

**OFFICIAL REPORT OF PROCEEDINGS****Meeting of 6th January 1965****PRESENT**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)  
SIR DAVID CLIVE CROSBIE TRENCH, KCMG, MC  
THE HONOURABLE EDMUND BRINSLEY TEESDALE CMG, MC  
COLONIAL SECRETARY  
THE HONOURABLE MAURICE HEENAN, QC  
ATTORNEY GENERAL  
THE HONOURABLE JOHN CRICHTON McDOUALL  
SECRETARY FOR CHINESE AFFAIRS  
THE HONOURABLE JOHN JAMES COWPER THWAITE, CMG, OBE  
FINANCIAL SECRETARY  
THE HONOURABLE KENNETH STRATHMORE KONGHORN  
DIRECTOR OF URBAN SERVICES  
THE HONOURABLE ALEC MICHAEL JOHN WRIGHT  
DIRECTOR OF PUBLIC WORKS  
DR THE HONOURABLE TENG PIN-HUI, OBE  
DIRECTOR OF MEDICAL AND HEALTH SERVICES  
THE HONOURABLE WILLIAM DAVID GREGG  
DIRECTOR OF EDUCATION  
THE HONOURABLE PATRICK CARDINALL MASON SEDGWICK  
COMMISSIONER OF LABOUR  
THE HONOURABLE DAVID RONALD HOLMES, CBE, MC, ED  
DIRECTOR OF COMMERCE AND INDUSTRY  
THE HONOURABLE JAMES TINKER WAKEFIELD  
DISTRICT COMMISSIONER, NEW TERRITORIES  
THE HONOURABLE DHUN JEHANGIR RUTTONJEE, CBE  
THE HONOURABLE FUNG PING-FAN, OBE  
THE HONOURABLE RICHARD CHARLES LEE, CBE  
THE HONOURABLE KWAN CHO-YIU, CBE  
THE HONOURABLE KAN YUET-KEUNG, OBE  
THE HONOURABLE SIDNEY SAMUEL GORDON  
THE HONOURABLE LI FOOK-SHU, OBE  
THE HONOURABLE FUNG HON-CHU  
THE HONOURABLE TANG PING-YUAN  
THE HONOURABLE TSE YU-CHUEN, OBE  
THE HONOURABLE KENNETH ALBERT WATSON, OBE  
THE HONOURABLE WOO PAK-CHUEN, OBE  
THE HONOURABLE GEORGE RONALD ROSS  
MR ANDREW McDONALD CHAPMAN (*Deputy Clerk of Councils*)

**ABSENT**

HIS EXCELLENCY LIEUTENANT-GENERAL SIR DENIS STUART SCOTT  
O'CONNOR, KBE, CB  
COMMANDER BRITISH FORCES

**MINUTES**

The Minutes of the meeting of the Council held on 23rd December 1964, were confirmed.

**ANNOUNCEMENT**

COLONIAL SECRETARY: —Sir, by Your Excellency's direction I rise to announce the appointment of the Standing Law Committee for 1965. The following members have been appointed and have agreed to serve.

The Honourable Attorney General (*Chairman*)

The Honourable Dhun Jehangir RUTTONJEE

The Honourable KWAN Cho-yiu

The Honourable Sidney Samuel GORDON

The Honourable George Ronald Ross

**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>
Television Ordinance 1964.	
Television (Standards of Programmes) Regulations 1964.....	183
Television Ordinance 1964.	
Television (Advertising) Regulations 1964.....	184
Registration of Persons Ordinance 1960.	
Registration of Persons (Re-registration) (No 46) Order 1964.....	189
Registration of Persons Ordinance 1960.	
Registration of Persons (Cancellation of Registration and Identity Cards) (No 23) Order 1964.....	190
Registration of Persons Ordinance 1960.	
Registration of Persons (Re-registration) (No 47) Order 1964.....	191
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Registration of Persons (Cancellation of Registration and Identity Cards) (No 24) Order 1964.....	192

**HONG KONG AND YAUMATI FERRY COMPANY (SERVICES)  
ORDINANCE 1951**

THE FINANCIAL SECRETARY moved the following resolution: —

WHEREAS—

- (a) section 5 of the Hong Kong and Yaumati Ferry Company (Services) Ordinance 1951 (hereinafter referred to as the Ordinance) provides that the Schedule thereto may be varied at any time, with the consent of the Company, by Resolution of the Legislative Council;
- (b) it is now desired that the Schedule to the Ordinance be varied to provide for the occupation by the Company of the office accommodation on the Central Harbour Services Pier;
- (c) the Company has consented to the amendment of the Schedule to provide for the occupation of such office accommodation:

Now, THEREFORE, BE IT RESOLVED, with the consent of the Company, that the Schedule to the Ordinance be amended by the addition to paragraph 3 of the following new sub-paragraph—

“(3) The Company shall pay to the Government for the use of the office accommodation on the Central Harbour Services Pier a monthly rent of \$19,457 inclusive of rates. The said rent shall be payable in advance on the first day of each month”.

