

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 31st July 1963****PRESENT:**HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

SIR ROBERT BROWN BLACK, GCMG, OBE

HIS EXCELLENCY LIEUTENANT-GENERAL SIR RICHARD WALTE CRADDOCK, KBE,
CB, DSO

COMMANDER BRITISH FORCES

THE HONOURABLE EDMUND BRINSLEY TEESDALE, MC
COLONIAL SECRETARYTHE HONOURABLE DENYS TUDOR EMIL ROBERTS, OBE
ACTING ATTORNEY GENERALTHE HONOURABLE JOHN CRICHTON McDOUALL
SECRETARY FOR CHINESE AFFAIRSTHE HONOURABLE MICHAEL DENYS ARTHUR CLINTON, GM
ACTING FINANCIAL SECRETARYDR THE HONOURABLE DAVID JAMES MASTERTON MacKENZIE CMG, OBE
DIRECTOR OF MEDICAL AND HEALTH SERVICESTHE HONOURABLE PETER DONOHUE
DIRECTOR OF EDUCATIONTHE HONOURABLE ALEC MICHAEL JOHN WRIGHT
DIRECTOR OF PUBLIC WORKSTHE HONOURABLE GEOFFREY MARSH TINGL
DIRECTOR OF URBAN SERVICES

THE HONOURABLE DHUN JEHANGIR RUTTONJEE, OBE

THE HONOURABLE FUNG PING-FAN, OBE

THE HONOURABLE KWAN CHO-YIU, OBE

THE HONOURABLE KAN YUET-KEUNG, OBE

THE HONOURABLE WILLIAM CHARLES GODDARD KNOWLES

THE HONOURABLE SIDNEY SAMUEL GORDON

THE HONOURABLE LI FOOK-SHU, OBE

THE HONOURABLE FUNG HON-CHU

MR GORDON ERIC MATHER (*Deputy Clerk of Councils*)

MINUTES

The minutes of the meeting of the Council held on 3rd July 1963, were confirmed.

PAPERS

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

<i>Subject</i>	<i>LN No</i>
Report of the Board of Management of the Hong Kong Tourist Association, 1962-63.	
Certificate of the Director General of the Overseas Audit Service on the accounts of Hong Kong for the year ended 31st March 1962.	
Population Projections 1961-71.	
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re-registration) (No 25) Order, 1963	84
Stamp Ordinance.	
Stamp (Bank Authorization) (No 3) Order, 1963	85
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re-registration) (No 26) Order, 1963	86
Births and Deaths Registration Ordinance.	
Births and Deaths Registration (Amendment of First Schedule) (No 2) Regulations, 1963	90
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re-registration) (No 27) Order, 1963	91
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re-registration) (No 28) Order, 1963	92
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re-registration) (No 29) Order, 1963	93

**SUPPLEMENTARY PROVISIONS FOR THE QUARTER ENDED
31ST MARCH 1963**

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Supplementary Provisions for the Quarter ended 31st March 1963, as set out in Schedule No 5 (Final) of 1962-63, be approved.

He said: Sir, the schedule before Council is the fifth and final list of supplementary provisions on the 1962-63 account. The total supplementary vote required on this occasion is some \$15¾ million which brings the total for the year as a whole to \$111 million.

Generally speaking, the list represents the final adjustments necessary where the estimated provision in individual subheads proved inadequate to meet the actual expenditure. Public Works Non-recurrent items account for rather over \$9 million and, amongst the other items, is an additional \$2.7 million on the Typhoon and Rainstorm Damage vote under Public Works Recurrent, the necessity for which arose out of the deprecations of Typhoon *Wanda*.

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

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

HAWKER (AMENDMENT) BY-LAWS, 1963

MR G. M. TINGLE moved the following resolution: —

Resolved that the Hawker (Amendment) By-laws, 1963, made by the Urban Council on the 2nd day of July 1963, under section 83 of the Public Health and Urban Services Ordinance, 1960, be approved.

He said: Sir, By-law 21(1) of the Hawker By-laws, 1960, requires hawkers to remove their equipment from their place of trade by 10 p.m. each day, the object being to facilitate street cleansing. Cooked food, general purpose, and fixed pitch stalls are named in the by-law as exempt from this requirement. The purpose of the present amendment to By-law 21 is to exempt wall stalls also, since these have all the characteristics of fixed pitch stalls, and since wall stalls do not normally obstruct street cleansing operations.

The effects of the amendments to the First Schedule concerning the permitted height and depth of wall stalls are clearly explained in the Explanatory Note attached to the new By-laws to which I have nothing to add.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

LANDLORD AND TENANT (AMENDMENT) BILL, 1963

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Landlord and Tenant Ordinance, Chapter 255".

