

*1st December, 1948.*

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**PRESENT: —**

HIS EXCELLENCY THE GOVERNOR (SIR ALEXANDER WILLIAM GEORGE HERDER GRANTHAM, K.C.M.G.)

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

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

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

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

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

DR. HON. J. P. FEHILY, O.B.E. (Chairman, Urban Council).

DR. HON. G. H. THOMAS, O.B.E. (Acting Director of Medical Services).

HON. D. F. LANDALE.

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

HON. SIR MAN-KAM LO, KT., C.B.E.

HON. M. M. WATSON.

HON. P. S. CASSIDY.

MR. ALASTAIR TODD (Deputy Clerk of Councils)

**ABSENT: —**

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING THE TROOPS (MAJOR-GENERAL F. R. G. MATTHEWS, D. S. O.)

DR. HON. CHAU SIK-NIN.

HON. LEO D'ALMADA, K.C.

**MINUTES.**

The Minutes of the Meeting of the Council held on the 10th November, 1948, were confirmed.

**PAPERS.**

THE COLONIAL SECRETARY, by command of H.E. the Governor, laid upon the table the following papers: —

Annual Report of the Secretary for Chinese Affairs and of the Social Welfare Officer for the year 1947-48.

Annual Report of the General Manager, Kowloon Canton Railway, for the year 1947-48.

**ANNOUNCEMENT.**

THE FINANCIAL SECRETARY: —With Your Excellency's permission I rise to make an announcement in regard to the Debtor and Creditor (Occupation Period) Ordinance, 1948.

It will be recollected that this Ordinance was enacted on the 16<sup>th</sup> June and in the normal course the moratorium would have been lifted immediately afterwards. However, before the Bill had completed its passage through Legislative Council, a petition was presented on behalf of the Chinese Chamber of Commerce setting out their views in opposition to the enactment of this legislation. Later a further petition was submitted to the Secretary of State, containing an appeal to His Majesty to withhold his consent to the Ordinance.

Obviously once the moratorium had been lifted it could not have been reimposed, and it therefore became necessary to defer any action on the matter until these petitions had received full consideration, in case any fresh point arose which had not already been examined. In this connection the Chinese Chamber of Commerce arranged for their legal adviser to visit London in order that he could present their views in person to the Secretary of State's advisers. Inevitably all this resulted in a good deal of delay.

The points raised by the petitioners have now been very fully considered both in London and in Hong Kong and the Secretary of State has come to the conclusion that no case has been made out for the repeal of the Ordinance or for the amendment of the schedule thereto. In these circumstances Your Excellency, in Executive Council, has decided to issue an order amending Schedule I of the Law Amendment (Transitional Provisions) Ordinance, 1946, by the deletion of the item No. 6, the Moratorium Proclamation as amended by the Moratorium Amendment Proclamation and of all items whether originally contained in the schedule or subsequently added thereto which relate to the item in question. The effect of this Order is to repeal the Moratorium Proclamation and to lift the various restrictions therein contained. The Order will appear in a Gazette Extraordinary which is being issued this afternoon.

**QUESTIONS.**

HON. D. F. LANDALE asked the following question: —

"Will Government supply detailed figures of the cost of construction of the Leighton Hill flats? "

HON. V. KENNIFF replied as follows: —

As Head of the Department responsible for the erection of the blocks of flats at Leighton Hill, the construction of which seems to have aroused a certain amount of public interest, I am grateful for Your Excellency's permission to reply on behalf of Government to the question asked by the Hon. D. F. Landale.

The exact figures of the cost of construction of the two blocks of flats at Leighton Hill can only be given when the final accounts are settled. Certain payments are still due to the contractor, and the final costs of some imported fittings are not yet available. A reasonably close estimate of the final cost can, however, now be determined by the addition of the actual payments made to date, and the estimated cost of the outstanding charges. The figures given in this reply to the Hon. Member's question are presented on this basis.

2. In view of the interest displayed in certain quarters in matters such as the design, accommodation and cost of the Leighton Hill flats, advantage is now taken of the opportunity afforded to amplify the figures of cost by reviewing the reasons for building these blocks of flats, the accommodation they provide and the type of design adopted.

