

OFFICIAL REPORT OF PROCEEDINGS.**Meeting of 9th September, 1953.**

PRESENT:

HIS EXCELLENCY THE GOVERNOR

SIR ALEXANDER WILLIAM GEORGE HERDER GRANTHAM, G.C.M.G.

THE HONOURABLE THE COLONIAL SECRETARY

MR. RONALD RUSKIN TODD, *Acting*.

THE HONOURABLE THE ATTORNEY GENERAL

MR. ARTHUR RIDEHALGH, Q.C.

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS

MR. BRIAN CHARLES KEITH HAWKINS, C.M.G., O.B.E., *Acting*.

THE HONOURABLE THE FINANCIAL SECRETARY

MR. JOHN JAMES COWPERTHWAITTE, *Acting*.

THE HONOURABLE DOUGLAS JAMES SMYTH CROZIER

(Director of Education).

THE HONOURABLE KENNETH MYER ARTHUR BARNETT, E.D.

(Director of Urban Services).

THE HONOURABLE ALEXANDER PROVAN WEIR

(Acting Director of Public Works)'.

THE HONOURABLE CEDRIC BLAKER, M.C., E.D.

THE HONOURABLE CHARLES EDWARD MICHAEL TERRY.

THE HONOURABLE LO MAN WAI, O.B.E.

THE HONOURABLE DHUN JEHANGIR RUTTONJEE.

THE HONOURABLE KWOK CHAN, O.B.E.

DR. THE HONOURABLE ALBERTO MARIA RODRIGUES, M.B.E.

MR. RONALD THOMPSON *(Deputy Clerk of Councils)*.**ABSENT:**

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

MAJOR-GENERAL RALPH CYRIL CRUDDAS, C.B., D.S.O.

DR. THE HONOURABLE JAMES MALCOLM LISTON

(Acting Director of Medical and Health Services).

DR. THE HONOURABLE CHAU SIK-NIN, C.B.E.

THE HONOURABLE NGAN SHING-KWAN.

MINUTES.

The Minutes of the meeting of the Council held on 26th August, 1953, were confirmed.

PAPERS.

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

<i>Subject</i>	<i>G.N. No.</i>
The Public Health (Food) Ordinance, Chapter 140.	
The Disease Prevention (Food and Drinks) (Amendment) By-laws, 1953.	A. 118
The Emergency (Requisition) Regulations, 1949.	
The Emergency (Requisition) (Use of Land by Her Majesty's Military Forces) (Amendment) (No.2) Order, 1953.	A. 120
The Defence (Finance) Regulations, 1940.	
The Possession of Gold (Goldsmiths) (Amendment) (No. 8) Order, 1953.	A. 121
The Public Health (Animals and Birds) Ordinance, Chapter 139.	
Order Prohibiting Import of Cattle from Cambodia.	A. 122

HONGKONG AND SHANGHAI BANKING CORPORATION**(AMENDMENT) BILL, 1953.**

THE FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to amend the Hongkong and Shanghai Banking Corporation Ordinance (Chapter 70)". He said: Sir, the purpose of this Bill is fully explained in the Objects and Reasons attached to it, and I do not think I need add anything further.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons.

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

As an incidental part of the steps taken in 1946 to impart legal status to the bank notes issued during the Japanese occupation, the amount which was specified in section 11 of The Hongkong and Shanghai Banking- Corporation Ordinance (Chapter 70) as the maximum value of notes which could be issued by the Bank against a specified deposit of securities with the Crown Agents was increased from thirty million dollars to forty-six million dollars. This additional fiduciary issue has now been covered by certificates of indebtedness issued under the Exchange Fund Ordinance in accordance with the authority given contemporaneously for that purpose in 1946 by the Bank Notes and Certificates of Indebtedness Ordinance (Chapter 247), which Ordinance therefore now becomes a dead letter, and it only remains to reduce the fiduciary issue of the Bank to the previously ruling figure of thirty million dollars.

2. This purpose is effected by amendment of section 11(1) of the Ordinance relating to the Bank, and by a consequential amendment of subsection (3) of the same section.