He said: In recent years there has been a great increase in the work of the Tenancy Tribunals established under the Landlord and Tenant Ordinance, and the demand on the time of members of the panel of the tenancy tribunal has grown to a point at which it is often difficult to form a tribunal.

The object of this Bill is to confer on the Chief Justice a discretion as to the composition of tenancy tribunals. In particular, in exemption cases, it will now no longer be necessary for there to be both a legally qualified President and two members of the panel. Instead, any tenancy tribunal may be composed of a President alone or a President and one or more members of the panel.

I shall be moving a small amendment at the Committee Stage of the Bill. As now drafted, one of the qualifications for a President of a tribunal is that he shall be a member of the Colonial Legal Service. This service has now been replaced by Her Majesty's Overseas Judiciary for members of the Judiciary and Her Majesty's Overseas Civil Service for legal officers, and a purely drafting amendment to meet this change of description is desirable.

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: —

This Bill seeks to amend the Landlord and Tenant Ordinance, Chapter 255, so as to permit, when the Chief Justice so directs, the constitution of a Tenancy Tribunal by a legally qualified President, sitting alone. The amendment is sought owing to the difficulty of obtaining sufficient panel-members to enable the Tenancy Tribunal properly to discharge its functions.

MEDICAL CLINICS BILL, 1963

DR D. J. M. MACKENZIE moved the First reading of a Bill intituled "An Ordinance to provide for the registration, control and inspection of medical clinics and for purposes connected therewith".

He said: This Bill, Sir, has a long and complicated history and before dealing with the main provisions, some background information is essential.

My predecessor in this Council, in moving the Second reading of the Medical Registration Ordinance 1957, referred to the charity or low cost clinics operating in the Colony many of which were maintained by unregistered doctors and which provided treatment at scales of charges within reach of the poorest section of the community. Clause 27 of the Medical Registration Ordinance had been so drafted that its promulgation would entirely preclude the practice of doctors who were not registered with the Medical Council of Hong Kong. Accordingly, following on strong representations made at that time, this Clause 27 was held in abeyance, to be enacted by proclamation by your Excellency, when the complicated problem of the practice by unregistered refugee doctors in the Colony and the staffing of charity clinics by these doctors has been solved. It was maintained by those who opposed the introduction of Clause 27 that many of the unregistered doctors, then in practice outside Government or certain Government subsidized agencies, were helping to provide a valued and badly needed clinic service to the lowest income groups in the Colony who could not obtain medical treatment from other sources. The past five years have shown that there is no easy solution to this problem and very time consuming and protracted negotiations, designed to ensure that a needed clinic service was continued while the standards of practice of western medicine were maintained, have finally resulted in this Bill before Council to-day.

The first facet of the problem presenting in 1957 was to make available facilities for unregistered refugee doctors in the Colony to sit examinations in Hong Kong for a qualification registrable in Hong Kong. This was arranged eventually in 1958 and, through the Society of Apothecaries of London and with the support of the General Medical Council, qualifying examinations for the L.M.S.S.A. were arranged, to be held in Hong Kong on three occasions, that is, in 1958, 1959 and 1960. It is appropriate here, Sir, to again acknowledge gratefully in this Council Government's appreciation of the very great interest taken and the practical assistance given by the Society of Apothecaries and the General Medical Council in this connexion.

Of the 563 known unregistered doctors resident in the Colony at the end of 1957, 270 were able to meet the conditions laid down, for entry to the examinations, by the Society of Apothecaries in consultation with the Hong Kong University and Government. Of this number, 177 sat the examinations during the three year period of whom 128 qualified and were subsequently admitted to the Hong Kong Medical Register.

This still left a residue of some 435 unregistered doctors in the Colony who had not either sat or passed a qualifying examination to determine their competence to practise.

A number of this residue of unregistered doctors continued working in charity or low cost clinics which would have had to close down if Clause 27 of the Medical Registration Ordinance, was applied. To meet this situation, it was proposed by Government at that time that legislation should be enacted to make the registration of all charity or low cost clinics compulsory and, as a complementary measure, to provide for a Roll of Licensed Medical Practitioners to which unregistered doctors could be admitted after passing a qualifying examination held in the Colony by a local Examining Board. It was proposed further that these Licensed Medical Practitioners would not be permitted to undertake private practice but would be employed by *bona fide* charity clinics or voluntary agencies engaged in medical work, under the supervision of registered doctors. In this way the charity clinics could continue to provide a service, while the standard of competence of the unregistered doctors working in them would be known.