He said: —Sir, when the new pier on the Central Reclamation for the Central Harbour Services of the Hong Kong and Yaumati Ferry Company was being designed, it was decided that offices could conveniently be built above the pier and rented to the Company. Under the terms of the Ordinance, the Schedule attached to it, which includes in section 2 the rents to be paid for use of the piers, may be varied by resolution of this Council, with the consent of the Company. The Company has consented to the amendment which is the subject of the present resolution, whereby an additional rent is stipulated for the use of these offices over and above that already payable for the pier proper. The rent has been fixed at a commercial level.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

**MEDICAL CLINICS (AMENDMENT) BILL 1965**

THE COLONIAL SECRETARY moved the First reading of a Bill intituled “An Ordinance further to amend the Medical Clinics Ordinance 1963.”

He said: —Under the provisions of the Medical Clinics Ordinance, the Registrar may refuse to register a clinic or to exempt a clinic from certain of the provisions of the Ordinance.

Section 11 of the Ordinance provides that any person who is aggrieved by an order refusing registration of exemption may, within 14 days, appeal by way of petition to the Governor in Council.

Some petitions to the Governor in Council have been received which are out of time in that they were received after the prescribed period of 14 days had expired.

It is thought that these petitions should be considered on their merits and should not be rejected merely on the grounds that they are out of time and consequently invalid.

The Bill before Council seeks to amend the Ordinance so as to enable the Governor in Council, where he thinks fit, to extend the period of 14 days within which an appeal must otherwise be brought.

The Bill also provides that, in cases of appeal out of time, the order by the Registrar will nevertheless become effective after a period of 14 days (as at present), pending the determination of the appeal.

THE ATTORNEY GENERAL 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 Medical Clinics Ordinance 1963 so as to enable the Governor in Council, where he thinks fit upon the application of an aggrieved person, to extend the period of fourteen days within which an appeal against an order of the Registrar of Clinics refusing registration or exemption from registration or cancelling registration or exemption therefrom must otherwise be brought.

2. Consequentially, the Bill seeks to amend the Ordinance so as to make it clear that an appeal against an order cancelling registration or exemption from registration will stay the operation of the order only if the appeal is brought within the period of fourteen days prescribed by the Ordinance. This means that, though the Governor in Council may allow an appeal to be brought out of time, the order against which the appeal is brought will be of full force and effect as from the expiry of the prescribed period of fourteen days pending the determination of the appeal.

**TELEPHONE (AMENDMENT) BILL 1965**

THE FINANCIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to amend the Telephone Ordinance 1951."

He said:—Honourable Members will recall that, when introducing a resolution into the Legislative Council on 5th August 1964, to vary the annual charges for certain exchange lines, I gave an undertaking that appropriate amending legislation would be introduced to change, with retrospective effect to 1st January 1964, the basis on which royalty was payable by the Hong Kong Telephone Company Limited. The new basis proposed was a fixed annual royalty at the rate of \$8 for each exchange line in operation in place of the existing basis of 25% of net profits as assessed under the Inland Revenue Ordinance.

The amending Bill before Council repeals section 7 of the main Ordinance and replaces it with provisions setting out the method of assessing royalty on the new basis and providing for the periodic payment of royalty. These provisions are acceptable to the company.

In addition, section 7A of the main Ordinance is repealed. At present, this provides for the Financial Secretary to examine documents for the purpose of assessing net profit and for the company to appeal against the assessment of net profit by the Financial Secretary. The section is no longer necessary. Adequate powers exist under sections 35 and 36 for the Accountant General and the Postmaster General respectively to determine, if necessary, the numbers of exchange lines in operation for the purpose of calculating royalty.

A further undertaking was given on 5th August 1964, that the discount of 50% which Government receives on the charges for certain telephone services would be discontinued. Section 34 of the main Ordinance is accordingly amended by the deletion of that portion requiring the company to provide Government with telephone services at a discount. It will be necessary, at a later date, to introduce a resolution into Council amending those parts of 'the Schedule to the Ordinance which make references to Government discount. It is most convenient to introduce such a resolution at the time of the third reading of this amending Bill.

