

*22nd December, 1948.*

**PRESENT:** —

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

THE HONOURABLE THE OFFICER COMMANDING THE TROOPS (BRIGADIER ARTHUR DE BURGH MORRIS, D.S.O., O.B.E.)

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. I. NEWTON (Director of Medical Services).

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

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

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

DR. HON. CHAU SIK-NIN.

HON. LEO D'ALMADA, K.C.

HON. M. M. WATSON.

HON. P. S. CASSIDY.

MR. J. L. HAYWARD (Deputy Clerk of Councils).

**ABSENT:** —

HON. D. F. LANDALE.

**MINUTES.**

The Minutes of the meeting of the Council held on the 15th December, 1948, were confirmed.

**MOTIONS.**

THE ATTORNEY GENERAL moved the following resolution: —

Resolved pursuant to section 35 of the Landlord and Tenant Ordinance, 1947, that the duration of the said Ordinance be extended for the term of one year with effect from the 1st January, 1949.

He said: Sir, section 35 of the Landlord and Tenant Ordinance, 1947, restricted the duration of that Ordinance until 31st December, 1948, but by a proviso in that section power is given to this Council by resolution to extend the duration of the Ordinance for further terms not exceeding one year at a time. It is clear, Sir, that the necessity for the continuance of the Landlord and Tenant Ordinance exists, and it is therefore my duty to move this resolution which will have the effect of extending the life of the Landlord and Tenant Ordinance for another year from the 31st December, 1948.

THE COLONIAL SECRETARY seconded, and the Motion was carried.

THE ATTORNEY GENERAL moved: —

That the Rule made by His Honour the Chief Justice on the 14th December, 1948, under Section 32 of the Supreme Court Ordinance, 1873, Ordinance No. 3 of 1873, be approved.

He said: Sir, section 82 of the Supreme Court Ordinance empowers the Chief Justice to make rules *inter alia* governing the fees and costs of solicitors. The section, however, requires that the rules made by the Chief Justice shall be approved by this Council. The purpose of the rule made by the Chief Justice, of which a copy is attached to the Order of Business is to continue the authorised increase of 66 2/3% in the costs and fees solicitors may charge over the scale approved as at the 8th December, 1941. Such percentage increase was first approved by rules of 1946, maintained again by rules made last year, the increase in each case being made because it was necessary to take into account the fact of increased costs and expenses falling on solicitors in their practice. It has been represented to the Chief Justice this year that the situation as regards the costs and expenses of solicitors still obtains and that the increase of 66 2/3% over those approved in December, 1941 should continue for one year more, and the rule so provides.

THE COLONIAL SECRETARY seconded, and the Motion was carried.

**EDUCATION (AMENDMENT) (NO. 2) BILL, 1948.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance further to amend the Education Ordinance, 1913." He said: Sir, the Education Ordinance, 1913, the principal Ordinance, requires that no school shall be open or maintained in the Colony unless it is registered. The principal Ordinance also empowers the Director of Education to grant or refuse applications for registration of schools. All these powers, Sir, are exercisable subject to a right of appeal to the Governor in Council against the decision of the Director of Education. But the Ordinance does not clearly empower the Director of Education to grant or refuse permission to teach or, if individuals are on a register of teachers, to withdraw such teachers from the register. It is considered that the Ordinance should contain such power so as to ensure a necessary standard of competence and suitability amongst teachers in the Colony. The Bill before Council, Sir, by clause 5, so provides. The Bill also, consequentially, makes it an offence for a person who is not a registered teacher to teach in a school without prior permission of the Director of Education and a definition of registered teachers is included by Clause 2 of the Bill.