This proposal to establish a local Roll of Licensed Medical Practitioners was strongly opposed by the two Medical Associations, representing the major part of the medical profession in the Colony, who were concerned that the maintenance of a high standard of ethics and medical practice would be gravely prejudiced by this measure. However, the proposal to enact legislation to register clinics was supported. After considerable and detailed consultation between the Medical Council, representatives of the Medical Associations and Government, it was decided to first enact legislation requiring all medical clinics in the Colony to be registered. In this way, factual data regarding not only the scope of the service provided to the lower income groups by these clinics but also the number of *bona fide* unregistered doctors who are competent practitioners of western medicine and who are providing a needed service could be estimated. While the Bill now before Council was being drafted, an unofficial survey carried out last year showed that of the 310 known low-cost clinics, just over 50% of them were dependent on the services of unregistered doctors. However, without statutory powers to investigate the workings of these clinics and their finances, it was impossible to obtain all the detailed information necessary to give a fair and impartial assessment of the true situation.

This is necessarily a brief outline of the situation and of the background to long and protracted negotiations designed to ensure not only the continuation of the medical work of *bona fide* charity clinics but the protection of the public from charlatans professing to be qualified

doctors. The interests of the medical practitioners who are legally registered in the Colony in terms of the Medical Registration Ordinance must also be safeguarded.

During the discussions regarding the scope and provisions of the legislation proposed, the views of the Medical Council, the Medical Advisory Board, the Labour Advisory Board, the Councils of the two Medical Associations and the Secretariat for Chinese Affairs have been taken into account. While it has not been possible to reconcile entirely all the views expressed, to which I will refer later, arrangements will be made for a review of the working of the legislation, should it be approved by Council, and once it has been in force and experience of its working has been gained.

To turn to the Bill itself, under Clause 2 the rights of private practitioners to maintain their own consulting rooms without registration are safeguarded, provided that the titles 'clinic' or 'polyclinic' are not used. This latter is in accordance with the stand taken by the Medical Council which does not favour these titles being displayed on signboards in conjunction with their name by registered medical practitioners who are in private practice on their own account or in partnership. If registered medical practitioners do use these titles, should this Bill become law, they will be required to register their premises as clinics and meet the consequential requirements of the legislation. Clause 2 also excludes from registration premises used for the treatment given by Chinese Herbalists practising purely Chinese traditional methods of treatment in terms of Section 30 of the Medical Registration Ordinance.

Clauses 3, 4 and 5 deal with the appointment of a Registrar, the maintenance of a Register of Clinics and the mode of application for registration. There are provisos to Clause 5 which are important. Clause 5(b) refers to standards and an assurance is given now that *bona fide* low cost clinics will not be refused registration only on this account, provided that reasonable minimal facilities are available to ensure a proper standard of medical outpatient care. Some anxiety has been expressed that this sub-clause may involve clinics in expenditure which will defeat the end in view, namely the provision of low cost medical care. This of course would be against the spirit and intention of the Bill and, in any case, Clause 11 confers the right of appeal. On the other hand, once a clinic has been registered any excess of income over legitimate expenditure would be expected to be applied first to the improvement of standards and a condition of further registration may be imposed accordingly.

One other undertaking is given. The policy of the Registrar and the Medical Department in respect of the proviso in Clause 5, 2(d)(i) and (ii) will be to examine each case on its merits. Where the examination of the accounts of a clinic shows that the clinic concerned is run

as a commercial venture or the funds improperly applied within the spirit and intention of this Bill, then registration will be cancelled. One of the main purposes of this undertaking is to make it quite clear to all concerned that purely commercial ventures for gain in the guise of charity or low cost clinics will not be permitted. Where the income from *bona fide* clinics is applied, however, to other recognized charitable work by the agency maintaining the clinic, registration will not be refused solely on the grounds that income in excess of expenditure is being applied elsewhere. Naturally the patients attending some registered clinics may not all be in the lower income groups and if a profit is made by a registered clinic which does mainly charitable work, then the profit may well be usefully applied to the maintenance of other welfare or educational projects maintained by the organization concerned. This applies particularly to certain Trade Union Clinics.