THE COLONIAL SECRETARY seconded.

Messrs R. C. LEE, F.S. LI C. Y. KWAN and Y. K. KAN declared an interest and abstained from voting.

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 a result of an application made for a revision of certain exchange line charges in December, 1963, by the Hong Kong Telephone Company Limited under section 32(1) of the Telephone Ordinance 1951, discussions were held with Government and agreement was eventually reached on increases in certain exchange line charges. The charges were made effective by a resolution of the Legislative Council on the 5th August, 1964.

2. During the discussions between the parties consideration was given to changes in the financial provisions of the Ordinance to minimize the increase in charges eventually introduced. Firstly that a revision should be made on the basis on which the Company paid royalty and secondly the elimination of discounts allowable to Government for certain charges. An undertaking to introduce these charges, acceptable by the Company, was made when the increases in exchange line charges were approved by Legislative Council.

3. The present basis of royalty is twenty-five per cent of the net annual profit of the Company but the new basis of royalty proposed is a fixed charge at the rate of eight dollars a year for each exchange line in operation.

4. Clause 2 of the Bill seeks to revise the royalty from the present to the new basis with effect from the 1st January, 1964.

5. Payments will be made monthly and will be a sum equal to one twelfth of the annual royalty for each exchange line in service on the last day of the preceding month. Adjustments for over or under payments to be made not later than the last day of the following January.

6. Clause 3 of the Bill provides for the repeal of section 7A of the Ordinance as it is no longer required.

7. Clause 4 of the Bill provides for an amendment of section 34 which is necessary as a resolution to amend the Schedule of the Ordinance eliminating Government discounts will be introduced in the Legislative Council concurrently with the Bill.

8. The purpose of this Bill is therefore to implement the decisions reached between the parties.

**URBAN COUNCIL (AMENDMENT) BILL 1965**

MR K. S KINGHORN moved the First reading of a Bill intituled “An Ordinance further to amend the Urban Council Ordinance 1955.”

He said: —Sir, clause 2 of the Bill before Council provides for the increase of two elected and two appointed members on the Urban Council which was announced by Your Excellency's predecessor. Sir Robert BLACK, on 26th March last year. The increase is to take effect from 1st April 1965. In addition, this clause corrects the designation of the Director of Social Welfare who is referred to as the Social Welfare Officer in the Urban Council Ordinance. It also makes the Commissioner for Resettlement a permanent *ex-officio* member of the Urban Council. Since 1954 he has been appointed to the Council on a temporary year-to-year basis.

Clause 3 concerns the two additional elected members of the Urban Council. It provides that one of these members should be elected for a 4-year term and the other for a 2-year term. This will result in the ten elected members retiring in a rotation of five and five every second year, after a term of office of four years. This clause is also concerned with the ascertainment of the elected member who is to hold office on the first occasion for two years only and provides that he shall be the candidate who is elected by the smallest number of votes, that is, the sixth in the poll. In the event of a tie between the fifth and sixth places in the poll, or of six candidates being elected unopposed, it is proposed that the decision be made by the Returning Officer, by lot.

Clause 4 deals with the increase of two additional appointed members and, as in the case of the two elected members, provides that one should hold office for one year only so that his retirement may coincide with that of four of the existing appointed members. The other additional appointed member is to hold office for three years for a similar reason.

Clause 5, which has been recommended by the Urban Council, reduces from six months to three months the period of non-attendance at Urban Council meetings by reason of which an ordinary member's seat becomes vacant.

Clauses 6, 7 and 8 relate to election petitions. Clause 6 deals with the time and manner of the publication of certified copies of election petitions. Clause 7 makes provision for the court to extend the statutory time limit of five days for the giving of security by a petitioner for an election petition for the costs, charges and expenses which may become payable by him. Clause 8 overcomes the circumvention of the provisions relating to the withdrawal of election petitions.

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: —

On the 26th March, 1964. Sir Robert Black announced Legislative Council that the Secretary of State had indicated his approval of a proposal to increase the unofficial membership Urban Council by four, namely, two elected and two appointed members. One of the purposes of this Bill is to give effect to that announcement, with effect from the 1st April, 1965, that being the date on which four of the existing elected members of the Urban Council will be replaced by newly elected members. This will be achieved by clauses 2(b) and 4, if enacted. At present the eight elected members of the Council retire in rotation of four and four. With the addition of two further elected members, it is proposed that retirement members should be in rotation of five and five. Clause 3, if enacted, will give effect to this; one member's term of office will expire two years in order to coincide with the retirement of the remaining four of the now existing elected members, thus leaving five vacancies for election in 1967. Similarly, in respect of the two further appointed members, if clause 4 is enacted, one of the appointed members hold office for only one year to coincide with the retirement of four of the existing appointed members. The provisions of the propose subsection (5A) of section 4 of the Urban Council Ordinance, contained in clause 3, are principally concerned with the ascertainment elected member who shall hold office for two years.