3. The Report of the Building Reconstruction Advisory Committee published on 9th April, 1946, recorded that some 70% of the western type residential accommodation which was occupied before the war was no longer available after the reoccupation of the Colony. Government quarters suffered equally with those of the rest of the community and it therefore became necessary to repair, where possible, or replace these pre-war buildings.

4. At the Leighton Hill site there existed before the war accommodation for 14 families of Government officers. These buildings had been completely wrecked. A committee, which included in its membership the Director of Building Rehabilitation, was appointed by Sir Mark Young in July, 1946, to make recommendations regarding the rebuilding or repair of all pre-war Government quarters, and reported as follows in regard to the Leighton Hill site: —

"These quarters are completely destroyed. It is an excellent site in spite of its approaches. The site should be cleared and developed with blocks of five storey flats housing about 50-60 families. Preliminary work should be started immediately since this is one of the sites on which most rapid action can be achieved".

5. The area of the site is approximately four acres, and in accordance with Government's policy of securing full development of all available building land, and in order to provide accommodation for the greatest number in the shortest time a scheme was prepared to erect on the site three blocks of flats. Detailed examination of the air raid tunnels known to exist under the site revealed that those on the south portion of the site had collapsed and were in a dangerous condition. Since plan to deal rapidly with the back filling of tunnels was not available it became necessary to omit the third block and concentrate on building the two blocks which have recently been completed. These provide accommodation for 26 families in place of the 14 families of pre-war days. The south part of the site having an area of about 1½ acres remains available for further future development when the tunnels have been filled, though it is unlikely that the foundations there will be suitable for buildings as high as the present block of flats.

6. In pursuance of the policy of housing the greatest number of persons, the flats were designed to provide accommodation for married families with children. There are 18 flats with three bedrooms and 8 flats with two bedrooms. In addition to the bedrooms, each flat has a dining room, sitting room, kitchen and servants' quarters. It will no doubt be conceded that such accommodation is not extravagant for normal living Conditions of a family. In order to economise on furniture, built-in cupboards have, where possible, been provided.

7. As the Public Works Department had no structural engineer on its staff, the services of a prominent consulting engineer were retained for the structural design of the buildings. The design which proved to be the most economical in the use of materials, which were in short supply, was adopted, after several alternatives had been examined. The answer to the criticism that the walls are unnecessarily thick is that the walls are designed as load bearing walls thus economising in the use of reinforcing steel.

8. After the preparation of the drawings, specification and bills of quantities were completed, competitive public tenders were invited for the erection of the buildings. Tenders were received from fourteen contractors. Their prices ranged from a little more than \$3 million to a little less than \$6 million. The lowest tender was accepted.

9. The figures of cost which were published in the press of 30th October, 1948, are substantially correct, in spite of them being described as "curious figures" in a subsequent newspaper editorial. It is quite true that the figures published do not include the value of the land on which the flats are built. The taxpayer has not to pay for that, and land values are never taken into account in calculating "building" costs. The figures however do include for all normal services, such as are found in any ordinary residence, e.g. water, electricity, etc.

10. The amount of \$3,800,000, which is a round figure, comprises the following item which as stated earlier in this reply are partly estimated: —

	\$
1. Access road including retaining wall .....	249,000.00
2. Surfacing, and drainage, to roads and compound	130,000.00
3. Site levelling .....	13,934.00
4. Sewers .....	10,800.00
5. Payments to main building contractor, and sub-contractors (including cost of materials supplied by Government) .....	2,858,505.00
6. Electrical installation and equipment .....	211,580.00
7. Lifts .....	153,840.00
8. Cost of steel shuttering for formwork .....	81,612.00
9. Turfing .....	30,000.00
10. Consultant's Fees .....	<u>68,980.00</u>
Total .....	<u>3,808,251.00</u>

11. As far as can be estimated from all available information this sum of \$3,808,251 represents the total outlay on providing the two blocks of 26 flats. It will however be appreciated that some of this expenditure could well form a fair charge against the further development of the remaining 1½ acres of land, for example, the cost of items, 1, 2, 3 and 4 should be so distributed. In like manner only portion of the cost of item 8 should form a charge against the Leighton Hill flats. This item may require some elucidation. It will be remembered, perhaps, that in 1946 and in the early part of 1947 when these buildings were being planned, there was an acute shortage of timber in the Colony, and in particular of the kind of timber used for formwork for reinforced concrete work. Having decided that reinforced concrete presented the most economical form of construction it was imperative to ensure that the necessary formwork would be available. All efforts to obtain timber were unfruitful, but some steel sheets were secured from Australia and steel formwork, which could be used many times over, was designed and made in the Public Works Department Workshops. Contractors when tendering were advised that this formwork would be available for their use. The same formwork is now being used in the construction of Queen's Gardens flats, and it is anticipated that it will be available for still further work after their completion. It is therefore considered that 26% of its cost would form a fair charge against the "building" costs of the Leighton Hill flats.

