders punished have evaded for many or few years.

62 Each year that an evader is punished for evasion is treated as a separate evasion.

the pattern of distribution demonstrated consistently since 1973.⁶³ and 64

The pattern revealed by averaging these two years was:

Table 3
Evasions Detected in 1975 and 1976

Evaded Tax:	<u>Evasions Numbers</u>	<u>Detected Percentage</u>	<u>Average Evasions per year</u>
in the year before detection	63	6.3%	33
2 years " "	128	12.8%	65
3 years " "	145	14.5%	74
4 years " "	153	15.3%	78
5 years " "	137	13.7%	70
6 years " "	110	11%	56
7 years " "	85	8.5%	43
8 years " "	58	5.8%	30
9 years " "	46	4.6%	29
10 years " "	33	3.3%	17
11 years " "	28	2.8%	14
12 years " "	15	1.5%	8
	<u>negligible</u>		
	<u>1001</u>		

(b) The total number of evaders in 1977, 1978 etc.

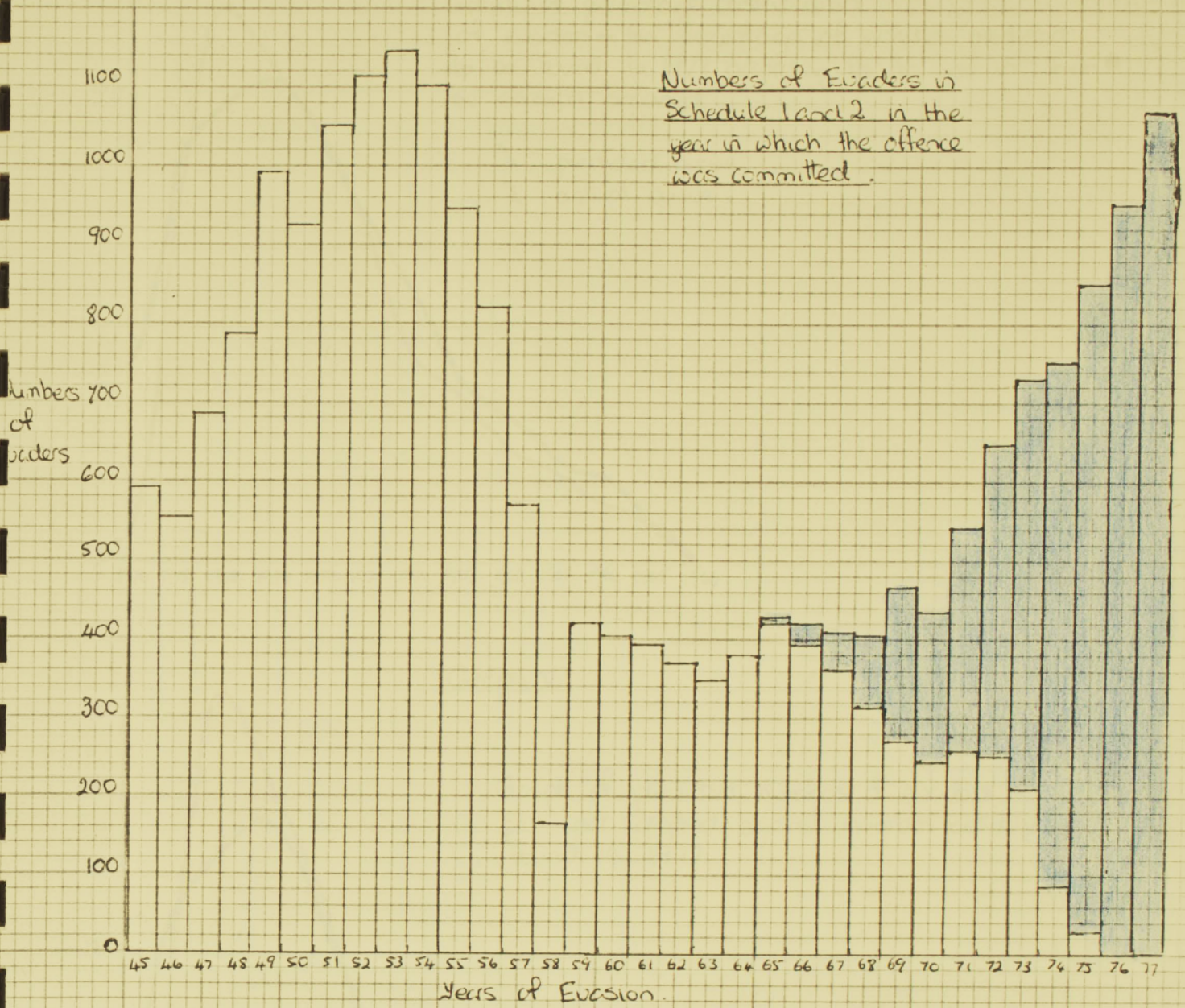
This is the variable which is most open to different predictions. For this reason, one prediction is contained in the body of the paper and another is included in the appendix. The similarity of the two resulting graphs over the 12 years⁶⁵ indicates that even if there is an error in the prediction it will not influence the basic trend indicated. The graph of the total number of evasions detected per year shows that this number fluctuates quite

63 Refer to Graph X for an average of the distribution pattern for evasions detected in 1970 and 1976. (in the Appendix)

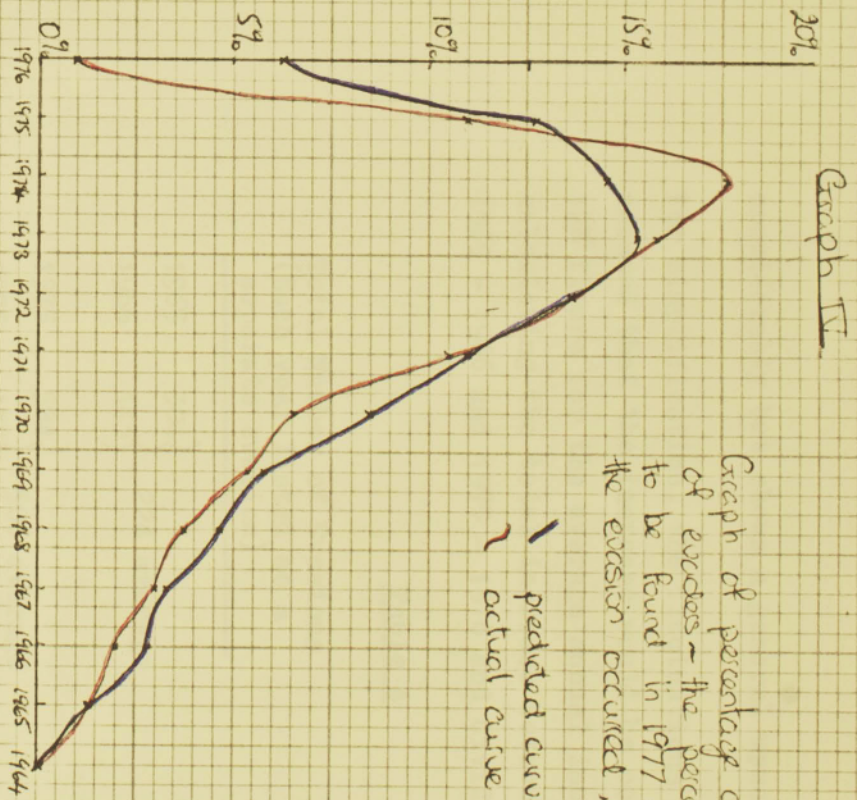
64 This prediction was made before the 1977 figures became available. The actual 1977 percentage distribution pattern was graphed against the predicted to help validate the prediction (graph IV)

65 As the number of evasions detected more than 12 years after the offence is negligible the prediction only needs to be for 12 years. Over longer than 12 years the difference between the two graphs is greater.

Graph III

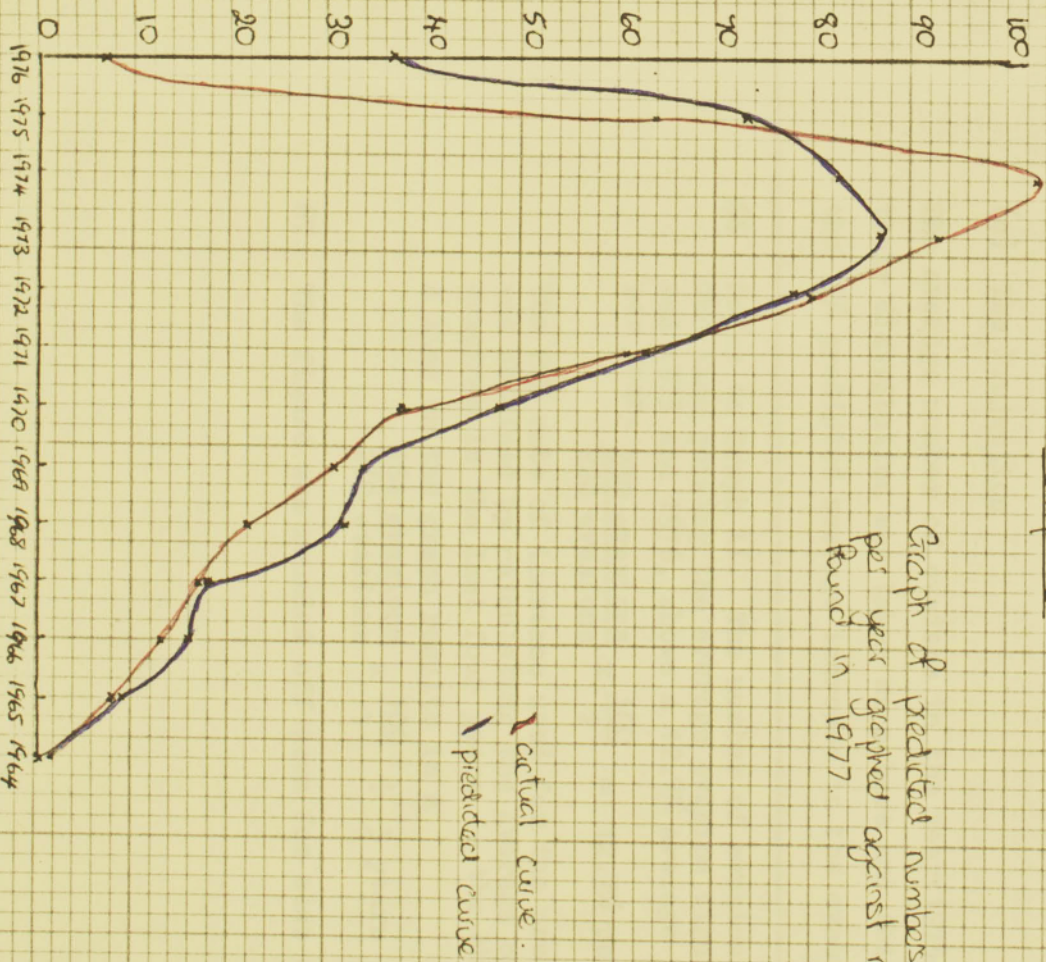


□ unadjusted figures
 ■ adjusted figures



Graph V

Graph of predicted numbers of evaders per year graphed against numbers actually found in 1977.



considerably but shows a general upward trend since 1966.