2. A further purpose of this Bill is to seek amendment respect to vacancies and election petitions. Clause 5 reduces six months to three months the period of non-attendance that causes ordinary member's seat to become vacant. This has been recommended by the Urban Council.

3. Clause 7 permits the Court to extend the statutory time limit of five days for giving security for costs in connexion with an election petition.

4. Clause 8 overcomes the circumvention of the provision relating to the withdrawal of election petitions.

5. The opportunity is taken to propose an amendment to section 3(a) of the Urban Council Ordinance 1955 by clause 2(a) of this Bill, to refer to the Director of Social Welfare by that title rather than by the title of the Social Welfare Officer, and, in the same clause, to make the Commissioner of Resettlement a permanent ex-officio member of the Council. Since 1954, the Commissioner of Resettlement has been an ex-officio member by virtue of the Urban Council (Commissioner for Resettlement) Ordinance 1954, but that Ordinance continues in force from year to year by resolution of the Legislative Council. The reason

for this is that the office of Commissioner for Resettlement was, when originally created shortly after the enactment of the above Ordinance, intended to be a temporary office. This is no longer so. If clause 2(a) is enacted, it will be necessary to repeal the above Ordinance and this is proposed by clause 9.

6. Clause 6 proposes amendments to clarify the duties of the secretary of the Urban Council in respect of the time and manner of publication of certified copies of election petitions.

### **CONTRACTS FOR OVERSEAS EMPLOYMENT BILL 1965**

MR P. C. M. SEDGWICK moved the First reading of a Bill intituled "An Ordinance to control contracts of employment entered into in the Colony by manual workers proceeding overseas for employment and the obtaining and supply of such workers and to provide for matters ancillary thereto."

He said: —Sir, this Bill seeks to give legislative effect to the obligations assumed by Government under three International Labour Conventions which have been applied to Hong Kong in respect of the protection of manual workers engaged locally for short term employment overseas. These obligations have in the past been discharged administratively by the Labour Department, to which the Director of Immigration has referred all persons in this category who have applied to him for travel documents. The Labour Department has scrutinized the contracts offered to these workers, and has only approved those which comply with the requirements of the Conventions. Where appropriate the competent authorities in the overseas territory of employment have been consulted and standard forms of contract which are known to be both fair and reasonable and also enforceable in the territory of employment have been devised. The terms of approved contracts are explained to the workers before they leave and a check is made to ensure that they both understand and freely accept their rights and obligations under these contracts.

The first of the three Conventions deals with the recruitment of indigenous workers and is designed to prevent abuses such as occurred with indentured labour during the last century. This Convention stipulates that the non-spontaneous recruitment of workers shall be either prohibited or if permitted shall be strictly regulated by the competent authorities. In tribal areas or primitive agricultural communities where wage earning is uncommon, labour for public works or major projects can sometimes only be obtained through village headmen who detail a number of their young men for this purpose. In such circumstances it is clearly necessary to ensure that persons recruited in this manner are not exploited and that they are properly paid and looked after and that

they are not kept away from their homes for periods which might disrupt the normal pattern of village life. Non-spontaneous recruit of this type does not take place in Hong Kong and there is therefore need to attempt to regulate it by law. In order to comply with Convention it is however necessary to prohibit non-spontaneous recruitment and this is what Clause 14 of the Bill before honourable Member seeks to achieve. The prohibition does not however apply to recruitment agencies who seek to obtain the services for work overseas of persons who voluntarily come forward in response to advertisements or press notices, provided that these employment agencies are registered with the Labour Department.

Part II of the Bill gives legal effect to the control over overseas contracts entered into voluntarily by manual workers which has hi been exercised administratively by the Labour Department, and is designed to meet the requirements of International Labour Conventions 50, 64, and 86. Every contract is required to be in writing and to contain a number of prescribed particulars in order to define the right responsibilities of the parties to it. These include wage rates and rates for overtime work if applicable, working hours, the duration of the contract and the manner of terminating the contract. The employer has to undertake to pay the worker's fare to the place of employment to repatriate him without expense at the satisfactory conclusion of the contract. Contracts must be presented to the Labour Department attestation before the worker goes overseas. Clause 8 empowers the Commissioner of Labour to require the local representative overseas employer to furnish a bond or guarantee in an appropriate form for the due performance by the employer of his undertakings under the contract. A contract cannot be attested until an officer Labour Department is satisfied that the worker has freely consented to it and has fully understood its terms and that the contract confirms with the various requirements set out in the Bill. Persons under 18 are not permitted to enter into overseas contracts and the maximum duration of any contract must not exceed two years, unless the worker is accompanied by dependants when a period of three years is permitted. Provision can be made however for a worker to enter on a re-engagement contract overseas on certain conditions, provided that he is offered and declines to accept repatriation at his employer's expense at the end of the original contract.