12. The cost per cubic foot of any building is merely an approximation used by builders for estimating purposes and depends

on a variety of factors, but since the question of this cost per cubic foot, in the case of the Leighton Hill flats, has caused some comment, the opportunity is taken of explaining how the official announcement of a cost of a little over \$2.00 per cubic foot was calculated.

13. Garages and "open" type buildings, such as factories, stores, etc., cost less per cubic foot than residential accommodation, so the cost of the garages should be kept separate from the cost of the main blocks of flats. The two blocks of garages contain 66,112 cubic feet. They cost \$41,227 to build and therefore the cost works out at slightly over 62 cents per cubic foot.

14. To determine the cost per cubic foot of the flats, the following are considered fair deductions from the total cost of \$3,808,251.

	\$
(a) Garages .....	= 41,227.00
(b) One third of the cost of items 1, 2, 3 & 4 of para. 10, viz. 1/3 of \$403,734 .....	= 134,578.00
(c) 74% of the cost of item 8 .....	= <u>60,893.00</u>
	<u>236,198.00</u>

The nett cost would therefore be as follows: —

Total cost .....	\$3,808,251.00
Less deductions .....	<u>236,198.00</u>
Nett cost .....	<u>\$3,572,053.00</u>

The two main blocks contain 1,393,256 cubic feet and the cost of 1,393,256 cubic feet at \$2.56 is \$3,572,053.00.

15. If the cost per cubic foot for building work only is required, the following items alone would be considered: —

1. Payments to main building contractor and sub-contractors, including cost of materials supplied by Government but omitting the cost of garages .....	\$2,817,278.00
2. Electrical installation and equipment .....	211,580.00
3. Lifts .....	<u>153,840.00</u>
Total .....	<u>\$3,182,698.00</u>

This total gives a price per cubic foot of \$2.28 for 1,393,256 cubic feet or as stated in the previously published statement a little over \$2.00 per cubic foot.

**MOTIONS.**

THE ATTORNEY GENERAL moved the following resolution: —

Resolved that notwithstanding the provisions of the Pensions Ordinance, 1932, and the payment of any pension thereunder in respect of the death caused by injury sustained in the discharge of their duty in the service of this Colony of the persons named in the First Column of the Schedule hereto, the payment of a gratuity to the dependant persons named in the Second Column of the Schedule hereto of the respective amount set out in the Third Column of the Schedule hereto be approved.

**SCHEDULE.**

<i>Column 1.</i>	<i>Column 2.</i>	<i>Column 3.</i>
Ngai Fo Ling	Lo Kan Mui	\$1,488.
Cheung Hang	Fan Po Chun	\$2,016.
Tam Yu	Wong Sze	\$1,404.
Yeung Fook	Cheung Mui	\$1,289.
Kwong Wo Shing	Lai Kwan	\$1,536.
Fung Ping Pui	Yip Ha	\$1,536.
Chan Kam	Ho Chun	\$1,512.

He said: —Sir, under the existing law, if an officer in the service of the Colony is killed in the course of his duty, his widow and children are entitled to the grant of a pension under Section 18 of the Pensions Ordinance, 1932, such pension not to exceed one-sixth of the deceased's emoluments or \$100 per annum whichever be the greater. In the case of an officer who is the holder of a pensionable office, his estate is also entitled to receive a gratuity not exceeding one year's pensionable emoluments. In the case of an officer not holding a pensionable office, a gratuity is only payable if such an officer had held a non-pensionable office for three years continuously before his death and even so, a gratuity that such a non-pensionable officer's estate can obtain would be a very small amount. Consequently, the dependants of a non-pensionable officer who has been killed while on duty, even on the revised salary scale, would receive an annual sum of a very small amount. For example, Sir, the dependants of a Water Police Engineer who was not a pensionable officer and who was killed in the course of his duty, having had over 20 years' service are entitled only to \$218 a year. It is considered that such a provision is wholly inadequate.