For simplification, the fluctuations are levelled out and it is assumed that the increase would be constant each year.⁶⁶ The 12% figure for the average annual increase was established by calculating the total increase between the average of the years 1965 - 1966 and 1975 - 1976 and dividing by the number of years.

Table 4

Total Number of Evasions (Each year listed as a separate evasion)		Average Percentage Change per year
1965	304	12.6%
1966	143	
224 average		
1975	584	12.6%
1976	429	
506 average		
Average change per year		12% ⁶⁷

(c) The Projection

The average number of evaders in the years 1975 and 1976 and their distribution was taken as a base and this was increased by the 12% predicted average increase in the evasions detected each year.

66 Refer to Graph XI. The number of evasions detected each year. The line joining the average evasion figures of 1965 and 1966, and 1975 and 1976, shows a 12.7% average increase in evasions per year.

$$\frac{280 \text{ evasions}}{220 \text{ evasions}} \times \frac{100}{1} = 12.7\% \text{ per year}$$

The 20% rate of increase used for the prediction in the appendix was obtained by calculating the average of the yearly increase in evasions in the last four years - the short run trend.

A line on the graph results in a

$$\frac{164 \text{ evasions}}{260 \text{ evasions}} \times \frac{100}{1} \div 3 \text{ years} = 21\% \text{ increase}$$

67 The figure was rounded off down for ease of calculation

Using this basis for 1977, the number of evaders detected who had evaded in the year before detection was 33 plus the 12% increase making a total of 37. Therefore 37 of the evaders detected in 1977 were predicted to have evaded in 1976. Likewise 65 plus 12% of the evasions detected in 1977 were predicted to have occurred in 1975.

Table 5

	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
1977	-	41	92	116	137	137	122	105	83	88	60	55	33= 1064
1976	37	82	104	122	122	109	94	74	79	54	49	30	956
1975	73	93	109	109	97	84	66	71	48	44	27		821
1974	83	97	97	87	75	59	63	43	39	24			667
1973	87	87	78	67	53	56	38	35	21				522
1972	78	70	60	47	50	34	31	19					389
1971	63	54	42	45	30	28	17						279
1970	48	38	40	27	25	15							193
1969	34	36	24	22	13								129
1968	32	21	20	12									85
1967	19	18	11										48
1966	16	10											26
1965	9												9

Graph III shows an increase in the number of evasions detected by the Department. This increase could be the result of both/ or either of two factors:

- an increase in the rate of evasion in the community.
- an increasing percentage of evasion being detected, possibly due to an improvement in examination techniques, e.g. in 1968 a new method of examination of taxpayers' returns known as the tax audit was introduced.

2. The Real Increase/Decrease in the number of evasions Detected

Evasion detected is still insignificant compared with the level of the late 1940s and the first half of the 1950s if the real increase/decrease is calculated. Although the actual number of evasions detected has increased, the increase in the taxable population has been greater than the rate of increase.

Table 6

Real Increase/Decrease in Evasion

<u>Year</u>	<u>No. of Returns</u>	<u>No. of People⁶⁸ evading Tax (adjusted)</u>	<u>Evasion Rate</u>
1947	401025	590	15 in 10,000 returns sent in false or not sent
1950	600839	923	15 in 10,000
1955	709000	955	13 in 10,000
1960	637637	408	6 in 10,000
1965	964479	435	4.5 in 10,000
1970	1224859	513	4.2 in 10,000
1975	1703045	821	4.8 in 10,000
1976	1803730	956	5.3 in 10,000

The evasion rate is extremely low when it is matched against any common prediction (negligence is excluded from these figures). Even with more efficient examination methods the number of evaders per 10,000 returns is lower than in the earlier years, although it is increasing slightly since the non-enforcement policies of the 1960s.

The current enforcement policy of the Department does not seem a vigorous one; a reason for this could be continuous shortage of staff qualified for investigation work. Mr I.G.C. MacKay in a recent "Evening Post" article stated ⁶⁹"The Department was increasing its enforcement activities to cope with the rise in the number of people who were willing 'to have a go at evading'" but any attempt to increase enforcement activities in the future could still be hampered by lack of staff.

The Commissioner, in the Department's report for the year ended 31 March 1977, said ⁷⁰"The Department continues to endure a long standing problem of attracting and retaining a sufficient number of officers with accountancy qualifications to engage in full investigation work. Losses during the year were 35 of the staff of 119 working inspectors....There is a backlog of cases noted for fraud investigations."

68 The numbers based on Schedule I and II of the Gazette. (Schedule III is excluded)

69 The Evening Post, Tuesday, 5 July 1977, p.10

70 Annual Report of the Inland Revenue Department for the year ended 31 March 1977.

Officers of the Inland Revenue Department have recently been commenting that there is an increase in the number of people "willing to have a go at evading".⁷¹ The modest increase in detected evasion disclosed in the graphs would indicate that if the increase is, in fact, significant then much of it is not being detected.

3. Other Indicators of the Extent of Evasion

Table 7
Additional Tax as a Percentage of Income Tax

<u>Year</u>	<u>Income Tax</u>	<u>Additional Tax</u> ⁷²	
		<u>Total</u>	<u>As % of Income Tax</u>
1947	64,170,114		
1950	96,966,900	1,956,296	.02
1955	176,633,760	4,176,630	.024
1960	351,846,000	3,230,550	.009
1965	547,705,000	6,365,858	.012
1970	779,198,000	4,609,099	.006
1975	2,135,981,000	6,572,490	.003
1976	2,295,847,000	10,995,654	.005
1977	2,828,540,000	14,127,148	.005

So, although earlier figures indicated that there was less evasion in the mid 1960s than in other years, the high additional tax rate indicates that people were paying taxes late and this is indicative of evasion. It was probably the policy of the Department to enforce payment of taxes through additional tax rather than by imposing penal tax and prosecuting.

4. Summary of the Extent of Evasion Detected

Evasion in New Zealand may still be at a lower rate in relation to the amount of income tax than it was when income taxes first became significant during and following the Second World War. If it is, a possible explanation could be the increase in such avoidance techniques as Family Trusts.⁷³ "It is estimated by the

71 Comments made in the Evening Post and the Annual Report for the year ended 31 March 1977

72 Additional tax is imposed under s.398 of the Income Tax Act 1976. When there is late payment of tax additional tax of 10% on the amount of tax unpaid shall be charged.

73 J.L. Fahy, op.cit.supra p.144 col.2

Inland Revenue Department that at 31 March 1965 there were 6,500 Family Trusts in New Zealand and the loss in tax revenue was estimated at \$4.5 million. Figures taken out to 31 March 1967 now show Family Trusts to number 14,256 and the annual loss to revenue through diversions to them is commensurably greater."

This could also possibly explain part of the trend toward greater detection of smaller evaders⁷⁴ as tax avoidance measures may have taken the place of evasion among some of the larger potential evaders. However, evasion is never at levels as low as the figures in the cases detected would suggest. What the graphs do indicate is that detection is on the increase, albeit only slightly.

C. The Type of Evader Punished

1. How Taxes are evaded:

Schedule I in the Gazette lists only those convicted of wilfully making false returns.

Schedule II lists those evading or attempting to evade tax by either filing a false return or failing to file a return.

(a) Table 8
Proportion of Evaders in Schedule II who Evaded by Failing to
File a Return

1956	11%
1960	8%
1965	5%
1970	6%
1975	8%
1976	6.5%

These figures seem to indicate that evasion by failing to file a return is only minor and is not increasing. Of those cases of failure to file a return, few were for large amounts; 66% were for amounts of less than \$2,000⁷⁵ in the years 1975 and 1976.

74 Refer to later discussion on the Size of the Evader, p.27

75 For the years 1974-1976, 48% were less than \$2,000

Table 9(b) List of Prosecutions of Failing to File

1966	428 prosecutions
1965	1064 prosecutions

(c) Evasion through False Code etc

Convictions for false code declarations and failure to maintain records have not been very significant. There were eight convicted in 1977 but there were none between 1973 - 1976. Convictions for failure to produce records have averaged two to four each year.

(d) Employers failure to Deduct

When the number of evasions under Section 416, Income Tax Act 1976 declined drastically after 1958 - partly because of the PAYE system - there was a balancing increase in the number of employers convicted for failure to deduct PAYE. The rate of convictions for these halved in 1965 and has not regained earlier levels.

Table 10Convictions of Employers for Failure to Deduct Source Deductions

1958	180 convictions
1964	96 convictions
1965	45 convictions
1976	51 convictions
1977	71 convictions

The halving could be partly due to the setting up of an advisory service by PAYE inspectors who were given the task of instructing and advising employers in correct procedures.

2. Size

The Inland Revenue Department has tended increasingly to prosecute smaller offenders.

From 1967 to 1976 approximately 45% of those convicted had evaded amounts of less than \$500 whereas from 1947 to 1966 only 18% of those convicted had evaded amounts of less than \$500 (Graph VI)

This trend towards a harder prosecution policy for small offenders is accentuated by the fact of inflation; someone who evaded \$500 (£250) in 1947 was evading more than someone who evades \$500 in 1976 in terms of the purchasing power of money.

In a situation where there is a trend toward a less vigorous enforcement policy in terms of numbers of evaders detected and penal tax imposed,⁷⁷ the question arises as to why there is this trend towards a more vigorous prosecution policy for smaller amounts evaded.

Part of the explanation can be found in the difference in the ease with which criminal conviction can be proved. Often the smaller offender is not self-employed but is an employee, and to evade he has had to change or falsify some written material or record which can be used as concrete evidence against him. This makes it easier to prove the wilful nature of his offence. Wilfulness is much more difficult to prove where records simply have not been kept adequately even if the dollar discrepancy is greater.