Sir, there is a further matter and that is that by section 19 of the principal Ordinance, there has long existed a further power of control, and that is a power which is, by that section, given to the Governor in Council. It is a power superimposed upon the powers given by the Ordinance to the Director of Education. Section 19 says "If it appears to the Governor in Council that any school is being conducted in such a manner as to be prejudicial to the interests of the Colony or of the public or of the pupils of such school, it shall be lawful for the Governor in Council to declare such school to be an "unlawful school" within the meaning of the Ordinance. That is a considerable power which has long been vested in the Governor in Council, but it is a power designed to be used where the conduct of a school, that is to say, the manner in which the school is carried on, calls for the special interference of the Governor in Council. But, Sir, there are schools in the Colony at the present time which are conducted with perfect decorum yet cannot be said to be conducted in the best interests of the Colony or of the public or of the pupils, because in such schools, few as there may be, in addition to teaching normal subjects, some such schools, or the managers of them or the individual teachers in them engage in political indoctrination. Sir, it is considered that where such indoctrination consists of the teaching of activity in politics (and I stress the word activity) which endangers either this Colony or endangers places outside of it in so far as maintenance of law and order is concerned, then it is considered there should be a power in the Ordinance to deal with the situation of that kind, either by the closing of the school or by the removal of a school manager or of an individual teacher according as the school or individual engages in such political indoctrination. I have, indicated that the provisions of section 19 of the principal Ordinance giving powers to the Governor in Council such as I have described do not suffice to deal with the situation. Accordingly, Sir, it is sought by clause 10 of the Bill now before Council to give powers to the Governor in Council to proceed to the removal from the register of a school or the removal

of a person from management or from teaching in cases where it appears to the Governor in Council necessary to take such action, in the words of the clause, because "it appears to the Governor in Council that it is prejudicial to the interests of the Colony or of the Commonwealth or of the public or of the pupils in any school". Clause 10, which seeks to introduce a new section as section 19(A) as I have said, is designed to give power to the Governor in Council and it also sets out how such powers shall be exercised. It will be seen that the section requires that if the Governor in Council contemplates action it shall call upon the Manager or individual, school manager or individual, affected to show cause why action should not be taken to put an end to his activity in running a school or in the case of a school itself, to put an end to the activities of a school. But it is also provided that where a person is called upon to show cause, he will be at liberty to appear in person before the Governor in Council to urge any representations he may desire to urge against that course of action. That, Sir, is the clause of main importance in this Bill which I move should be read a First time.

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: —

The Education Ordinance, 1913 (the principal Ordinance) requires that no school shall be opened or maintained in the Colony unless it is registered. The principal Ordinance also empowers (section 8) the Director of Education to grant or refuse applications for registration and to strike a school off the register and gives an appeal to the Governor in Council against decisions by the Director of Education to refuse or strike off the register. (Sections 16, 17 and 18),

2. The principal Ordinance does not, however, clearly give power to the Director to grant, refuse or withdraw permission to individuals to teach in schools registered in manner above described. It is considered that the Ordinance should contain such power so as to ensure that a necessary standard of competence and general suitability of teachers is maintained. Clause 5 of this Bill so provides. In the event of decision by the Director to refuse or withdraw permission to teach, a person aggrieved is given a right of appeal to the Governor in Council under sections 16 and 18 of the principal Ordinance.

3. Consequentially upon the giving of power to the Director of Education to grant, refuse or withdraw permission to teach, provision is included in the Bill (clause 4) making it an offence, except in the case of a person on the Register of Teachers, to teach in any school without express permission from the Director of Education and an offence for a manager to employ a teacher who has not obtained permission.

4. The decision of the Director of Education to refuse registration (section 8) or, upon the enactment of clause 5 of this Bill, to refuse or withdraw permission to teach would be founded wholly on educational considerations. However, the period between the two World Wars has shown the evils which result from the introduction of political indoctrination into education. This tendency has persisted in the world since the close of the last war and it is the case that within recent years schools have become established in the Colony which, while including normal courses of education, have to a greater or less degree, become centres for political indoctrination whereby incentive or training is given for activity entailing risk of disorder in this Colony or actual disorder elsewhere, as for instance in Malaya.

5. In these circumstances it is considered that the principal Ordinance should include power to refuse or cancel registration of a school or refuse recognition of a manager or teacher, engaging in such indoctrination. Clause 10 of the Bill so provides.

6. Clause 2 of the Bill inserts a definition of the term Register of Teachers and provides for amendment of the definition of inspector (of schools) and consequentially clauses 8 and 9 provide for amendments of sections 11 and 12 of the principal Ordinance.

### **HONG KONG DEFENCE FORCE BILL, 1948.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to provide for the establishment of the Hong Kong Defence Force."

THE COLONIAL SECRETARY seconded.