Part I of the Bill contains a number of definitions and makes clear the classes of person to whom the Bill applies. These are all persons in the Colony who agree to enter in the service of other persons as workers where the contract is to be performed, either wholly or partially, outside Hong Kong. It does not however apply to the crews of ships or aircraft, to persons going to the United Kingdom for employment if they hold an employment voucher issued for the purposes of Section

2 of the Commonwealth Immigrants Act or to persons migrating for employment, if they can satisfy the Commissioner of Labour that they will be admitted into the country of immigration on a permanent basis.

Part IV of the Bill seeks to make certain consequential amendments to the Asiatic Emigration Ordinance 1915, certain sections of which will become unnecessary or inappropriate if this Bill is enacted.

The Bill now before Council has been considered in draft by the Labour Advisory Board whose comments and recommendations have been taken account of in the final text, which the Board has endorsed.

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 British Government, on the advice of the Hong Kong Government, has declared that the International Labour Conventions No. 50, The Recruiting of Indigenous Workers Convention 1936 and Nos. 64 and 86. The Contracts of Employment (Indigenous Workers) Conventions 1939 and 1947 may be applied to Hong Kong.

2. With a view to conferring on manual workers the rights and protections set out in these conventions and to ensuring that both they and their employers fully appreciate them, this Bill seeks to give effect to Conventions Nos. 50 and 64 in full and Convention No. 86 with modifications, in so far as that is possible. It applies to the contracts of employment of manual workers (including personal and domestic servants) which, although entered into in Hong Kong, are to be per-formed outside the Colony. It does not apply to crews of ships or air-craft, to persons proceeding to the United Kingdom for employment there and in possession of appropriate employment vouchers or to migrants. The rights and protections set out in these conventions will be achieved and made known to both employer and employee by requiring, subject to limiting exceptions, that all contracts to which the Bill applies are in writing, contain provisions dealing with the matters specified in clause 5(2), and are attested by the Commissioner of Labour. The Commissioner, before attesting, will be required by clause 10 to satisfy himself, *inter alia*, that the worker has freely consented to the contract, that the consent has not been obtained by threat, intimidation, undue influence, misrepresentation or mistake, and that the worker fully understands the terms of the contract.

3. This Bill also contains provisions as to the furnishing of bounds or guarantees to ensure performance of the contracts by employers and repatriation of the worker and his dependants, if any, where required (clause 8), medical examination as to the fitness of workers (clause 9), minimum age for entering into overseas contracts (clause 11), and maximum duration of such contracts (clause 12).

4. Operations undertaken with a view to obtaining or supply, overseas employment, the labour of persons who do not spontaneously offer their services at emigration or employment offices approved by the Commissioner, are prohibited by clause 14, although this does not prohibit the advertisement of vacancies. This is provided with a guarding against the bringing of pressure, of whatever description, on persons to submit themselves for employment overseas.

### **EMPLOYERS AND SERVANTS (AMENDMENT) BILL 1965**

MR P. C. M. SEDGWICH moved the First reading of a Bill intituled "An Ordinance to amend the Employers and Servants Ordinance 1961."

He said: —Sir, two of the Clauses in this short Bill seek to give effect to the obligations which Government assumed when it agreed to be bound by the provisions of the International Labour Conventions relating to the recruiting of indigenous workers and to contracts of employment for such workers. When I moved the First reading Contracts for Overseas Employment Bill a few minutes ago, I explained the origin and purpose of the Recruiting of Indigenous Workers Convention and said that although non-spontaneous recruitment of the type which the Convention seeks to ban or to regulate does not take place in Hong Kong, it was necessary to include in our law a formal ban on such recruitment in order to meet our obligations under the Convention. If the Contracts for Overseas Employment Bill is enacted, there will be a ban on such recruitment for employment overseas. It is however equally necessary to ban such recruitment for employment within Hong Kong and that is what Clause 4 of the Bill now before this Council seeks to achieve. In this connexion I would like to repeat that prohibition contained in this clause does not apply to employment agencies which seek to provide local employment opportunities for persons who voluntarily come forward in response to advertisement for press notices, provided that these employment agencies are registered with the Labour Department.