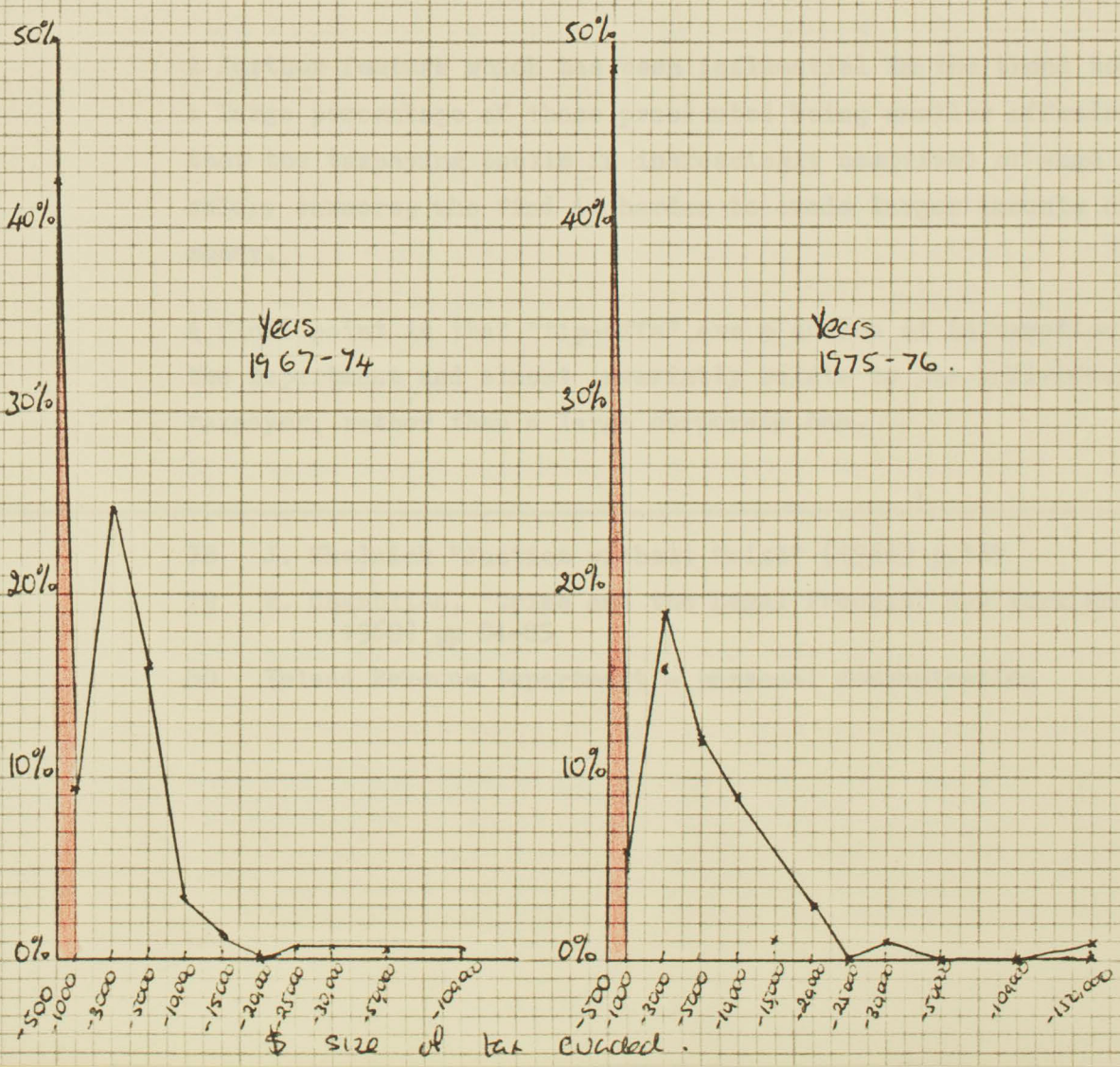
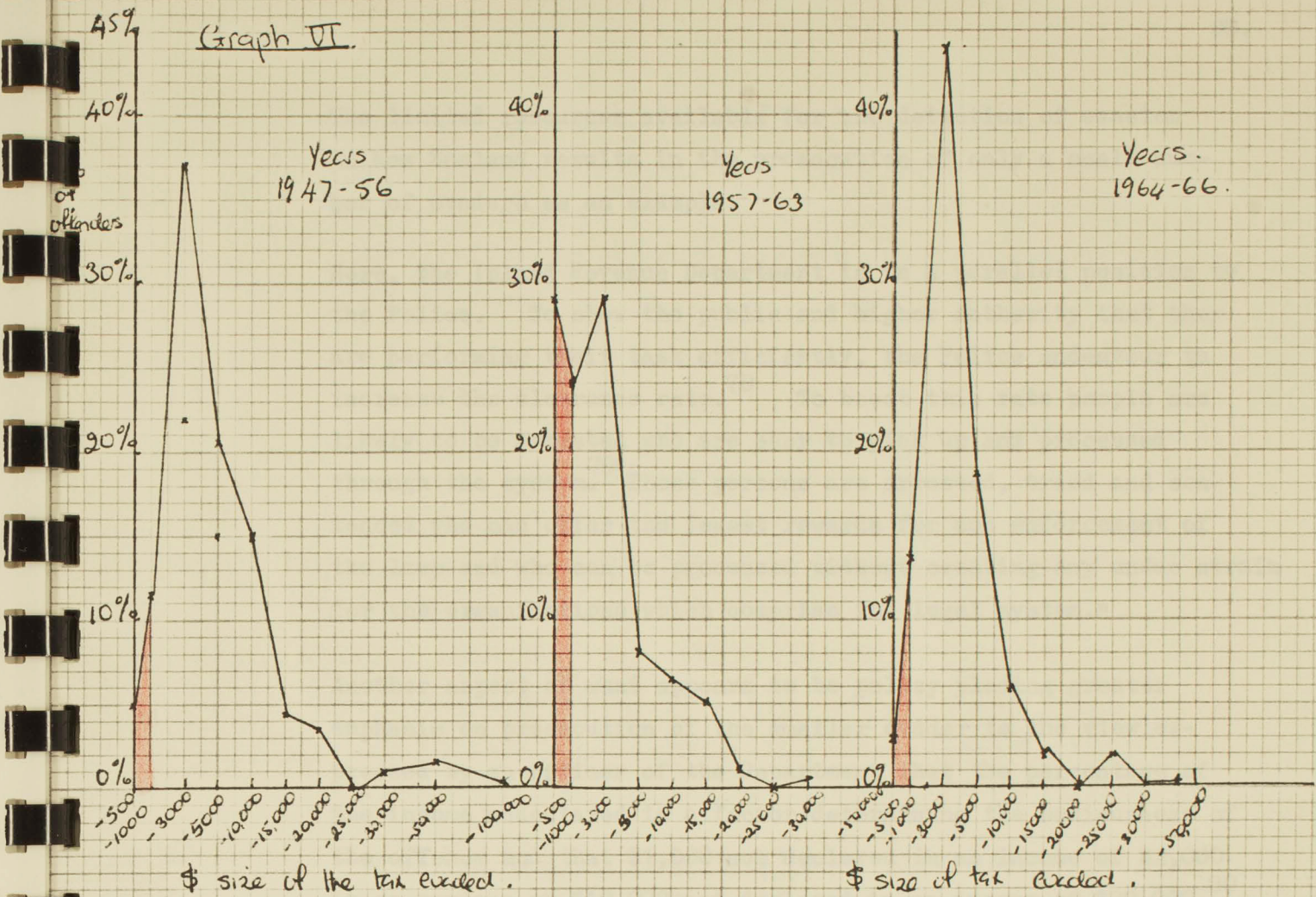
Another reason is that the Department likes to prosecute as many evaders as possible to confirm people's views that if you try to evade taxes, you will be detected and punished. Thus when wilful evasion, which can be proved, is found, prosecution follows.

The Department of Inland Revenue has to balance its limited investigation resources between size and time. It takes much longer to investigate fully one large possible evader than to investigate many small possible evaders. Thus, if the Department concentrates on large offenders, there would be few prosecutions in each year and the impression could be gained by the public that the Department was not prosecuting non-compliance.

⁷⁷ Refer to Graph I and to appendix for graph on the amount of penal tax imposed. (Graph XI)

Amount of Tax Evaded by the Offenders Prosecuted

Graph VI.



Amount under \$1,000

The limited resources available for the detection of evasion in New Zealand results in the prosecution of only a small number of evaders as an example.

Here, the Inland Revenue Department is in a parallel position to the Police. To show the public and higher authority that they are performing their task efficiently, the Police endeavour to increase the clearance rate.⁷⁸ To boost this rate people are likely to be arrested who are easy to pick up and processed through the system.⁷⁹ Those persons are arrested, tried and sentenced who can offer the fewest rewards for non enforcement of the laws and who can be processed without creating any undue strain for the organisations which comprise the legal system."

Another aspect of what appears to be policy placing greater emphasis on prosecution of the smaller evader is the view expressed by an officer of the Department that the percentage of the income undeclared is a factor determining the seriousness of the offence and that \$1,000 not declared in an income of \$2,000 is as serious as \$10,000 not declared in an income of \$20,000.⁸⁰

A further feature which has been influential in the trend towards a large percentage of those prosecuted being smaller offenders is that the taxpaying public is increasingly comprised of wage and salary earners, who find it harder to evade larger amounts of money.

A final point is that "tip-offs" are a source of information to the Department and almost invariably relate to the individual taxpayer, rather than a large corporate one.

78 J. Skolnick "Justice without Trial" (1966) p.167

79 W. Chambliss, "Crime and the Legal Process" New York McGraw-Hill (1969) pp 84-85

80 Inland Revenue Department - personal communication

To sum up, the prosecution penalty is used most heavily against smaller offenders, while those who evade larger amounts often escape this penalty because of Departmental policy, difficulty of proof, evidency rules and shortage of staff and time.⁸¹

3. Range

Although there is a trend towards smaller and smaller offences, the size of larger cases of evasion is becoming larger. 1976 was the first year in which there had been a conviction for evasion exceeding \$100,000 - a company was convicted of evading \$141,000.

4. Repetitive Nature

There has been a trend towards the prosecution of evaders for the first year in which they are detected. (Graph VII).