HON. SIR MAN-KAM LO: —Your Excellency, this Bill is a tragic instance of the frustration of human hopes and human aspirations. All who went through the second World War, whether as combatants or civilians, were sustained by the high hope that as its result there would at last be real peace in our time. And how bitterly disappointing is the result! And so, before even the Peace Treaties have been signed, we in this tiny Colony have to talk about the creation of a Defence Force. It is not, however, my purpose to indulge in vain regrets. We have to face the situation as it exists, and in view of this situation, I have no hesitation in giving full support to this Bill.

It has been suggested that instead of having a Defence Force as contemplated by the Bill, involving such great capital expenditure and heavy recurrent expenses, the true needs of the Colony could be met at a fraction of the cost of the Defence Force by the formation of a Special Police Force, the members of which could be trained in the use of arms of all types, and which would be available for duty the year round as an adjunct to the Regular Force.

You, Sir, and the Attorney General have referred to the lengthy consultation, both in London and in Hong Kong, and between all the Services, and have stated that the present scheme is the result of

such consultation. It is inconceivable to me, as a mere citizen, that such an alternative to a Defence Force could not have been considered and found wanting. I accept the scheme now presented to this Council as one evolved by those responsible for the overall defence of the Colony and as being essential for Hong Kong.

There can be no doubt that complaints by those who in December, 1941 responded to the Colony's call, and by the dependents of those who gave up their lives in the defence of the Colony—of unfair and discriminating treatment and indifferent concern for their families—are justified. As I understand the Bill, its provisions are an earnest attempt to secure that such complaints shall not arise in the future. I can definitely say that the Finance Committee of this Council has never been slow or hesitant by its financial votes, to remove or mitigate these complaints. And it is because I am convinced that Government is aware of these complaints and seeks their removal through the instrumentality of this Bill that I give it my ready support.

Sir, for us, as for so many parts of the world, the future is shrouded by uncertainty and may be menaced by danger. In this situation, and on this issue, I hope the Colony will be united in support of this Bill. I plead for this unity, for a resolute unity is itself a shield to danger. And if trouble does come to us, let us at least have the satisfaction of having a clear conscience that we have done everything in our power to help and nothing to hinder the Colony in getting prepared for any trouble. (Applause.)

HON. P. S. CASSIDY: —Sir, I feel we would all share the sentiments of my Honourable Friend who has just sat down, and so far as I am concerned, I agree with him that an enlarged Police Reserve is no substitute for a Defence Force as suggested by this Ordinance, but I should like to add a comment or two from, perhaps, another angle.

I quite appreciate the reason why this Bill is being dealt with as an urgent matter but it has given us little time for real consideration. I do not, however, intend to delay its passage nor can I put forward any concrete suggestion for its amendment. What I do ask for is that full consideration be given by Government to the question of whether the scheme fits the requirements of today. In this connection I commend to my Honourable Friend a letter which appeared in yesterday's newspaper raising certain points which should not be ignored.

As Mr. Winston Churchill has pointed out it is a British failing that when preparations for war are made they are invariably preparations for the last war. Some of us who were here in December, 1941 have the feeling that the defensive measures of that period may not be applicable to this age of the atom bomb. The scheme which this Bill envisages may have been carefully worked out by the experts, but however distinguished these experts may be, I doubt whether they consulted any of the permanent residents of this Colony. My faith in experts is not as profound as that of my Honourable Friend.

A big share of the defence of the Colony will rest upon the shoulders of the younger men from overseas many of whom have had experience of what war really means. Those of us who are employers of labour will be expected to encourage our young men to join the Defence Force, but we may have some very awkward questions to answer unless we know more about the Government's plans. I do appeal to Government to try and secure the goodwill of your potential volunteers, not only those from overseas but also your Hong Kong boys, many of whom played a magnificent part in the hectic days of 1941. I suggest that one or two meetings might be held behind closed doors with service commanders and senior civil servants to explain the plans which Government has in mind and to invite a frank discussion. What I have in mind is the recruiting campaign of Your Excellency's predecessor Sir Henry May over 36 years ago when I seem to remember that he had a meeting of civil servants in Government House and I know he had a meeting of the Hong Kong Bank staff in the Board Room of the old bank. No doubt the Colonial Secretary would be pleased to accept the invitation of the Hong Kong Cricket Club to address their members on the subject. But I do think that it is essential that the young men of to-day should be treated as adults and not as too young to be told. If this Colony is worth defending the men and women of the Colony should be told how it can be defended and how Government proposes to deal with members of Essential Services as well as with men of the key post group who were overlooked on the last occasion. I am extremely sceptical about the need of a bait such as recreational facilities. I can cast my mind back to my own volunteering days and I might say that we were rather glad to get rid of the military atmosphere after the parade was over and seek the refuge of our own clubs. I am equally apprehensive about this Council being asked to vote large sums on munitions which might not be suitable to our needs. I also think that if there is to be a cultural centre the community should come first and not merely the volunteers as such. If I had had time to get a wider range of views I might have had other comments to make. But I think I have said enough to support my plea for consultation with those whose services are sought.