Clause 3 of the Bill aims at bringing the principal Ordinance into line with our obligations under the Contracts of Employment (Indigenous Workers) Convention 1939. Our obligations under this Convention in respect of manual workers going overseas for employment will be met if the Contracts for Overseas Employment Bill is passed. The Convention,

however, also applies to manual workers in local employment and lays down that any contract of service entered into by a manual worker for a period in excess of six months must be in writing and must conform exactly with a number of requirements which are set out in detail in the Convention. The International Labour Organization's Committee of Experts on the Application of Conventions and Recommendations has advised that to comply in full with this Convention we should either ban all contracts for manual workers in excess of six months or else introduce the complex regulations governing such contracts which the Convention lays down.

Enquiries made by the Labour Department have shown that the most common form of contract for manual workers in Hong Kong is the unwritten month to month contract and that where written contracts are in existence for manual workers, they are almost invariably terminable by either party at one month's notice. The only exceptions relate to contracts of apprenticeship, to which the provisions of the Convention do not apply and to certain agreements entered into by industrial trainees. Some of these latter are not in conventional legal form and it is doubtful how a court would interpret them. The general purport of most of them appears to be a period of training in consideration of either a nominal wage or a training fee or in some cases both, and thereafter a period, in most cases of two or three years, of service. In so far as the training period is concerned, the contracts appear to be contracts of apprenticeship and as such, will be, as I shall explain later, excluded under this Bill. However, as each of these contracts envisages a period of service after the trainee has become fully qualified and is therefore no longer an apprentice, it is hard to say whether a court would interpret the period of service following apprenticeship as a contract for two years or whatever the period is or as a running contract with certain benefits attached to service extending to two years. In any case, if the Bill is enacted, the question of the interpretation of these contracts will not arise in future cases, since it will be possible for the employee to terminate the contract at one month's notice and he will then simply have to forego a refund of the training fee or of the bonus payment which would have been due to him if he had completed the stipulated period. Existing agreements of this kind, which are used mainly in textile mills, will have to be redrafted but this should not cause any great difficulty. It would in fact be an advantage if the rights and obligations of both parties were more clearly set out. The Hong Kong Cotton Spinners Association whose members form the majority of those at present affected in this matter and whose views have been sought is in favour of following the advice of the Committee of Experts and prohibiting contracts of service for manual workers in excess of six months, other than contracts of apprenticeship, rather than making elaborate and complicated provisions for a type of written contract which is extremely rare in Hong Kong.

I should perhaps explain at this point that the reason the International Labour Organization opposes contracts of service for manual workers for periods in excess of six months unless appropriate safeguards are written into such contracts is to prevent a worker being tied to an individual employer for long periods and being at the same time unable to break his contract without having to pay his employer a substantial sum as damages for breach of contract. The change in the law which this Bill will effect will not affect in any way the continuity of service of workers who are on month to month contracts and who may wish to continue for many years in the service of their present employers. Their position will remain unchanged. If they are not satisfied with their terms of service, they will continue to be at liberty to terminate their contracts on giving one month's notice or on paying one month's salary in lieu of notice. Their employers will be in exactly the same position.

The Labour Advisory Board has considered the position and has unanimously endorsed the proposal that contracts of service for manual workers in excess of six months should be prohibited, except in the case of apprenticeship agreements and agreements between seamen and the masters of ships, which are normally for longer periods than one month and are expressed in writing in seamen's articles of agreement.

I mentioned earlier that the Convention does not apply to contracts of apprenticeship. Honourable Members are aware that Government proposes shortly to establish an Industrial Training Advisory Committee composed of representatives of the Government departments concerned, of industry and of workers' representatives to advise on training for operatives and technicians in the light of industry's needs for trained workers. One of this Committee's important responsibilities will be in the field of apprenticeship and it is proposed that in due course there should be legislation to regulate and control apprenticeship, in industries and trades where such regulation and control is desirable. Detailed proposals as to the form such legislation should take have already been made by the Standing Committee on Technical Education and Vocational Training and these recommendations have been subsequently endorsed by the Labour Advisory Board. While this new legislation is being prepared, the Industrial Training Advisory Committee will need information about existing forms of apprenticeship. Clause 2 of the Bill before honourable Members accordingly provides that the Employers and Servants Ordinance 1961, shall not apply to any contract of apprenticeship which has been attested by the Commissioner of Labour or by any person authorized by him for that purpose. The effect of this clause is that any contract of apprenticeship for manual work is deemed to be a contract terminable on a month to month basis by either party unless it is first of all expressed in writing and signed by both parties and secondly has been attested by the Labour Department. No criteria are laid down in this clause to guide the Commissioner

as to whether any individual contract should or should not be attested and until specific legislation dealing with apprenticeship is in force, the Commissioner will have no option but to register any contract of apprenticeship presented to him, provided that he is satisfied that both parties have agreed to the terms proposed, and that the contract is a proper contract of apprenticeship for the benefit and training of the apprentice.