Sir, under the Workmen's Compensation Legislation, that is projected, there is a proposal to permit of an option for a gratuity of 30 months' salary or a pension computed on that figure instead of

a pension grantable under the Pensions Ordinance, but there are grave difficulties amending an existing legislation to provide accordingly prior to the enactment of the Workmen's Compensation Legislation in its entirety. Meanwhile, there are seven cases of persons holding non-pensionable offices who, during the past 2 years, have been killed on duty and whose dependants, at the present time, are receiving inadequate provision. In these circumstances, the alternative has been adopted in the cases of persons who have been killed on duty and who are non-pensionable, of treating each case on its merits.

It is as to these cases, seven in all, which appear in the Schedule to the Resolution before Council, that the Resolution is applicable. The Resolution is designed to give effect to awards in the form of gratuities regarded as appropriate and estimated on the basis of a gratuity equal to the deceased officer's gross salary at the time of his death. The gratuities forecast by the Resolution will be payable in addition to the small pensions which are at present payable by reason, as I have explained, of the applicability of Section 18 of the Pensions Ordinance to the cases of non-pensionable officers killed on duty.

Sir, I might add that, in the Bill which is under preparation to replace the Pensions Ordinance, 1932, provision has been inserted to provide for similar treatment to be accorded in the case of both pensionable and non-pensionable officers where they are killed on duty.

THE COLONIAL SECRETARY seconded, and the Motion was carried.

#### **NEW TERRITORIES (ADMINISTRATION) BILL, 1948.**

THE ATTORNEY GENERAL moved the First reading of a Bill intitled "An Ordinance to amend the New Territories Regulation Ordinance, 1910, to make better provision for the administration of the New Territories and for the style and functions of the officers charged with the administration thereof or with the administration therein of other provisions of law." He said: Your Excellency, the main objects of this Bill are summarised in paragraph 1 of the Objects and Reasons which have been appended to the Bill as now before Council. The first object, Sir, is to provide for a change of title with consequential result of the offices of District Officer New Territories and Assistant District Officer of the New Territories, their titles to be replaced respectively by the titles District Commissioner and District Officer.

Secondly, Sir, the preparation of the Bill brought to light that there has been inadvertently, a continuing breach, if I may say so, of the provisions of the Ordinance insofar as they are contained in sections 16 and 17 of the New Territories Regulation Ordinance. This section provides, Sir, that certain Land Offices shall be the proper offices to receive deeds for registration only where they have been declared to be so by an Order of the Governor in Council. In fact, such an Order was made as long ago as 1912, but in the interval the

practice has grown up as a matter of necessity and of administrative convenience for Land Offices to function in Ping Shan and at Kowloon instead of in Victoria in respect of land transactions in the New Territories. Thus it is necessary, and this Bill so provides in Clause 2(e) —to provide formal ratification of registration which has taken place in the two offices that I have mentioned as if, in fact, they were offices declared to be appropriate offices by the Order of the Governor in Council.

The third main objective, Sir, has been to enhance the jurisdiction given to the District Commissioner and District Officers as Land Officers in the settlement of land disputes and the Bill provides for the raising of the monetary limits of jurisdiction which are inserted in the existing New Territories Regulation Ordinance.

Finally, Sir, the Bill provides for an increase in the penalties that may be imposed for breaches of the rules which may be made under Section 6A of the New Territories Regulation Ordinance; rules, I may say, for the control of sanitation and other matters of health. It has been considered that with the change in the value of money, penalties previously allowed are inadequate.

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

### **Objects and Reasons.**

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

(a) to give effect to a change of style which has been adopted by officers administering the New Territories;

(b) to validate the registration of deeds and memorials of lands in the New Territories which have inadvertently been registered in contravention of the New Territories Regulation Ordinance, 1910; and

(c) to give greater jurisdiction to officers exercising the powers of a Land Officer in relation to disputes concerning land in the New Territories or about small debts.