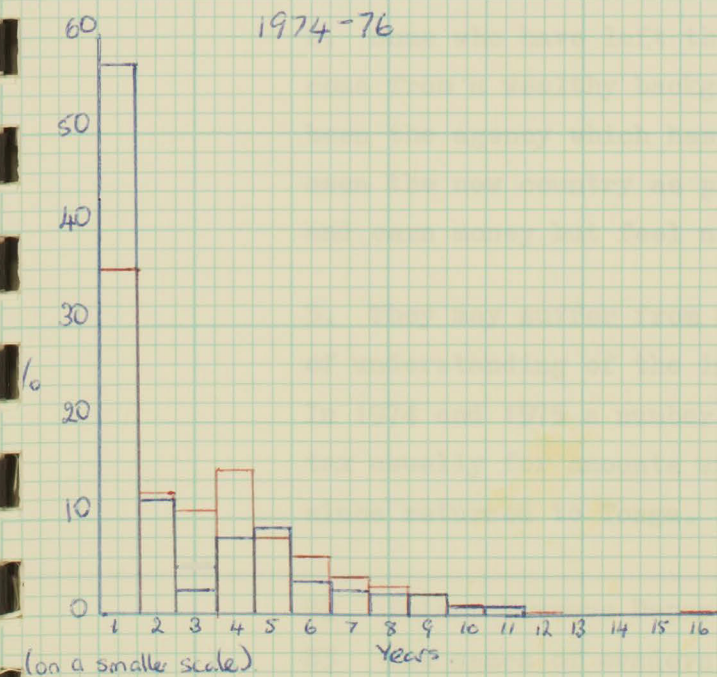
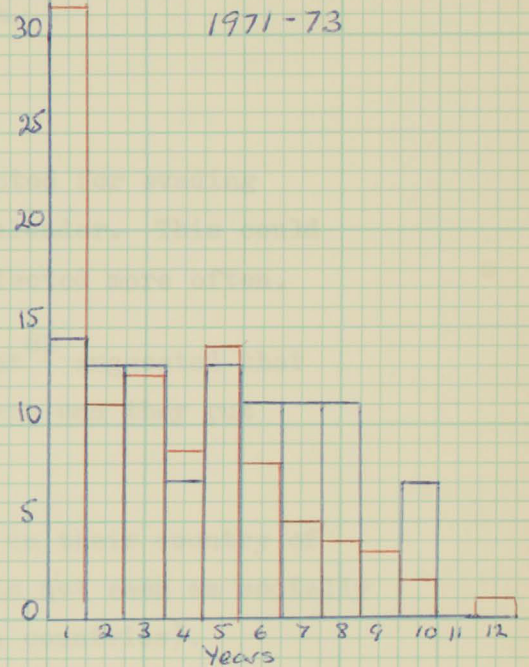
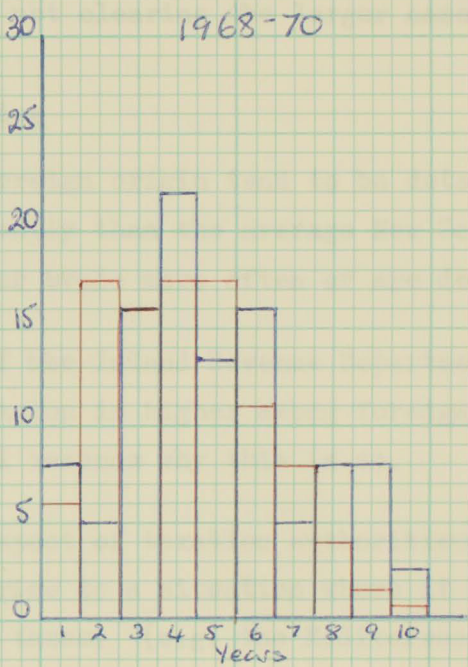
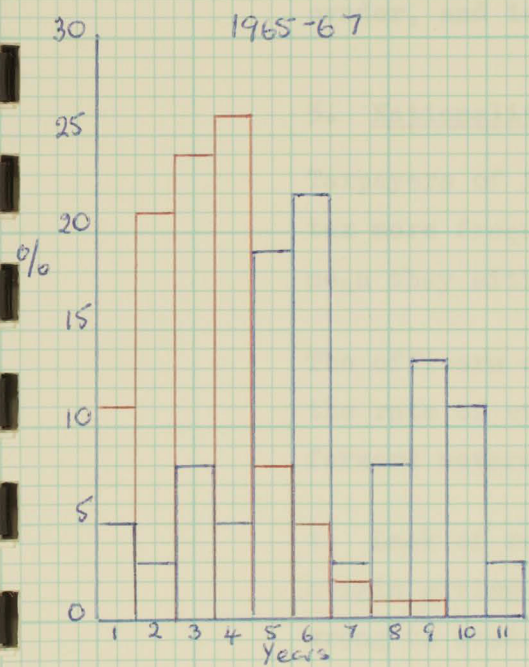
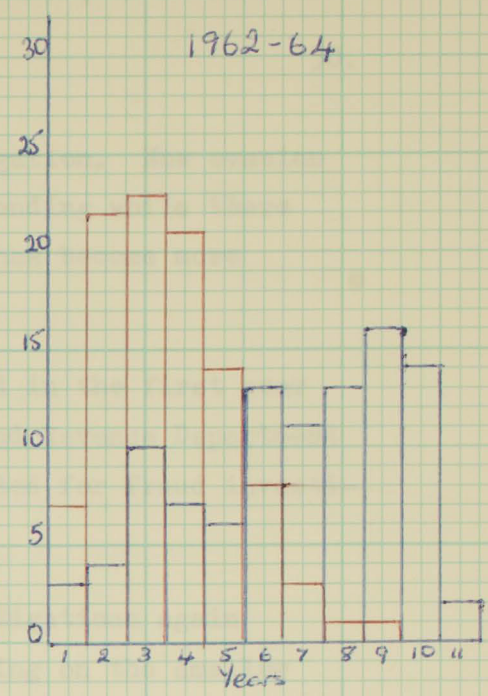
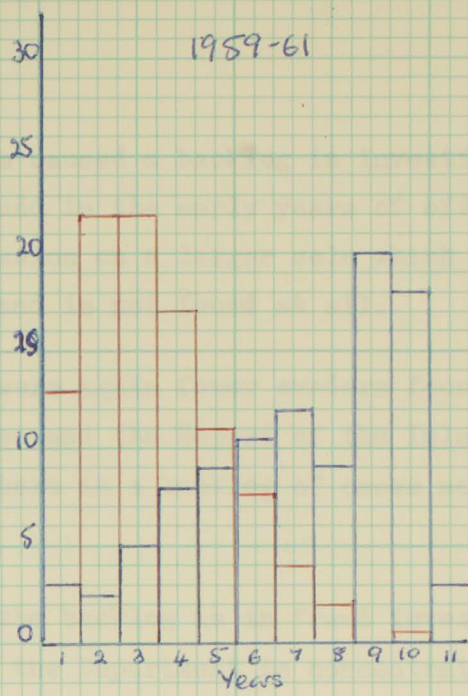
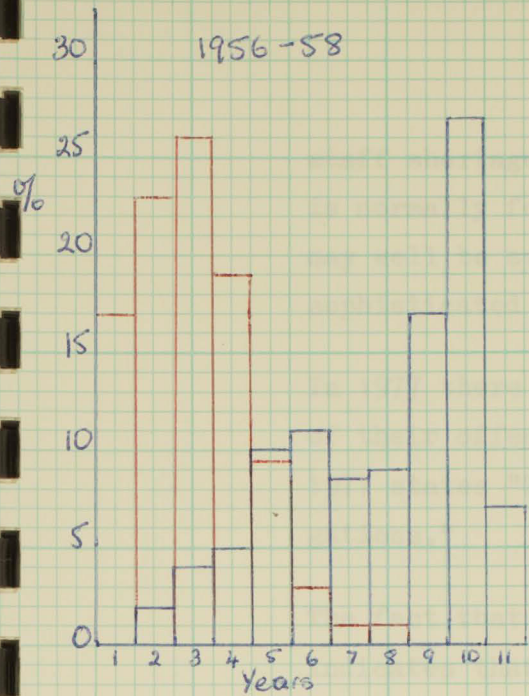
Earlier, few evaders were found in the first year of their offence, probably because of detection techniques, or, if they were found, they were frequently not prosecuted or charged with penal tax.

Over the years this situation has changed gradually and from 1973-1976 approximately 60% of those successfully prosecuted and 36% of those not prosecuted were detected evading in only one year. By comparison, from 1956 to 1958, none of those successfully prosecuted and 17% of those not prosecuted had evaded for only one year.

This trend toward detection of a greater number of evaders who have evaded for only one to two years can also be seen when Graph I is compared with Graph XI. The number of evaders detected each year (Graph I) has increased to a greater extent than the number of evasions detected each year (Graph XI in the appendix).

This factor again seems to indicate that evasion is an offence more controlled than it was in the late 1950s when post-war

81 Difficulty of proof is also a factor in proving an "intention to evade tax" and establishing the amount of tax sought to be evaded for the purpose of imposing penal tax. In a personal communication an officer of the Department advised that the Commissioner and the taxpayer may reach a compromise agreement as to the amount of penal tax to be imposed. This idea of bargaining is another factor which works against a smaller evader as his intention to evade and the tax evaded is usually easy to determine.



EVADERS GRAPHED ACCORDING TO THE NUMBER OF YEARS THEY WERE PUNISHED FOR EVASION.

Graph VII

✓ numbers prosecuted - schedule 1
 ✓ schedule 2

staff shortages caused a backlog in investigation. Now evasion is normally found in the early years of offending while there may well be evasion on a larger sale which has become more sophisticated and is not found at all.

In 1977 there were again fewer evaders found in the first year of their offence and the Report of the Inland Revenue Department 1977 states "There is a backlog of cases noted for fraud investigations."

The fact that the backlog is in fraud investigations again indicates that the Department is concentrating on the smaller evader, and is not clearing the larger cases.

5. Nationalities

Taxpayers of foreign origin tend to be detected for evading tax more frequently than the average New Zealander. This could mean they either evade more often or are detected more often.

The officers of the Inland Revenue Department⁸² suggested that the rate of evasion is higher among foreigners and they put forward several reasons why this is so.

1. Lack of respect of taxation authorities in their country of origin giving rise to a situation where it is not seen as socially wrong to evade taxes. (e.g. the Mediterrean countries).
2. Some who have left their country of origin as refugees have come from a wealthy background and their home government may have been the agency which has appropriated their assets. They have seen the new country as providing an opportunity to work hard and earn money but feel no duty to give any back to the Government.

3. They may suffer from a language barrier and genuine lack of understanding of the intricacies of the taxation system. In 1974 and 1975 a number of Polynesians⁸³ were detected evading tax usually for amounts under \$200. Two of these evaders have since returned to Tonga. Polynesians account for part of the rise

82 Inland Revenue Department - personal communication

83 The names of evaders printed in the Gazette showed that there were at least seven Polynesians (non Maoris) who had evaded in 1974 and four in 1975.

in unskilled evaders being detected for evading tax (Graph VIII)
Polynesian evaders may be more easily detected as the methods of disguising their evasion may be less sophisticated.

Other foreign evaders may be detected more often as occupations which are traditionally known for tax evasion commonly involve people of foreign origin. Examples are Chinese as greengrocers, and market gardeners and Italians and Greeks as fishermen.

6. Professions

One of the features of tax evasion is that offending is spread across the whole population and is practised by people of all backgrounds and professions. However, the ease with which taxes can be evaded does influence the degree of evasion among different segments of the population. It is much more difficult for wage and salary earners to evade tax because of the PAYE system and evaders among this group tend to evade smaller amounts, e.g. by not declaring a second job or submitting a false declaration code. In the retail trade, on the other hand, evasion is easier because people are daily handling the money they are earning. (Graphs VIII and IX).

Over the period 1954 to 1976 there was a decline in the percentage of evaders engaged in agriculture. A number of factors could contribute to this:

- the decline in the percentage of the taxpaying population engaged in farming.
- an increase in maintaining better accounting records of farming activities.
- the rise in importance of Family Trusts or Family Companies as tax avoidance measures which are particularly suitable to the farming sector. With farming becoming more of a commercial activity more farmers are using the services of Accountants and are advised in methods of lessening their tax burden, without having to resort to evasion.⁸⁴

84 Refer to pp 25-26 on the rise of Family Trusts

7. Companies:

Tax evasion is not limited to private individuals. In Canada in 1976, for the first time a publicly owned company was charged with tax evasion.⁸⁵ In New Zealand there has been no significant increase in tax evasion by companies, although there has been an upward trend in the proportion of evaders which are companies.

Table 11

Percentage of Tax Evaders which are companies (Schedule I & II)

<u>1948-1951</u>	<u>1952-1955</u>	<u>1969-1972</u>	<u>1973-1974</u>	<u>1976-1977</u>
3.9%	5.4%	8.7%	6.6%	15%

The amount of tax evaded by companies has been relatively consistent, especially taking into account the declining value of the dollar. This is surprising in view of the increase in the volume of business and raises the question as to whether or not evasion among companies is going undetected.

Table 12

The Number of Companies which Evaded Tax of over \$5000

	<u>1948-1951</u>	<u>1952-1955</u>	<u>1969-1972</u>	<u>1973-1976</u>
Number of companies which evaded tax	14	37	38	40
Evaded over \$5,000	2	7	5	11
over \$10,000	1	3	2	4
over \$20,000		4	1	3
over \$100,000		1		1
	3(21.5%)	15(40.5%)	8(21%)	19(47.5%)
Companies which evaded more than \$10,000 tax	1(7%)	8(22%)	3(8%)	8(20%)

Although evasion through failing to make or account to the Commissioner for tax deductions is not being considered in this paper, it is one form of evasion which can be practised by companies.