The Bill before honourable Members has been seen in draft and been unanimously endorsed by the Labour Advisory Board.

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 purpose of this Bill is to seek the amendment of the Employers and Servants Ordinance 1961 to give effect to the requirements of the Contracts of Employment (Indigenous Workers) Convention 1939 in relation to local contracts of service excluding contracts of apprenticeship, and to prohibit the use of any form of coercion in the recruitment of local labour in conformity with the requirements of the Recruiting of Indigenous Workers Convention 1936.

## **EMPLOYMENT OF YOUNG PERSONS AND CHILDREN**

### **AT SEA (AMENDMENT) BILL 1965**

MR P. C. M. SEDGWICK moved the First reading of a Bill intituled “An Ordinance to amend the Employment of Young Persons and Children at Sea Ordinance.”

He said: —When the International Labour Organization was first established in 1919 the conditions of work of women, young persons and children were given early attention. One of the early conventions dealt with the minimum age for the admission of children to employment at sea, which was fixed at fourteen. This Convention was ratified by the United Kingdom Government and in 1932 the Hong Kong Government took legislative action in conformity with the Convention by enacting the Employment of Young Persons and Children at Sea Ordinance. It had been assumed that this Ordinance fully met all the requirements of the Convention and accordingly Her Majesty's Government in 1962 accepted on Hong Kong's behalf all the obligations under the Convention without modification.

Article 2 of the Convention says that children under the age of fourteen years shall not be employed or work on vessels, other than vessels upon which only members of the same family are employed. Section 2 of the Ordinance repeats this prohibition but a proviso permits the employment or work of children under the age of fourteen on junks and sampans if such children are in the charge of relatives who are also members of the crew and are in the opinion of the Director of Marine fit and proper persons to have charge of the children in question. The Committee of Experts on the Application of International Labour Conventions and Recommendations has however pointed out that the Convention does not allow for an exception of the kind mentioned in the first proviso to section 2 and has recommended its deletion. The Convention is aimed at preventing the exploitation of children at sea by prohibiting anyone under 14 taking employment under a vessel's articles which would oblige such a child to work certain hours or undertake certain regular tasks on the same basis as an adult member of the vessel's crew. Section 3 of the Ordinance requires the master of every vessel registered or licensed in Hong Kong to keep a register of all persons under the age of 16 employed by him on board his vessel or a list of them in the articles of agreement. This requirement enables the Director of Marine to ensure that no under age children are employed under articles of agreement and it is therefore considered that the first proviso to Section 2 is unnecessary, and that its deletion will not affect the position of children who may live on junks, and sampans under the charge of members of their families. Such children will not be precluded from lending a hand on occasion, provided that they are not required to undertake regular tasks as articulated members of the vessel's crew.

The Bill before Council seeks therefore to bring Section 2 of the principal Ordinance into harmony with the Convention and also names the Director of Education as the competent authority for the supervision of the work or employment of any children under 14 who may be pupils on board any school ship or training ship.

The Bill before Council has been considered by Labour Advisory Board which has unanimously recommended that it should be enacted.

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 purpose of this Bill is to seek amendment of the Employment of Young Persons and Children at Sea Ordinance, Chapter 58, to give

effect to the requirements of Convention No. 7 (Minimum Age (Sea) 1920) of the International Labour Organization which was recently declared applicable to the Colony without modification.

## FACTORIES AND INDUSTRIAL UNDERTAKINGS

### (AMENDMENT) BILL 1965

MR P. C. M. SEDGWICK moved the First reading of a Bill intituled "An Ordinance to amend the Factories and Industrial Undertakings Ordinance 1955."

He said: —Sir, during the ten years which have elapsed since 1955 the establishment of the Labour Department has grown threefold, while even greater increases have taken place in the number of industrial undertakings and of those employed in (hem. To deal with the many problems arising from the growth of Hong Kong's labour force it has been found necessary to create additional grades within the Labour Department and to divide the work formerly carried out by the Labour Inspectorate into two. A Factory Inspectorate was accordingly set up in April 1963, to deal exclusively with safety standards in industrial undertakings, while the Labour Inspectorate was made responsible for the enforcement of social measures such as the control of the hours of work of women and young persons, the enforcement of the legislation governing holidays with pay and sickness allowance in industry, the collection of wage and employment statistics and other matters relating to conditions of employment. During the same period the Industrial Health Section has also developed rapidly.