THE COLONIAL SECRETARY: — Sir, with your permission I rise to associate the Government's side with the sentiments expressed in the eloquent speech of my Honourable Friend Sir Man-kam Lo, and at the same time I would like to make a few general observations very briefly on the remarks of my Honourable Friend Mr. Cassidy.

My Honourable Friend has asked, in the first place, for an assurance that full consideration has been given by Government to the general question of whether the scheme which is enshrined in this Bill fits the present day circumstances. I can give that assurance without reservation, but I would remind my Honourable Friend that this scheme is not solely designed for the present day. The Bill as it at present stands contains a long term plan for the reorganisation of all volunteer services in the Colony. The preparations required to bring us to the point where we can have that Bill in front of this Council began, in a sense, and for the reasons which my Honourable

Friend Sir Man-kam Lo has expressed, as soon as we returned to the Colony after the Japanese occupation, but the active preparation of this Bill has been in progress for 18 months, and I can assure members that all the expert advice open to us, locally and at home, has been fully consulted. The scheme now before Council in this Bill is devised to take care of the defence of the Colony in its broadest sense, including internal security. It is not, of course, aimed at any particular enemy, but it is devised in fulfilment of responsibilities which have lain on organised communities since history began.

My Honourable Friend Mr. Cassidy made an earnest plea that we should take into our full confidence particularly the young men who will be members of the reorganised Defence Force. This implies that we have some secrets and so I assure this Council that on this issue we have no secrets. The whole plan was disclosed in its full outline by Your Excellency at the last meeting of this Council. Many of the details, of course, have yet to be finally decided—worked out, discussed and decided—but, by and large, we have nothing on the whole plan to hide, and less to withhold from intending members.

My Honourable Friend has referred to the recreational facilities and there has been in the newspapers a certain amount of talk and reference to what is called "bait". I would like to take this opportunity to reiterate what you, Sir, said at the last meeting that the facilities which were sketched in the First reading of this Bill are not bait. They represent a recognition by the community of its responsibilities to its own army. What is offered now brings Hong Kong's own army into line with what is done for other armies. I need not remind Council of the important part which welfare activities occupy in modern armies. I do not think that, pre-war, this Colony ever quite gave an unreserved recognition to its responsibility to the volunteer. These facilities then are not a bait, but they are a due. Stated in a nutshell you may say that if a body of men bind themselves by solemn oath to fight and if necessary to die for their community, that community has a moral duty to offer them the very best it has. Before I sit down, Sir, I would like to define very briefly, in case there should be any misconception, the role which the volunteers are designed to play. It can be stated in one sentence. The role of the volunteers is to guard internal security, to support the Police on need and if necessary and if required to support the Army. (Applause).

THE ATTORNEY GENERAL: —Sir, as the introducer of this Bill I am left, on the Second reading, in a happy position of being excused from winding up the debate, because my Honourable Friend, the Colonial Secretary, has, I think, so adequately dealt with the points raised by the Honourable Members who spoke before him. I therefore, Sir, formally move again that the Bill be read a Second time.

The Bill was read a Second time.

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



## Clause 5.

THE ATTORNEY GENERAL: —Sir, I rise to move the deletion of the words "in-Charge" in the third line of clause 5(2)(a) and also in this clause 5(2)(b) & (d) the insertion of the words "or other" between the words "General" and "Officer Commanding" in the third line; in clause 5(2)(e) the insertion of the word "the" before the words "Hong Kong" in the first and second lines.