85 Report of the Director to the 31st Annual Meeting of the Canadian Tax Foundation, 12 April 1977 p.9.

Employers who misapply source deductions are listed in Schedule III in the Gazette. This showed a large increase in the numbers detected in 1977 and the size of the misapplication compared with the years immediately preceding.

Table 13

	<u>Under \$1,000</u>	<u>Under \$5,000</u>	<u>Under \$20,000</u>	<u>Under \$50,000</u>	<u>Over \$50,000</u>
1977	31	30	8	1	1
1976	16	10	3		
1975	8	4	1		
1974	12	4			
1973	13	6			

D. The Extent to Which Penal Tax is Imposed

1. Is the Commissioner using his power to impose treble penal tax?

The answer is clearly - No.

According to the figures published in the Gazette, penal tax imposed has declined in relation to the amount of tax evaded. In the 1940s and 1950s, there was an emphasis on heavier penal tax punishments, but the amount of penal tax imposed has steadily declined since then. Probably the penal tax rates were higher initially due to the wording in the earlier section imposing penal tax.

Table 14

Year	<u>Penal Tax as a percentage of tax evaded</u>		
Year	<u>N.Z. Gazette Schedule I where there is a prosecution</u>	<u>Schedule II No. prosecution</u>	<u>Total Schedule I and II</u>
1947	55.75%	116.5%	65%
1950	84%	101.8%	89%
1956	65.5%	58%	63%
1960	42%	41.6%	41.8%
1965	28%	30%	29.6%
1970	41.5%	31.5%	32.5%
1975	32%	26.5%	26.5%
1976	55%	25.7%	32.7%
1977	57%	30.4%	39.8%

The Australian provisions allow only for penal tax of up to double the amount of tax evaded yet from the figures published in the Annual Report in 1969 penal tax was imposed at a rate of

47.6% of the tax evaded, which is higher than the rate in New Zealand. In New Zealand penal tax is being imposed very lightly or not at all in some situations. Where there has been voluntary disclosure it is imposed only to the extent to which interest must be considered. Where the amount of tax evaded is small and there has been a conviction in criminal proceedings penal tax has often not been imposed.

Of the 44 convictions in 1974, penal tax was not imposed in 38 cases indicating clearly that the Commissioner does not see the relevant sections 420 and 426 of the Income Tax Act 1976 as obliging him to impose penal tax.⁸⁶

The wording of section 420 is 'he shall be chargeable' but its optional nature is acknowledged by section 427(3) Income Tax Act which says that every list of evaders published shall include "the amount (if any) of the penal tax imposed."

The present rate based on figures published in the Gazette does not include the cases where there has been voluntary disclosure; cases where the rates of penal tax would be lower. Consequently, the overall rate would actually be lower than the 40% shown in Table 14.

There has been a decline in the amount of penal tax imposed compared with additional tax imposed, indicating the decline in the importance of penal tax as a penalty in relation to other penalties.

Table 15

Penal Tax : Additional Tax

1956	60%
1960	8.24%
1965	.82%
1970	2.39%
1976	5.3%
1977	5.1%

The rate of penal tax imposed may actually be higher than the Gazette would indicate.

86 Refer to Statutory appendix and earlier discussion p.11 s.426 and s.420 Income Tax Act 1976" ...he shall be chargeable."

In one example,⁸⁷ some of the tax listed as having been evaded was an accounting error and the taxpayer was not charged on the amount of the error nor was penal tax imposed on it. The amount of penal tax imposed on the remainder in this case was approximately 50% of the tax evaded. This was a situation where the evader pleaded guilty and helped in investigations, thus saving the department time and money in the prosecution.⁸⁸ A summary of this case follows:

<u>Year</u>	<u>Penal Tax as a Percentage of Tax Evaded</u>	<u>Fine Imposed in Court</u>
1965	52%	\$100
1966	51%	\$100
1967	49.5%	\$100
1968	66%	\$100
1969	49%	\$100
1970	49.5%	\$100
1971	45.9%	\$100
1972	43.5%	\$100
1973	48.8%	\$100
1974	57%	\$200

Overall just over one third of the amount of tax evaded is added in penal tax (Table 14). This is extremely low when certain factors are taken into account:

1. The inadequacy of the penalty arising from criminal proceedings
2. The current inflation rate - where the evader can earn about 15% by investing the money he has evaded. The current additional tax rate is 10% of the tax evaded; not 10% each year since the time of the evasion but merely 10% for one year. For example if \$1,000 was evaded in 1967, additional tax would be \$100 whereas interest earned at 10% compounded would be \$1593.⁸⁹
3. The attraction of evasion taking into account the combination of relatively small penalties and little chance of being detected.
4. The rate compared with the rate of 89% in 1950

⁸⁷ Information from the files of a Chartered Accounting firm.

⁸⁸ The prosecution was held in 1976.

⁸⁹ This is another factor which adds to the bias against the small evader who has been detected after evading for only one to two years.

2. What are the Extremes of Penal Tax Imposed?

Does the Commissioner ever impose treble the amount of tax evaded? Since 1973 penal tax of greater or equal to the amount of tax evaded has been imposed on only five evaders (all in 1977). Three of them were involved in the same company. In the years from 1960 to 1973, penal tax was greater than the amount of tax evaded in 18 cases and more than double in only three cases.

In 1961 a student had to pay penal tax of £11 for evading £4 and in 1973 a packer had to pay penal tax of \$20 for evading \$8 and a commercial artist \$200 for evading \$96. It seems strange that the higher level of penal tax should be used against such small evaders.

The current attitude of the department contrasts with its attitude in the late 1940s and 1950s.

In 1947 penal tax was greater than tax evaded in 46% of the cases and the penalty was more than double the tax evaded in 16%. The maximum penalty was imposed in the case of an accountant who failed to file a return.

It was a similar situation in 1950. In 62% of cases penal tax was greater than tax evaded and it was more than double in 21%. The penalty was from 2.8 to 3 times the amount of tax evaded in five cases.

Table 16

Penal Tax Imposed Compared with the Amount of Tax Evaded

Year	Penal Tax Equal to:		
	<u>The Amount of Tax Evaded</u>	<u>Double Tax Evaded</u>	<u>Approximately Treble</u>
1947	46%	16%	.5%
1950	62%	21%	1%
1960s	1%	-	-
1973 → 1976	-	-	-

The Commissioner did use the full extent of his powers in extreme circumstances but, since the beginning of the 1960s, there appears to have been a self imposed limit on the use of penal tax as a penalty to less than the amount of tax imposed. Penal tax of treble the amount of tax evaded is a high penalty to be imposed by the Commissioner and obviously he views it as such.

IV REFORM

1. Introduction

Are the current provisions adequate to deal with evasion in New Zealand?

The current New Zealand provisions have been compared with other New Zealand Statutes and the Canadian Tax provisions and it is suggested that there is scope to incorporate some ideas from these sources into the New Zealand penalty provisions for tax evasion. The Canadian example was used because it demonstrates the manner in which a country with a taxing background similar to New Zealand has legislated comprehensively for tax evasion.

2. Criminal Provisions

The penalties for the criminal provisions are too light - logically a monetary penalty applicable in 1891 should be much greater in 1977. The size of these penalties is currently under review and it is likely that there will be an increase to match the related provisions in the Inland Revenue Department Act 1974. However, any reform which is limited to an increase in the monetary penalty would be inadequate.

The different forms of evading tax are dealt with in one provisions and are given a blanket penalty. This is in contrast to other New Zealand statutes which adopt a hierarchical system of penalties and offences. For example, Section 245 Customs Act 1966 deals with erroneous returns and a separate section, Section 246, deals with the more serious offence of wilfully making false declarations.⁹⁰ These penalties are in addition to the automatic forfeiture of the goods which were the subject of the false declaration.⁹¹

There is also a possible term of imprisonment of a period not exceeding three months in the case of a second offence.⁹²

90 Customs Act 1966

s.245 "Every person who makes any false declaration under this Act shall be liable to a fine not exceeding \$200.

s.246 "Every person who knowingly makes any false declaration under this Act commits an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding two years.

91 Customs Act 1966, s.265

92 Customs Act 1966, s.263

This statute provides heavier penalties for an offence similar to that of tax evasion, the difference being that one is fraud against the Customs Department and the other fraud against the Inland Revenue Department. The penalties are different for negligence, and wilfulness, and other circumstances such as the number of offences are also taken into account.

Canadian tax provisions provide for a tier system of penalties, varying with the magnitude of the offence. The penalty is tied to the amount of tax evaded or sought to be evaded and is double the amount of tax evaded rather than a stated dollar value limit. This enables penalties to be applied which deal more adequately with the more serious offences while, at the same time, avoiding the possibility of a ridiculously large penalty for a small offence such as failing to file a return, or evasion of \$10 of tax.

In Section 238(1) and (2) Canadian Income Tax Act failure to file a return is a specific offence. The penalty is not less than \$25 for each day of default but, where the failure is due to an intent to wilfully evade tax, the taxpayer will be charged under Section 239(1)(d) of that Act. Section 239 deals with the situation where the taxpayer has wilfully evaded tax.⁹³

A conviction under Section 239(1) of this Act is a summary conviction and carries a fine of between 25% and 200% of the amount of tax sought to be evaded and imprisonment for a term not exceeding two years.

-
- 93 Canadian Income Tax Act
s.239(1) Every person who has:
- (a) made, or participated in...the making of false or deceptive statements in a return.
 - (b) to evade payment of a tax imposed by this Act, destroyed... the records, or books of account of a taxpayer.
 - (c) made, or assented to or acquiesced in the making of false or deceptive entries...in records or books of account of a taxpayer.
 - (d) wilfully in any manner, evaded or attempted to evade, compliance with this Act or payment of taxes imposed by this Act, or....
 - (e) conspired with any person to commit an offence described by para (a) to (d)

In more serious cases the Attorney General, after a charge has been laid under Section 239(1) can decide to prosecute on indictment. Conviction would then carry in addition to any penalty already provided, a term of imprisonment of between two months and five years.

A Canadian Information Circular⁹⁴ lists some of the factors which should be considered when deciding whether to recommend a prosecution on indictment to the Attorney General.⁹⁵

In Canada therefore, offences are graded in seriousness as are the penalties.

Section 238 - failure to file a return without an intention to evade tax.

Section 239(1) - summary prosecution for evasion or attempted evasion of income tax

Section 239(1) - prosecution on indictment for more serious cases.

Not only are the offences graded in seriousness to remove some of the statutory bias against the smaller evader but also the Court has the power to impose a realistic penalty. At least one New Zealand judge has expressed the view that the New Zealand penalties are inadequate.

94 Information Circular 73 - 10R of the Department of National Revenue Canada.

95 The factors to be considered are:

- The taxpayer is a second offender;
- The taxpayer has sold, transferred or placed his assets beyond the department's reach;
- The taxpayer has devised and used a multiplicity of methods to evade a significant portion of the tax he should have paid;
- There is evidence that the taxpayer has used intimidation to induce employees, suppliers or customers to assist or accommodate in carrying out the offence;
- There is evidence of counselling others on the practice of tax evasion;
- The amount of tax alleged to have been evaded is substantial in relation to the income reported and the tax declared.