Clause 8 gives wide discretionary powers to the Registrar and has caused anxiety and concern as to the width of these powers, I may say, Sir, to the Registrar as well. Before commenting further on this clause, I should say that it is Government's intention to appoint a Committee to review the working of the legislation after the Ordinance, if approved by Council, has been in operation for 18 months. The general terms of reference of this Committee will be to examine the data accumulated during the course of registration, the scope and quality of the service provided, the detailed working of the Ordinance and to make recommendations regarding amendment of the legislation or the enactment of further legislation required in the light of the experience gained. This Committee will include representatives of the public and of the medical profession. The discretionary powers of the Registrar under Clause 8 are accordingly limited to three years by which time the Committee will have reported to Government. Meantime, I again underline the right of appeal, conferred by Clause 11, against decisions by the Registrar in exercise of his discretionary powers.

Clause 8 is designed to permit certain unregistered doctors doing *bona fide* charitable work to continue the practice of medicine in exempted clinics only. The reason for the time limit of 3 years placed on the discretionary powers of the Registrar is to give adequate notice to the clinics concerned that, subject to the findings of the Committee to which I have just referred, all would be required to employ registered medical practitioners after this period of three years has ended.

It is Government's intention to promulgate by proclamation Section 27 of the Medical Registration Ordinance 1957 six months after this Bill becomes law. Thereafter any unregistered doctors practising in the Colony, other than those deemed to be registered or those in practice in clinics exempted under the discretionary powers conferred by Clause

8, will be committing an offence whether or not they are practising for gain and will be liable, on conviction, to the penalties set out in Section 27 of the Medical Registration Ordinance.

A further point of importance is that any new clinics seeking registration after this Bill becomes law will be required to employ only registered medical practitioners. There will be no exemptions for these new clinics.

In conclusion, Sir, I would draw attention to Clauses 7 and 12. The former ensures that the work of all registered clinics not exempted under Clause 8 shall be continuously under the medical management of a registered medical practitioner appointed in a supervisory capacity. Under Clause 12 the Registrar has the power to appoint inspectors, in respect of the work of all registered or exempted clinics, or of premises believed to be used as 'clinics' as defined in Clause 2.

This Bill, if enacted, will come into force on the 1st January 1964, thus giving time for the necessary administrative arrangements to be made for the enforcement of the provisions of the Ordinance. Thereafter there will be a period of six months for registration formalities to be completed before Section 27 of the Medical Registration Ordinance is proclaimed. After registration has been fully effective for 12 months, the Committee already referred to will be appointed to undertake this review.

Finally, Sir, I would again state the spirit and intention behind this Bill. All agencies concerned wish to ensure as comprehensive a medical service as possible is available for that section of the public which depends on low cost medical care provided by Government and by voluntary and welfare agencies. All possible must be done to ensure the best possible standard of medical care and the public must be protected against the charlatan who exploits the anxieties of sickness for personal gain. On the other hand, it would be wrong to close down genuine low cost clinics which are doing good work through the medium of unregistered doctors who have undergone a full course of medical training but who, by force of circumstances, have not been able to obtain a qualification registrable in Hong Kong. The enactment of this Bill, Sir, will enable the whole problem, I hope, to be defined and assessed.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

Objects and Reasons.

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

The object of this Bill is to provide for the control of medical clinics. This is to be done by a system of registration to be carried out by the Director of Medical and Health Services in his capacity as the Registrar of Clinics (clauses 3 to 6). Clause 14 will empower the Governor in Council to prescribe by regulation for the duties and responsibilities of persons running clinics and for the standards to be maintained therein. Clause 13 creates offences in respect of running unregistered clinics or failure to comply with conditions imposed by the Registrar.

2. Clause 2 defines a clinic in wide terms, but provides that some nine classes of premises are exempted (including doctors' and dentists' consulting rooms, licensed physiotherapy clinics and registered dispensaries); in addition, six forms of treatment are excluded from the meaning of "medical treatment".

3. The Registrar will be empowered to refuse registration to any clinic that is a profit making organization, except one run by a trade union where the profits are to be applied for its welfare purposes (clause 5(2)). The Registrar will also be able to cancel registration on any of the grounds on which he could have refused registration initially (clause 9); the exercise of either power will be subject to the right of appeal to the Governor in Council (clause 11).

4. A registered medical practitioner will be required to be appointed in a supervisory capacity in respect of every clinic (clause 7). The Registrar, however, will have an exempting power in respect of this as well as of other requirements (clause 8). In respect of this particular requirement the power will be exercisable only for three years and the exemptions granted will not be effective beyond that period.

ADJOURNMENT

HIS EXCELLENCY THE GOVERNOR: —That concludes the business for to-day, gentlemen. When is it your pleasure that we should meet again.

THE ATTORNEY GENERAL: —May I suggest this day three weeks, Sir.

HIS EXCELLENCY THE GOVERNOR: —Council stands adjourned until this day three weeks.