The necessity for these amendments was due to the fact that it is now clear that the title of the Naval Commodore in Hong Kong is "Commodore" and not "Commodore-in-Charge", and again the second amendment affected the title of the General Officer Commanding as to provide for a situation where there is not in fact a General in command of the Land Forces in Hong Kong.

This was agreed to.

## Clause 8.

THE ATTORNEY GENERAL: —Sir, I rise to move in this clause the deletion of the words "that if the most senior officer of the Force is senior in rank to the most senior officer of His Majesty's regular forces the firstly mentioned officer shall have command of His Majesty's regular forces as well as of the officers and volunteers of the Force." and the substitution therefor of the words "the seniority of officers of the Force in relation to officers of His Majesty's regular forces shall be governed by the appropriate King's Regulations."

Sir, on last minute consideration of this clause it was considered that the wording now proposed is a simplification of the section in that it makes clearer what the section deals with, and that is the relative seniority of officers of the Force and officers of the regular forces.

This was agreed to.

## Clause 15.

THE ATTORNEY GENERAL: —Sir, I rise to move the deletion of the words "his unit" in the second and third lines and the substitution therefor of the words "their units".

This is to correct a grammatical error.

This was agreed to.

## Clause 16.

THE ATTORNEY GENERAL: —Sir, in this clause 16(2) I move the deletion of the words "by illness" in the fourth line and the insertion of the words "illness caused" before the words "or aggravated" in the sixth line. In clause 16(3) I move the addition of the words "and accepted by him as such" between the word "Commandant" and the comma in the third line; and the deletion of the words "by illness" in the fourth and fifth lines and the insertion

of the words "illness caused" before the words "or aggravated" in the sixth line. In clause 16(4) I move the deletion of the words "by illness" in the fourth line and the insertion of the words "illness caused" before the words "or aggravated" in the sixth line.

These amendments are really necessary for, again, grammatical reasons. The section, particularly clause 16(3) as it read, had the effect of referring to the aggravation of death.

This was agreed to.

Clause 18.

THE ATTORNEY GENERAL: —Sir, I move the insertion of a marginal note to read "Welfare Fund", and I also move that in clause 18(2)(a) there be inserted the words "ordered to be" before the word "forfeited" in the second line.

This was agreed to.

Clause 21.

THE ATTORNEY GENERAL: —Sir, in this clause I move the insertion of the word "for" before the word "duty" in the marginal note for grammatical reasons.

This was agreed to.

Clause 26.

THE ATTORNEY GENERAL: —Sir, I move the deletion of the words "officer or volunteer, or any other", in the 'first line.

This amendment is to remove some ambiguity in the clause as it reads at present.

This was agreed to.

Clause 36.

THE ATTORNEY GENERAL: —Sir, I move in this clause the insertion of the word "and" before the words "the Naval Volunteer and" in the first line.

This was agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Hong Kong Defence Force Bill, 1948 had passed through Committee with some 13 amendments, and moved the Third reading.

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

**VICAR APOSTOLIC INCORPORATION (CHANGE OF NAME)  
AMENDMENT BILL, 1948.**

HON. LEO D'ALMADA moved the Second reading of a Bill intituled "An Ordinance to amend the Vicar Apostolic Incorporation Ordinance, 1885."

HON. P. S. CASSIDY seconded, and the Bill was read a Second time.

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

Clause 2.

HON. LEO D'ALMADA: —Sir, I move an amendment notice of which I gave to Council at the First reading of this Bill, that amendment being that the words "Catholic Bishop of Hong Kong" in the fifth and sixth lines be replaced by the words "Bishop of the Roman Catholic Church in Hong Kong."

This was agreed to.

Clause 3.

HON. LEO D'ALMADA: —Sir, there is another amendment here which I have to move and that is the second word in the new section 4 be amended to read "in" instead of "is". This is a printers' error.

This was agreed to.

Council then resumed.

HON. LEO D'ALMADA reported that the Vicar Apostolic Incorporation (Change of Name) Amendment Bill, 1948, had passed through Committee with two amendments and moved the Third reading.

HON. P. S. CASSIDY seconded, and the Bill was read a Third time and passed into law.

**ADJOURNMENT.**

H.E. THE GOVERNOR: — That concludes the Agenda, Gentlemen. Council will adjourn to this day week.