Mr Justice McCarthy has said ⁹⁶"It is true that the Commissioner is entitled in many cases to add to the consequences of a conviction by the imposition of penalty tax, but the assessment of the proper punishment for the guilt of the offence is the function of the Courts, and it seems to me that in those cases where the offence is deliberate and substantial as to amount there is much to be said for the view that imprisonment is the punishment which really fits."

The Canadian provisions seem to be suited to the New Zealand conditions and if the New Zealand administration is serious about the extent of evasion in New Zealand, it would move to allow the Courts more latitude in dealing with the more serious examples of the offence. Such a move would mean that in exceptional cases, there would be power to impose a term of imprisonment. The present New Zealand penalties give the impression that the white collar crime of tax evasion is not comparable in seriousness with other crimes. In several cases employers who have misapplied source deductions have been imprisoned under Section 368(2) Income Tax Act 1976 and probably similar serious cases of tax evasion under section 416 also exist.

3. Administrative Penalties

With the present criminal penalties grossly inadequate, the administrative penalty of penal tax not exceeding treble the amount of tax evaded, is the main penalty, particularly for the extremely serious cases of evasion.

If the Courts were given the power to impose an adequate penalty, the Commissioner would not need to have such a large discretionary penalty. The full extent of treble penal tax could be appropriate only in extremely serious cases of evasion and, in such cases, there should be a conviction, proved beyond reasonable doubt, and the conviction should result in a suitable penalty being imposed.

The Commissioner should retain the ability to impose penal tax, but his discretion possibly should be limited to the routine evasion case, in the light of a change to more realistic criminal penalties.

96 Maxwell v CIR (1959) NZLR 708, 714 para 38

(a) When Penal Tax can be Imposed

Where the return has been filed negligently, penal tax cannot be imposed even though negligence, resulting in false returns, can be nearly as destructive of the self assessment tax system, as a wilful action. The Canadian provisions allow for penal tax to be imposed in the case of negligence.

The need for an ⁹⁷"intention to evade tax" before the main penalty for evasion - penal tax - can be imposed, could be a factor discouraging the Commissioner from prosecuting for the offence.

Where the Department prosecutes for "wilfully filing a false return" and the Court makes a finding of "negligently filing a false return" the question arises as to whether or not the Commissioner can still impose penal tax. In fact, the Commissioner is able to impose penal tax despite the fact that the charge has been amended from 'wilfully' to 'negligently' making a false return. However, this is not an unlimited right.

This was clearly established by McGregor J. ⁹⁸"In my view there are acts, other than wilfully making false returns, which may amount to evasion or attempted evasion of assessment or payment of tax....It may be in proceedings by way of Case Stated it will become clear that the only facts relied on to prove evasion are false returns of income if such were furnished with intent to evade, but this cannot be predicted at the present time."

⁹⁹"A mere omission or neglect to include taxable income in a return is in itself insufficient unless it is shown that such neglect or omission occurred with intent to avoid or endeavour to avoid payment of duty. I cannot therefore hold at the present time that the Commissioner is necessarily estopped by the Magistrate's earlier refusal to convict."

97 Income Tax Act 1976, s.420

98 Taylor v A.G. (1963) NZLR 261, 263, para.18

99 ibid p.263 para 30 per McGregor J.

1. For this reason the Commissioner did not impose penal tax on Southern Cross Fisheries Limited
2. Refer back to earlier argument on p.29

The situation is that:

1. If the Commissioner prosecutes and fails to prove beyond reasonable doubt that the filing of the false return was wilful, and the Court finds that there was only negligent filing of a false return, the Commissioner considers he is estopped from imposing penal tax unless he has other facts he can rely on.¹
2. If the Commissioner does not prosecute, he merely has to establish the intention to evade on the balance of probabilities to impose penal tax which he may have been able to do in the above case.
3. If the Commissioner prosecutes and cannot prove the offence of wilfully filing false returns because of the rules of evidence, the question arises as to whether he is then estopped from imposing penal tax where the false returns are relied on to prove the offence under Section 420.

These difficulties are not as relevant in the case of smaller offenders, where proof of wilfulness is not as difficult or the fine on conviction for negligence is adequate to punish his offence. However, they are important in the case of the larger offenders and may mean that a larger evader escapes the penal tax provision.²

The Canadian provisions have to some extent eliminated this bias against the smaller evader by enabling the administration to impose penal tax where the filing of the false return has resulted from gross negligence. The administration can impose penal tax up to a rate of 25% of the amount of tax evaded where the false return results from gross negligence.

The penal tax rate in Canada is also varied to suit the seriousness of the offence, instead of there being a blanket rate as in New Zealand.

1 For this reason the Commissioner did not impose penal tax on Southern Cross Fisheries. Personal communication - Inland Revenue Department.

2 Refer back to earlier argument on p.29

e.g. for failure to file a return

5% of the amount taxable if under \$10,000 to a maximum of \$500.

- penalties for failure to supply information - 10%
- wilfully attempts to evade tax - 50%
- gross negligence when filing returns - 25% of the amount evaded

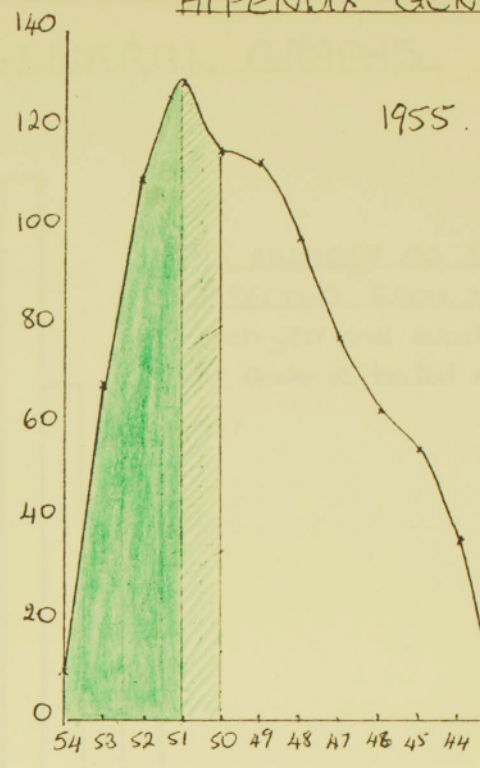
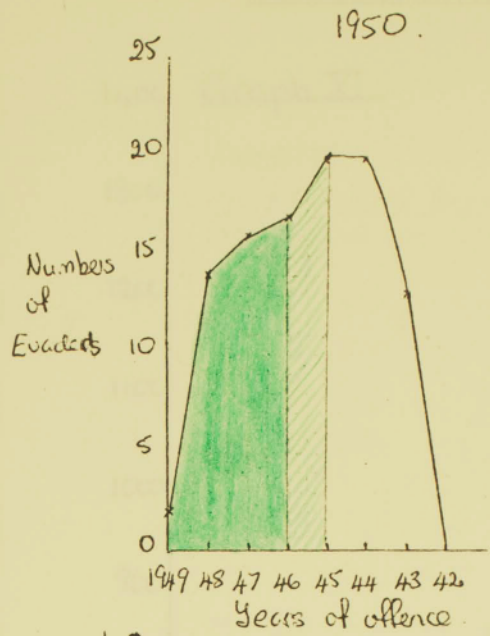
The size of the penalty for wilfully evading tax which can be imposed by the administration is much more limited than that in New Zealand, but penal tax can be imposed in a wider range of situations. New Zealand could possibly adopt a penal tax rate of up to 25% where the evasion has been the result of negligence. This would mean that cases of negligence could be dealt with administratively and a penalty could be imposed without the need for a conviction under Section 416 Income Tax Act 1976.

The New Zealand penal provisions have changed since their introduction to overcome difficulties in their enforcement and effectiveness but changes have been only peripheral.

