

-b11086063  
-C/003912  
b11086063  
T10487219

立法會CB(2)919/11-12(01)號文件  
LC Paper No. CB(2)919/11-12(01)

# HONG KONG HANSARD

---

REPORTS  
OF THE MEETINGS OF THE  
LEGISLATIVE COUNCIL  
OF HONG KONG

---

SESSION 1951

---

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, HONG KONG.

10th October, 1951.

**PRESENT:**

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

HIS EXCELLENCY THE COMMANDER BRITISH FORCES  
LIEUTENANT-GENERAL SIR ERIC CARDEN ROBERT  
MANSERGH, K.B.E., C.B., M.C.

THE HONOURABLE THE COLONIAL SECRETARY  
MR. JOHN FEARNs NICOLL, C.M.G.

THE HONOURABLE THE ATTORNEY GENERAL  
MR. G. E. STRICKLAND, *Acting*.

THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS  
MR. RONALD RUSKIN TODD.

THE HONOURABLE THE FINANCIAL SECRETARY  
MR. ARTHUR GRENFELL CLARKE, *Acting*.

THE HONOURABLE THEODORE LOUIS BOWRING, O.B.E.  
(*Director of Public Works*).

THE HONOURABLE DOUGLAS JAMES SMYTH CROZIER.  
(*Director of Education*).

DR. THE HONOURABLE YEO KOK CHEANG  
(*Acting Director of Medical and Health Services*).

THE HONOURABLE KENNETH MYER ARTHUR BARNETT  
(*Chairman, Urban Council*).

THE HONOURABLE CHAU TSUN-NIN, C.B.E.

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

THE HONOURABLE LEO D'ALMADA E CASTRO, K.C.

THE HONOURABLE PHILIP STANLEY CASSIDY.

THE HONOURABLE CHARLES EDWARD MICHAEL TERRY.

THE HONOURABLE NGAN SHING KWAN

MR. ROBERT WILLIAM PRIMROSE (*Deputy Clerk of Councils*).

**ABSENT:—**

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

THE HONOURABLE LAWRENCE KADOORIE.

risks and by the review of an employer's liability for injuries to his employees in the course of employment undertaken in connexion with the proposals for the introduction of workmen's compensation.

7. The doctrine of common employment made its first appearance in England in 1837 in the case of Priestly and Fowler. The doctrine was founded on the implied fictitious agreement of the servant to run the risk of injury by fellow servants. By 1860, it was already meeting with wide-spread condemnation as working injustice on the servant and the Court had begun to narrow its interpretation with the consequence that the doctrine had become difficult to apply. Criticism in England led eventually to the Employers Liability Act, 1880, which mitigated to some extent the severity of the doctrine in the case of "workmen". Finally the doctrine was completely abolished by the Law Reform (Personal Injuries) Act, 1948, which implemented in this respect the unanimous recommendation of the Departmental Committee on Alternative Remedies known as the Monckton Committee. In Hong Kong, the harshness of the doctrine has not so far been mitigated, a fact to which perhaps attention has not been drawn because of the rare cases in which proceedings against employers for injuries suffered in the course of employment have in the past been taken or threatened. Examination of proposals to introduce provisions for workmen's compensation in Hong Kong has, however, called attention to the serious defects in the law of the Colony and it has accordingly been decided to bring it into line with the law of the United Kingdom by abolishing the doctrine of common employment. Clause 5 of the Bill effects this.

#### PLACES OF PUBLIC ENTERTAINMENT REGULATION (AMENDMENT) BILL, 1951.

THE ACTING ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Places of Public Entertainment Regulation Ordinance, 1919". He said: Sir, the Bill makes a number of amendments to the Places of Public Entertainment Regulation Ordinance, 1919, which are explained in the Objects and Reasons. The amendment in which perhaps Honourable Members will be most interested is that it is proposed to effect in the definition of "entertainment". The new definition includes inter alia any sporting exhibition which of course would include football matches and tennis exhibitions. A sporting exhibition has always been an entertainment for the purposes of

Entertainment Tax and it is of course common knowledge that the public are frequently drawn in large numbers to the place where such exhibitions are being held and that such places not only become therefore more dangerous as fire hazards but that often big crowds collect. Such crowds can on occasion become a menace to law and order when inflamed by the wrong sort of partisan spirit or when they are unable to secure admission and it seems obviously right that the places where these entertainments are held should be subjected to control by way of licence and the making of regulations which by their conditions or provisions can substantially reduce the hazards and dangers. In the course of amendment attention was drawn to the fact that although both the Ordinance and the regulations confer discretionary powers the exercise of which might cause serious prejudice to the affairs of persons owning or managing places of public entertainment no provision has been made for appeal. Clause 7 of the Bill seeks to rectify this by adding a new section providing for appeal to the Governor in Council.