FIRE AND MARINE INSURANCE COMPANIES DEPOSIT**(AMENDMENT) BILL, 1953.**

THE FINANCIAL SECRETARY moved the Second reading of a Bill intituled “An Ordinance to amend the Fire and Marine Insurance Companies Deposit Ordinance, Chapter 34”.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Second time.

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

Clauses 1 to 3 were agreed to.

Council then resumed.

THE FINANCIAL SECRETARY reported that the Fire and Marine Insurance Companies Deposit (Amendment) Bill, 1953 had passed through Committee without amendment, and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

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

LIFE INSURANCE COMPANIES (AMENDMENT) BILL, 1953.

THE FINANCIAL SECRETARY moved the Second reading of a Bill intituled “An Ordinance to amend the Life Insurance Companies Ordinance, Chapter 36”.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a Second time.

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

Clauses 1 to 4 were agreed to.

Council then resumed.

THE FINANCIAL SECRETARY reported that the Life Insurance Companies (Amendment) Bill, 1953 had passed through Committee without amendment, and moved the Third reading.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

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

WORKMEN’S COMPENSATION BILL, 1953.

THE SECRETARY FOR CHINESE AFFAIRS moved the Second reading of a Bill intituled “An Ordinance to provide for the payment of compensation to workmen who are injured in the course of their employment”.

THE COLONIAL SECRETARY seconded.

HON. C. E. M. TERRY:—Sir, I should like to associate myself with the compliments paid by the Honourable Acting Secretary, for Chinese Affairs to those responsible for the framing of this Bill, which has entailed so much careful research and meticulous revision of detail on the part of all those concerned with it.

There is one omission, however, among those mentioned which I should like to remedy. He quite rightly paid a tribute to the Acting Commissioner of Labour, and I think this tribute should be extended to include my honourable friend's *alter ego*, the Commissioner of Labour himself. Many smiths have had a hand in the forging of this Bill, Sir, and I know they will all agree with me that it was the tap of the master-smith's hammer, wielded by Mr. Hawkins himself, which produced the shape so ably presented at the first reading before this Council.

The main principles of the Bill contain nothing controversial; in fact, as my honourable friend has said, there are many employers in the Colony who are already voluntarily paying compensation on a scale more generous than the legal minimum provided in this Bill. But there are two clauses contained in the Bill, Sir, with which I find myself unable to agree, and which I think require reconsideration. Section 16 makes provision for agreement in writing between the employer and the workmen as to the compensation to be paid, subject to certain safeguards. Such a provision, I think, is quite right and proper, but the wording of this section seems to me to imply that no such agreement can be implemented until the approval of the Commissioner of Labour thereto has been given. In his opening remarks my honourable friend said: "From the beginning it has been an aim of policy to keep the machinery for claiming and recovering compensation as simple as possible". The wording of this Section seems to me to defeat that object, and if applied as it now stands I feel certain that it will result in administrative delays in the receipt of compensation by workmen fully entitled to it, and which the employer is perfectly willing to pay. I therefore suggest that the prior approval of the Commissioner of Labour should not be required before payments are made under such agreements. To prevent abuse, and to protect the interests of the workmen, it is obviously necessary that any such agreement should be registered with the Commissioner of Labour, and no responsible employer will object to such registration. In my opinion this Section should be re-worded to provide for registration of all such agreements, power being given to the Commissioner of Labour to institute inquiries where necessary, and to intervene in any case where he considers the implementation of the agreement contrary to the interests of the worker. I feel sure that my honourable friend, knowing as he does the administrative difficulties which he is bound to encounter in the application of this Ordinance will see

my point, and I hope that Government will find it possible to amend this Section in such a way as to make it more workable for everybody concerned.