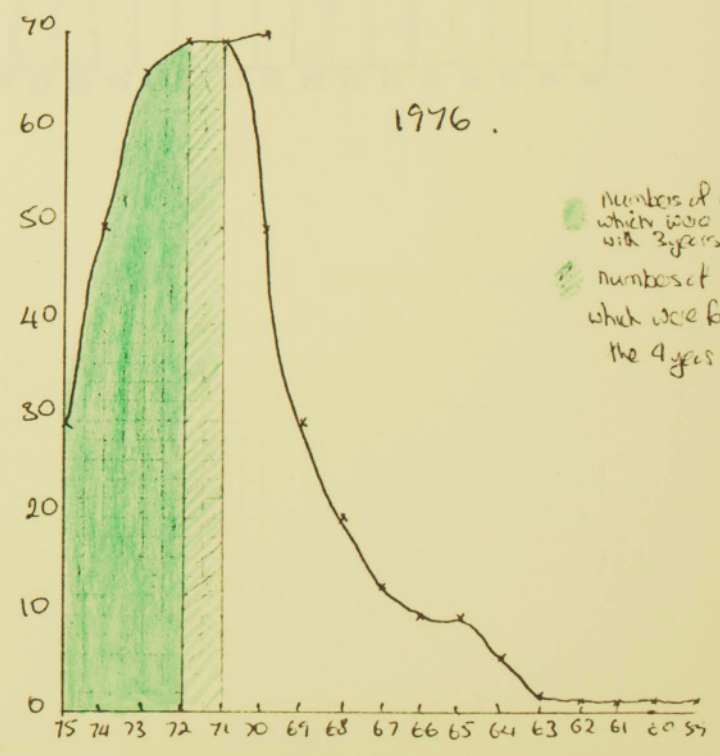
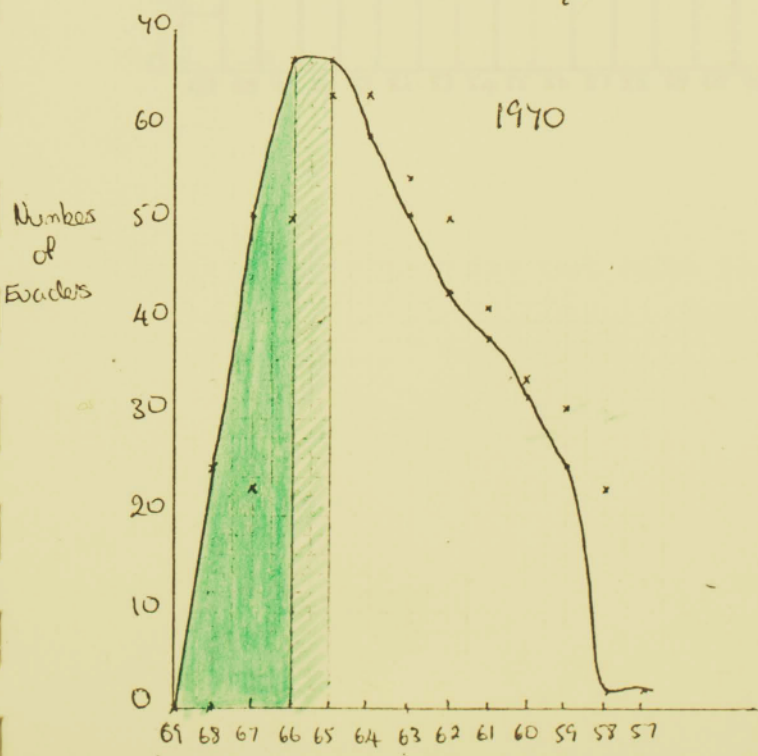
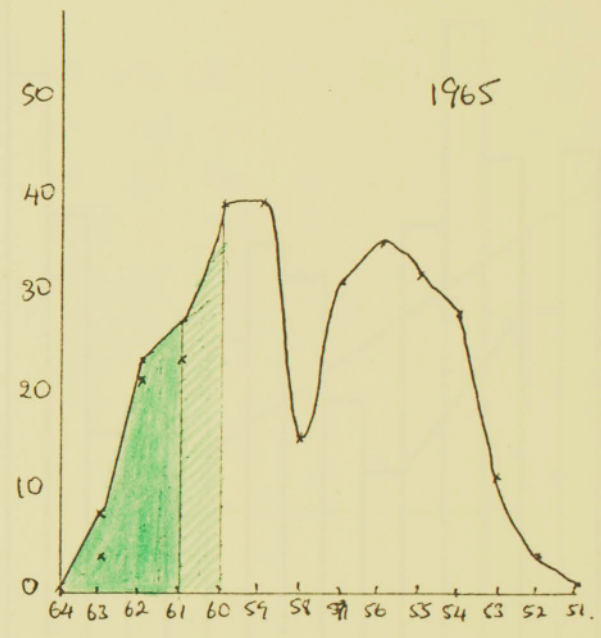
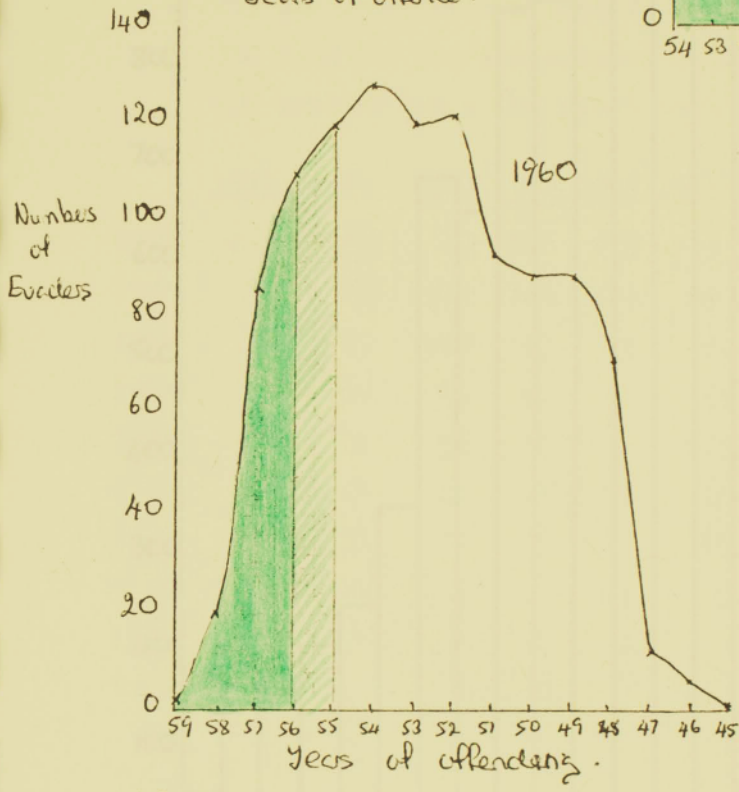
A change to a series of provisions similar to the Canadian ones would mean that penal tax would not be dependent on proof of intent to evade but could be imposed to some extent in cases of negligence. A criminal penalty would more adequately punish the larger evader and the bias against the smaller evader in the New Zealand tax evasion field would be lessened.

Changes in the penal provisions relating to tax evasion in New Zealand have been made piecemeal over a long period and have been so peripheral that there is a strong case for their complete overhaul.

Graph X



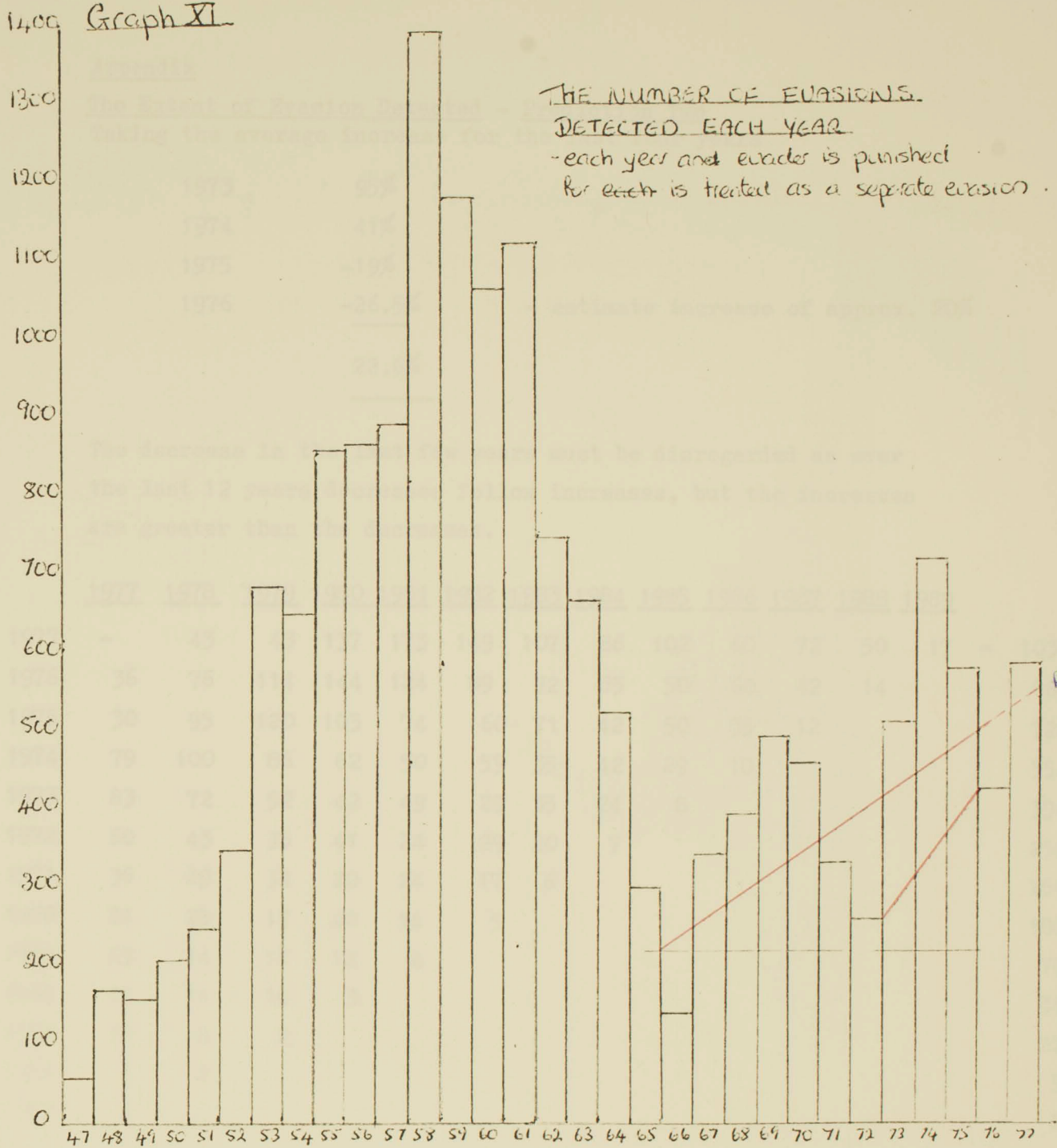
In Years of evading in the years in which the Evasion was detected.



Numbers of evaders which were free with 3 years.
 Numbers of evaders which were free the 4 years.

APPENDIX - GENERAL GRAPHS.

Graph XI



footnote 66
p21

Appendix

The Extent of Evasion Detected - Prediction Two

Taking the average increase for the last four years

1973	95%	
1974	41%	
1975	-19%	
1976	<u>-26.5%</u>	- estimate increase of approx. 20%
	<u>22.6%</u>	

The decrease in the last few years must be disregarded as over the last 12 years decreases follow increases, but the increases are greater than the decreases.

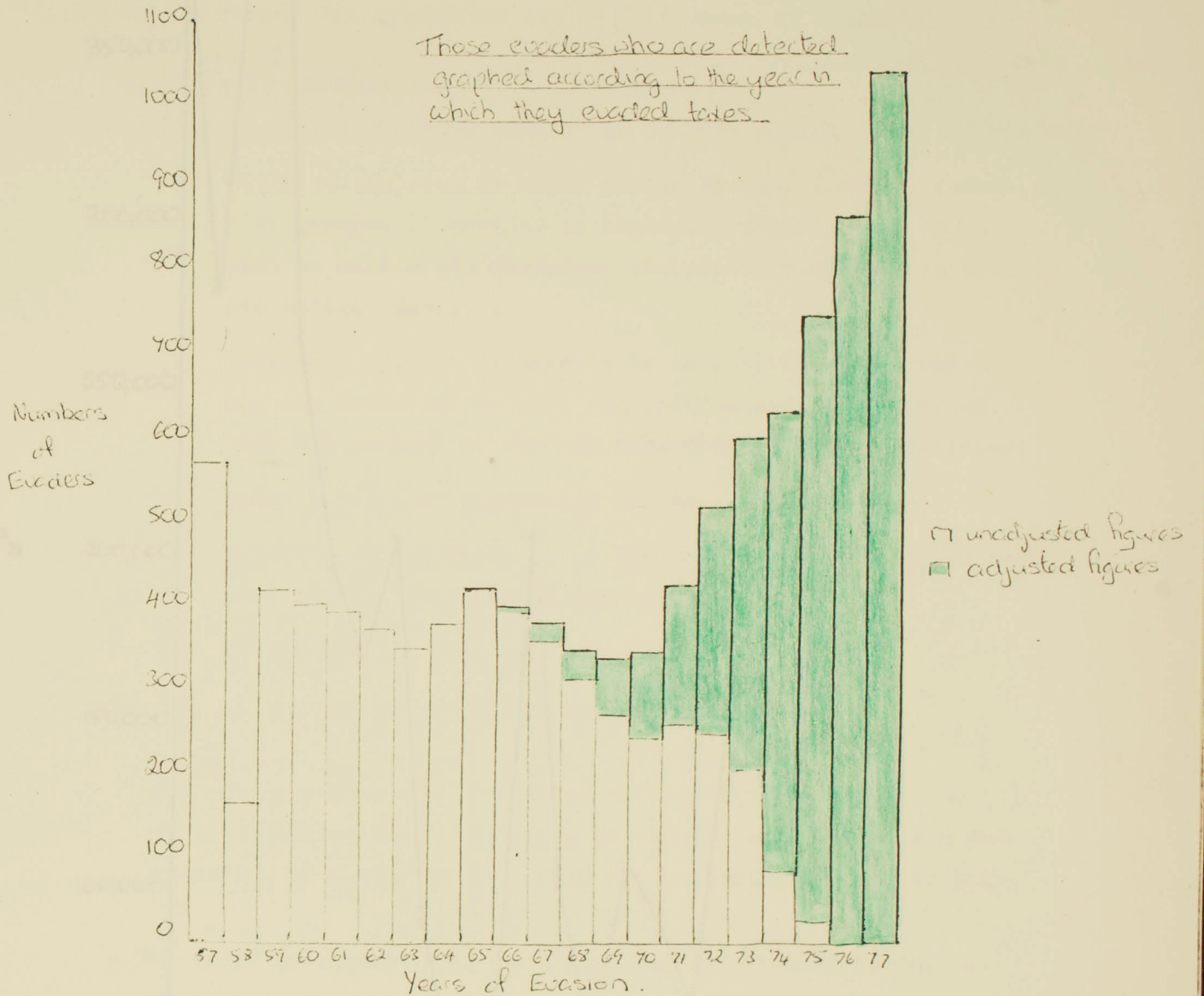
	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	
1977	-	43	43	137	173	149	107	86	102	60	72	50	17	= 1038
1976	36	76	114	144	124	89	72	85	50	60	42	14		866
1975	30	95	120	103	74	60	71	42	50	35	12			722
1974	79	100	86	62	50	59	35	42	29	10				552
1973	83	72	52	42	49	29	35	24	8					394
1972	60	43	35	41	24	29	20	7						259
1971	36	29	34	20	24	17	6							166
1970	24	28	17	20	14	5								108
1969	23	14	17	12	4									70
1968	12	14	10	3										39
1967	12	8	2											22
1966	7	2												9
1965	2													2