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 main object of this Bill is to enable the provisions of the Places of Public Entertainment Regulation Ordinance, 1919, (the principal Ordinance) to be applied more precisely to modern conditions in the Colony. The repeal and replacement of the definition "entertainment" and an interpretation for "place of public entertainment" are proposed in clause 2 which have the effect of widening considerably the places and forms of entertainment subject to the control imposed by the Ordinance. Consequential amendments of the regulating powers contained in the principal Ordinance are proposed in clause 5.

2. Increase in the practice of display of cinematograph films makes it desirable to extend the control over the exhibition of cinema films in places which, though not places of public entertainment, are places where considerable numbers of people may assemble to see film exhibitions. Provision is made accordingly in clause 4. That clause additionally provides for the increase of the maximum fine for contravention of the requirements of section 4 of the principal Ordinance.

3. The opportunity has been taken (by clause 6) to amend section 7 of the principal Ordinance to constitute the Commissioner of Police as sole authority to grant permits for advertisement, presentation or carrying on of a public entertainment instead of being one of three authorities as now provided by such section. The clause additionally provides for increase from 500 dollars to 2,000 dollars of the maximum fine payable upon summary conviction for contravention of section 7.

4. It has also been considered desirable to provide for appeal to the Governor in Council (by clause 7). Certain regulations dealing with censorship of cinematograph films have been excluded partly because provision is already made for appeal from an individual censor to a board of censors and partly because it is proposed to include the censorship of cinematograph films in a separate Ordinance.

~~VERANDAHS AND BALCONIES (INCLOSURE FOR OFFICE ACCOMMODATION) (AMENDMENT) BILL, 1951.~~

~~THE ACTING ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Verandahs and Balconies (Inclosure for Office Accommodation) Ordinance, 1947".~~

~~THE COLONIAL SECRETARY seconded, and the Bill was read a Second time.~~

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

~~Council then resumed.~~

~~THE ACTING ATTORNEY GENERAL reported that the Verandahs and Balconies (Inclosure for Office Accommodation) (Amendment) Bill, 1951 had passed through Committee without amendment, and moved the Third reading.~~

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

**SALVATION ARMY BILL, 1951.**

~~HON. LEO D'ALMADA E CASTRO, K.C. moved the Second reading of a Bill intituled "An Ordinance to incorporate The General of The Salvation Army as a corporation sole having perpetual succession".~~

~~Council then went into consider the Bill clause by clause.~~

Council then resumed..

THE ACTING ATTORNEY GENERAL reported that the Law Reform (Miscellaneous Provisions) Bill, 1951 had passed through Committee without amendment and moved the Third reading.

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

### PLACES OF PUBLIC ENTERTAINMENT REGULATION (AMENDMENT) BILL, 1951.

THE ACTING ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to amend the Places of Public Entertainment Regulation Ordinance, 1919".

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

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

Council then resumed.

THE ACTING ATTORNEY GENERAL reported that the Places of Public Entertainment Regulation (Amendment) Bill, 1951 had passed through Committee without amendment, and moved the Third reading.

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

### ~~ROYAL HONG KONG DEFENCE FORCE (AMENDMENT) BILL, 1951.~~

~~THE ACTING ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Royal Hong Kong Defence Force Ordinance, 1951". He said: Sir, the objects and reasons explain that the object of this Bill is to enable the Oath or Declaration required to be made by members of the Force on enrolment to be made before an officer of the Force as well as before a Justice of the Peace. The measure is most urgently required because enrolment into the Force is, in the present state of the law, being hampered by difficulties in securing the attendance of Justices of the Peace.~~

PLACES OF PUBLIC ENTERTAINMENT No. 37 of 1951. 20  
REGULATION (AMENDMENT)

5. (1) It shall not be a defence to an employer who is sued in respect of personal injuries caused by the negligence of a person employed by him, that that person was at the time the injuries were caused in common employment with the person injured.

Abolition of the defence of common employment, s. 11 & 12, Ord. 61, 1948, and s. 3, 1951.

(2) Any provision contained in a contract of service or apprenticeship, or in an agreement collateral thereto, (including a contract or agreement entered into before the commencement of this Ordinance) shall be void in so far as it would have the effect of excluding or limiting any liability of the employer in respect of personal injuries caused to the person employed or apprenticed by the negligence of persons in common employment with him.

(3) In this section the expression "personal injury" includes any disease and any impairment of a person's physical or mental condition and the expression "injured" shall be construed accordingly.