2. Before the war the New Territories were administratively, and, to a certain extent, legally divided into the Northern and Southern Districts. Post-war the districts were administratively unified under a "District Officer, New Territories", who had under him Assistant District Officers. By March this year it was considered that the responsibilities discharged by the Assistant District Officers justified, in the cases of the officers personally concerned, a change to "District Officers", and these District Officers have been habitually addressed as "District Officer, Yuen Long", "District Officer, Tai Po", and "District Officer, South", to distinguish them from the Head of the Department. It is now considered logical, and in keeping with the practice in most other Colonies, that the Head of the Department should be styled "District Commissioner, New Territories". The present Bill, in Clauses 2(b), 3 and 4, gives effect to this intention.

3. Under section 16 of New Territories Regulation Ordinance, 1910, "the Governor in Council may by order establish one or more district land offices for the purposes of carrying out the provisions of this Ordinance, and may also define the districts into which the New Territories shall be divided for the purposes of this Ordinance, and the place where the office for each district (hereinafter called the appropriate office) shall be situate". Under section 17 "the registration of any deed, will or other instrument, or any judgment, order or *lis pendens*, in respect of or affecting land shall be made at the appropriate office for the district in which such land is situate and it shall not be lawful to register any such deed, will or other instrument, judgment, order or *lis pendens*, elsewhere than at the appropriate office". By order of the Governor in Council of the 27th September, 1912, two Districts, Northern and Southern, and two District Land Offices in Tai Po and Victoria, respectively, were established. Before the Pacific war a Land Office was, however, also operating at Ping Shan and since the war a District Land Office has been operating at Kowloon instead of Victoria. Neither Ping Shan nor Kowloon have been formally established as District Land Offices by the Governor in Council and it is accordingly necessary to validate registration effected there. [Clause 2 (c)].

4. Since the liberation of the Colony it has been found desirable in the interests of the public to receive memorials at a District Land Office even if that is not the Land Office in which registration is effected. Road building in the New Territories has altered the accessibility of certain centres and this process is not yet complete. It is accordingly expedient to maintain as flexible a system of land registration as is consistent with the maintenance of the registers affecting the same piece of land in one centre. This centre will be known as an appropriate New Territories Land Office and such offices will still have to be approved by the Governor in Council [Clause 2(f)]. By Clause 2 (g), however, a memorial of any deed, will or other instrument, or any judgment, order or *lis pendens*, may also be prepared and received in such places as the District Commissioner shall approve. They will then be forwarded for registration to the Appropriate New Territories Land Office.

5. By section 20 of the New Territories Regulation Ordinance, 1910, the Land Officer (which expression includes the District Commissioner and District Officers) is given power to determine land disputes in a summary manner.

If the claim is for arrears of rent his jurisdiction is excluded where the monthly rent exceeds five hundred dollars or the total claim exceeds fifteen hundred dollars. These limits are now too low and by Clause 2 (h) of the Bill it is proposed to substitute one thousand dollars and three thousand dollars respectively. If the dispute is in relation to another matter his jurisdiction is excluded if the capital value of the land exceeds five thousand dollars or the annual value exceeds five hundred dollars, but this jurisdiction may be enlarged by consent of the parties. Owing to the increase in land values the

jurisdiction apart from consent is considered too low and it is proposed by Clause 2 (*h*) to extend it by substituting ten thousand dollars and one thousand dollars respectively for the said amounts.

6. Under section 58 of the same Ordinance claims against a defendant residing in the New Territories may be dealt with by a magistrate specially appointed by the Governor if the claim does not exceed two hundred dollars, or, with consent of parties, if the claim does not exceed one thousand dollars. Here again it is proposed by Clause 2 (*i*) of the Bill to increase jurisdiction by substituting one thousand dollars and five thousand dollars respectively. Corresponding amendments are required to sections 59, 60, 61 and 65.

7. Rules made under section 6A of the New Territories Regulation Ordinance, 1910, are now of considerable public importance. It is accordingly desirable to increase penalties. This is effected by Clause 2 (*d*).

#### **ADJOURNMENT.**

H.E. THE GOVERNOR: —That concludes the business, Gentlemen. When is it your pleasure that we should meet again? Is fourteen days agreeable?

THE ATTORNEY GENERAL: —Yes, Sir, the 15th December.

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