My second objection, Sir, is one of principle. Section 33 of the Bill gives power to the Governor in Council to amend by Regulation the First Schedule to the Ordinance. On several occasions in the past objection has been voiced in this Council to government by Regulation rather than by Legislation; I myself am strongly opposed to interference with normal legislative process unless the circumstances are such that it is clearly necessary in the public interest, as has unfortunately been the case on occasions of emergency legislation over the past few years. There can of course be no objection to powers being taken to make regulations for the administrative carrying out of any legislation, such as the prescribing of procedure, forms and fees, and similar matters which are contained in Sections 32 and 35 of the Bill now before us. The Schedules to this Ordinance, however, form an integral part of the Bill itself; without them the legislation it seeks to enact is valueless, and I submit that any amendment to these Schedules is in fact an amendment to the Ordinance.

It has been definitely stated that it will be an aim of policy of the Government to remove the restrictive element in the definition of workmen as specified in the First Schedule. I fully appreciate the reasons for that policy, and I can see that it may well be a matter of administrative convenience to amend the Schedule by Regulation rather than by Legislation. I do not consider that administrative convenience is sufficient justification for the introduction of a clause which, in my opinion, violates a fundamental principal, nor can I see any undue hardship being occasioned through any delay in adding a particular type of employment to the Schedule by the normal process of law. I strongly urge, therefore, the deletion of this Section from the Bill.

When this Bill was introduced, it was referred to as “a landmark in the history of social legislation in Hong Kong”. With that statement I entirely agree, and it is important that its scope should be fully appreciated by all those affected. In view of the misrepresentations of the Aims and Objects of the Bill which have from time to time appeared in the Chinese Press, it may not be out of place if I take this opportunity to stress the fact that it is not an Unemployment Insurance Bill, neither does it seek to make

provision for pensions or other similar benefits. It provides solely, as is clearly set out in the title, "for the payment of compensation to workmen who are injured in the course of their employment". Because, Sir, (again I quote the honourable member in charge of the Bill) because "the basis of the Bill is social justice" and because in fact major employers in the Colony have for many years accepted voluntarily the responsibilities which the Bill now seeks to make Law, I assure my honourable friend of the full co-operation of the Employers' Federation of Hong Kong in endeavouring to secure a smooth working of the law and the amicable eradication of any teething troubles which are associated with its introduction.

THE SECRETARY FOR CHINESE AFFAIRS:—Your Excellency, Government is greatly indebted to the Honourable Member for his valuable and constructive criticism which contains much of substance. It is obvious, Sir, that the suggestions made by the Honourable Mr. Terry should be given full consideration. I think, generally, I might say on the whole Government is prepared to accept them in principle but I should like, Sir, to move that the debate on this Bill be adjourned to the next meeting of Council in order that the matter may be gone into more thoroughly meanwhile.

THE COLONIAL SECRETARY seconded.

H.E. THE GOVERNOR:—Would that be acceptable to Honourable Members, that we adjourn the debate so that the Acting Secretary for Chinese Affairs could go into this more carefully?

This was agreed to.

H.E. THE GOVERNOR:—The debate on this reading is adjourned.

PENSIONS (AMENDMENT) BILL, 1953.

THE SECRETARY FOR CHINESE AFFAIRS:—Your Excellency, the next item on the agenda should be the Pensions (Amendment) Ordinance, 1953 Bill. As this Bill is consequential on the Workmen's Compensation Bill I beg to move that the Second reading of this Bill be also postponed to the next meeting of Council.

THE COLONIAL SECRETARY seconded, and the motion was carried.

MARKETS (AMENDMENT) (No. 2) BY-LAWS, 1953.

MR. K. M. A. BARNETT, E.D. moved the following resolution:—

Resolved that the Markets (Amendment) (No. 2) By-laws, 1953, made by the Urban Council on the 25th day of August, 1953, under section 5 of the Public Health (Food) Ordinance, Chapter 140, be approved.

He said: Sir, the purpose of these by-laws, as Honourable Members will see, is merely to add the name of one market to the Schedule.

THE COLONIAL SECRETARY seconded and the Motion was carried.

ADJOURNMENT.

H.E. THE GOVERNOR:—That concludes the business for today, Gentlemen. When is it your pleasure that we meet again?

THE ATTORNEY GENERAL:—May I suggest this day fortnight, Sir?

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