For the discussion in the text refer to p.21 and to Graph XI in the Appendix

Appendix

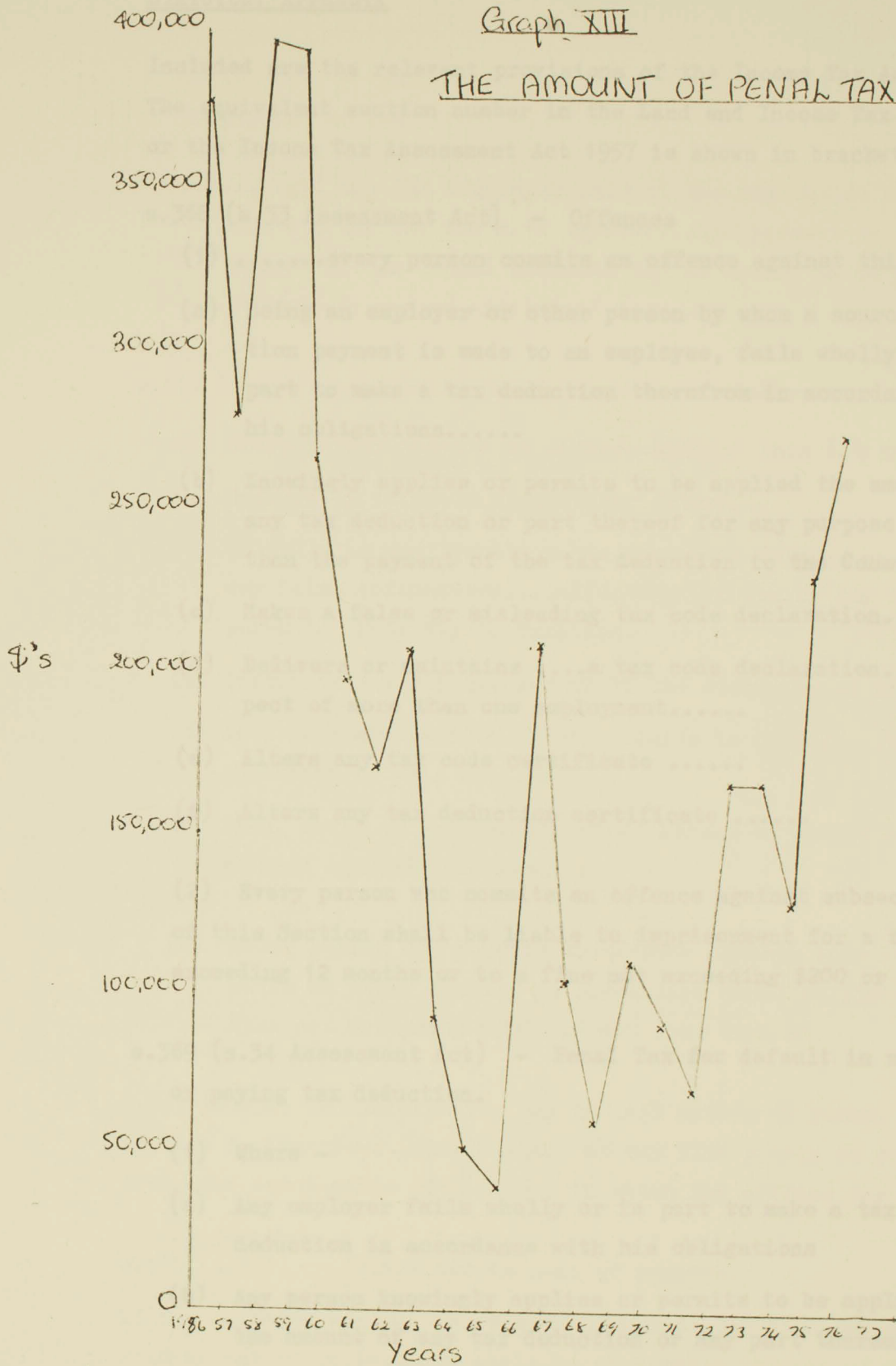
Graph XII

Those evaders who are detected graphed according to the year in which they evaded taxes.



Appendix

Graph XIII
THE AMOUNT OF PENAL TAX IMPOSED



STATUTORY APPENDIX

Included are the relevant provisions of the Income Tax Act 1976. The equivalent section number in the Land and Income Tax Act 1954 or the Income Tax Assessment Act 1957 is shown in brackets.

s.368 (s.33 Assessment Act) - Offences

- (1)every person commits an offence against this Act who -
 - (a) Being an employer or other person by whom a source deduction payment is made to an employee, fails wholly or in part to make a tax deduction therefrom in accordance with his obligations.....
 - (b) Knowingly applies or permits to be applied the amount of any tax deduction or part thereof for any purpose other than the payment of the tax deduction to the Commissioner;
 - (c) Makes a false or misleading tax code declaration.....
 - (d) Delivers or maintainsa tax code declaration....in respect of more than one employment.....
 - (e) Alters any tax code certificate
 - (f) Alters any tax deduction certificate

(2) Every person who commits an offence against subsection (1)(b) of this Section shall be liable to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$200 or to both.

s.369 (s.34 Assessment Act) - Penal Tax for default in making or paying tax deduction.

- (1) Where -
 - (a) Any employer fails wholly or in part to make a tax deduction in accordance with his obligations
 - (b) Any person knowingly applies or permits to be applied the amount of any tax deduction or any part thereof for any purpose other than the payment of the tax deduction to the Commissioner, -

that employer.....shall be chargeable by way of penalty, in addition to any other penalty to which he may be liable, with an additional amount (.....penal tax) not exceeding an amount equal to treble the amount in respect of which default has been made.

s.398 (s.208) - Additional Tax to be charged if default made in payment of tax.

- (1).....if any tax remains unpaid at the expiration of one month after the due date thereof....10 percent on the amount of tax unpaid shall be and be deemed to be added thereto by way of additional tax.....

s.416 (s.228) - Penalty for failure to furnish returns, etc.

- (1) Every person commits an offence against this Act who -
 - (a) Refuses or fails to furnish any return....
 - (b) Wilfully or negligently makes any false return, or gives any false information....affecting his own or any other person's liability to taxation.
 - (c) Obstructs any officer acting in the discharge of his duties....
 - (d) Acts in contravention of or....fails to comply....with any provision of this Act....
 - (e) Aids, abets or incites any other person to commit any offence against this Act,.....
- (2) Every person who commits an offence against this Act for which no other penalty is prescribed shall be liable to a fine not exceeding \$200 and not less than \$4

s.419 (s.230) - Information may be laid within 10 years.
....Any information....may be laid at any time within 10 years after the termination of the year in which the offence was committed.

s.420 (s.231) - Penal Tax in case of evasion.

If any taxpayer evades, or attempts to evade, or does any act with intent to evade....he shall be chargeable, by way of penalty for that offence, with additional tax (referred to as penal tax) not exceeding an amount equal to treble the amount of the deficient tax.

s.422(3) (s.233(3)) - It shall be lawful for the Commissioner to make or amend an assessment of penal tax (being an assessment which relates to deficient tax for the year of assessment that commenced on the 1st day of April 1958 or for any subsequent year) at any time.

s.423 (s.234) - Objections to penal tax

- (1) Any assessment of penal tax shall be subject...to objection on the ground that the person so assessed is not chargeable with penal tax, or on the ground that the amount so assessed is excessive...

Provided that, where the person so assessed is chargeable with penal tax, the amount of penal tax...shall not be reduced by a Taxation Review Authority or any Court below the smaller of the following amounts:

- (a) The amount of penal tax so assessed.
- (b) An amount calculated...at the rate of 10% per annum of the amount of the deficient tax.

s.426 (s.237) Recovery of penal tax not affected by conviction of taxpayer.

The assessment ... of penal tax ... shall not be ... affected by the fact that the taxpayer has been convicted under this Act ... but no person who has paid the penal tax assessed against him for any offence shall be thereafter convicted of the same offence.

s.427 (s.238) Publication of names of tax evaders

- (1) The Commissioner shall from time to time publish in the Gazette a list of persons who -
 - (a) Have been convicted under section 416(1)(b) of this Act of wilfully making any false return ...
 - (b) Have been convicted under section 416 of this Act of aiding, abetting, or inciting any other person to commit any offence referred to in paragraph (a) of this subsection;
 - (c) Have been charged with penal tax under section 369 or section 420 of this Act.

s.427(2) (s.238(2)) - The Commissioner may, in his discretion, omit from any list published under this section any reference to any taxpayer to whom subsection (1) of this section applies if the Commissioner is satisfied that, before any investigation or inquiry has been commenced in respect of the offence or evasion of which

the taxpayer is guilty, the taxpayer has voluntarily disclosed to the Commissioner ... complete information and full particulars as to the offence or evasion.

s.427(3) (s.238(3)) Every list published under this section shall specify -

- (a) The name, address and occupation or description of the taxpayer.
- (b) Such particulars of the offence or evasion as the Commissioner thinks fit.
- (c) The year or years in which the offence or evasion occurred.
- (d) The amount or estimated amount of the income not disclosed or of the tax evaded.
- (e) The amount (if any) of the penal tax imposed.

The amount is only the Net after tax liability
of the Corporation ... complete information and full particulars
as to the effect of section 44.

SECTION 44(2) says that payment under this section shall
be made:

- (a) The year, after and beginning on the first day of the
month;
- (b) Each particular of the effect or extent of the Cor-
poration's tax;
- (c) The year or years to which the effect or extent relates;
- (d) The amount or estimated amount of the income not assessed
or of the tax payable;
- (e) The amount (if any) of the period tax imposed.



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21-4-78	<i>[Signature]</i>
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7/9/79	<i>[Signature]</i>
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