The Bill which is now before honourable Members seeks to amend the principal Ordinance by adding to the list of officers whom the Governor may appoint, by amending the definitions so as to include the new grades of staff and by granting them appropriate powers to carry out their duties.

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 a result of the creation of two senior labour officers posts and the new factory inspectorate in the Labour Department it is necessary to amend the definitions of "Commissioner" and "inspector" and consequent on those amendments sections 3, 4 and 5 of the

Factories and Industrial Undertakings Ordinance 1955. The opportunity has been taken in view of the growing responsibilities and the duties of the Industrial Health Section also of the Labour Department to provide the Industrial Health Officer and his staff with adequate powers not only under section 4(2) of entering and inspecting but general powers under section 4(1) to ensure that the Industrial Health Officer and his staff can exercise full powers in the course of their duties. As the Commissioner may find it necessary from time to time to authorize such officers of the Industrial Health Section as the Laboratory Assistant or Health Assistant to exercise full powers a provision has been incorporated in section 4 permitting him to do so either generally or particularly. Again as there is reason to believe that there may be posts of assistant commissioners of labour created, the opportunity has been taken to provide for such an eventuality should it so happen.

2. The purpose of this Bill is to seek the amendments set out aforesaid.

## **BOILERS AND PRESSURE RECEIVERS (AMENDMENT)**

### **BILL 1965**

MR P. C. M. SEDGWICK moved the First reading of a Bill intituled "An Ordinance to amend the Boilers and Pressure Receivers Ordinance 1962."

He said:—Sir, as I mentioned when I moved the First reading of the Factories and Industrial Undertakings (Amendment) Bill 1965, the former Labour Inspectorate has recently been re-organized, the new Labour Inspectorate dealing with conditions of employment, while the Factory Inspectorate is concerned primarily with industrial safety. The Bill now before honourable Members seeks to transfer to the Factory Inspectorate the responsibilities formerly undertaken by Labour Inspectors in dealing with the control of boilers and other types of pressure equipment. The opportunity has been taken to amend the definition of "labour officer" to bring it into line with that contained in the Factories and Industrial Undertakings (Amendment) Bill 1965.

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: —

By the creation of senior labour officers posts and the new factory inspectorate in the Labour Department the definition of "labour

inspector” is replaced by “factory inspector” and the definition of “labour officer” is substituted by a further definition to include a senior labour officer in the Boilers and Pressure Receivers Ordinance 1962. As a result of the first substitution aforesaid the words “labour inspector” in sections 55(1)(j), 55(2), 64(2) and 66(2) of the Ordinance are deleted and the words “factory inspector” substituted therefor.

2. The purpose of this Bill is to seek the amendments found necessary above.

## **BIRTHS AND DEATHS REGISTRATION (AMENDMENT)**

### **BILL 1965**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled “An Ordinance further to amend the Births and Deaths Registration Ordinance.”

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.

THE ATTORNEY GENERAL:—Sir, I beg to move that Clause 1 be amended as set forth in the paper before honourable Members.

*Proposed Amendment.*

- 1 Leave out the figures “1964” and substitute therefor the following—

“1965.”

Clause 1, as amended, was agreed to.

Clauses 2 to 12 were agreed to.

Council then resumed.

THE ATTORNEY GENERAL reported that the Births and Deaths Registration (Amendment) Bill 1965, had passed through Committee with one 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.

**COLONIAL TREASURER INCORPORATION (AMENDMENT)****BILL 1965**

THE FINANCIAL SECRETARY moved the Second reading of intituled "An Ordinance to amend the Colonial Treasurer Incorporation Ordinance."

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.

THE FINANCIAL SECRETARY: —Sir, I beg to move that Clause 1 be amended as set forth in the paper before honourable Members.

*Proposed Amendment.*

1 Leave out the figures "1964" and substitute there following—  
"1965".

Clause 1, as amended, was agreed to.

Clauses 2, 3 and 4 were agreed to.

Council then resumed.

THE FINANCIAL SECRETARY reported that the Colonial Treasurer Incorporation (Amendment) Bill 1965, had passed through Committee with one 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.

**ADJOURNMENT**

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

THE ATTORNEY GENERAL: —May I suggest this day fortnight.

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