Passed the Legislative Council of Hong Kong, this 24th day of October, 1951.

G. C. HAMILTON,  
Clerk of Councils.

HONG KONG

No. 37 of 1951.

I assent.

L.S.

A. G. GRANTHAM,  
Governor.

25th October, 1951.

An Ordinance to amend the Places of Public Entertainment Regulation Ordinance, 1919.

[26th October, 1951.]

Be it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof:

Short title:

1. This Ordinance may be cited as the Places of Public Entertainment Regulation (Amendment) Ordinance, 1951.

Amendment of section 2 of the principal Ordinance.

2. Section 2 of the principal Ordinance is hereby amended—

(a) by the deletion of paragraph (a) and the substitution therefor of the following—

“(a) “entertainment” includes any concert, stage play, stage performance or other musical, dramatic or theatrical entertainment or any part thereof, any cinematograph display, lecture, story-telling, circus, exhibition of pictures, photographs or books, exhibition of dancing, conjuring or juggling, acrobatic performance, exhibition of abnormal persons or animals, any sporting exhibition or contest, any bazaar, any merry-go-round, flying wheel, or other mechanical device designed for amusement;” and

(b) by the addition after paragraph (b) of the following—

“(c) “place of public entertainment” means any place on which there is any erection or structure, any premises or building whether temporary or permanent or any water-borne craft or other place in or at which a public entertainment takes place whether on one occasion or more;”

(d) “stage play” includes every tragedy, comedy, farce, opera, revue, burletta, interlude, melodrama, pantomime or other entertainment of the stage or any part thereof.”

Amendment of section 3 of the principal Ordinance.

3. Section 3 of the principal Ordinance is hereby amended—

(a) by the deletion of the words “permanent or temporary building or matshed for any” in the second line thereof and the substitution therefor of the words “place”; and

(b) by the deletion of the words “building or matshed” in the fifth line thereof and the substitution therefor of the word “place”.

Amendment of section 4 of the principal Ordinance.

4. Section 4 of the principal Ordinance is hereby amended—

(a) by the insertion in the second line of subsection (1) between the word and comma “invited,” and the word “or” of the words “or which persons may attend by reason of being members of a club, association or other organization, incorporated or otherwise,” and



(b) by the deletion from subsection (1) of the words "and in the case of a cinematograph display at a Chinese theatre to which the public are invited, such person must also obtain a permit in writing for such performance from the Secretary for Chinese Affairs." and the substitution therefor of the words "any person contravening the provisions of this subsection shall upon summary conviction be liable to a fine not exceeding one thousand dollars."

5. Section 6 of the principal Ordinance is hereby amended—

(a) by the repeal and replacement of paragraph (a) as follows—

Amendment  
of section 6  
of the  
principal  
Ordinance.

"(a) the mode of application for licences for places of public entertainment, and the issue of such licences to such persons and for such periods of time and during such hours, as may be respectively determined in each licence;"

(b) by the repeal and replacement of paragraph (d) as follows—

"(d) prescribing the materials of which any place of public entertainment shall be constructed and regulating the construction of such place and the construction and arrangement of staircases, corridors, gangways, vestibules, seating accommodation, entrances, exits, doors and fastenings of in or appertaining to such place and all other matters appertaining to the same;"

(c) by the repeal and replacement of paragraph (e) as follows—

"(e) requiring the exercise of all such measures as may be prescribed in any such regulation against overcrowding, and for the control and prevention of fires and for the maintenance of sanitary conditions in any place of public entertainment;"

(d) by the repeal and replacement of paragraph (f) as follows—

"(f) the maintenance of peace and good order in a place of public entertainment;"

(e) by the repeal and replacement of paragraph (g) as follows—

"(g) the entry and inspection for the purposes of securing compliance with this Ordinance and of any regulations made thereunder of a place of public entertain-

ment at any time by the Commissioner of Police, the Secretary for Chinese Affairs, the Building Authority and any other officer authorized by the Governor in that behalf;"; and

(f) by the repeal and replacement of paragraph (k) as follows—

"(k) providing that contraventions of specified offences shall constitute an offence and that such offences shall be punishable by penalties not exceeding a fine of one thousand dollars and imprisonment for six months;";

Amendment of section 7 of the principal Ordinance.

6. Section 7 of the principal Ordinance is hereby amended—

(a) by the deletion in the third and fourth lines of subsection (1) of the words "the Secretary for Chinese Affairs, the Commissioner of Police, or a District Officer" and the substitution therefor of the words "the Commissioner of Police"; and

(b) by the repeal and replacement of subsection (4) thereof as follows—

"(4) Every person who contravenes the provisions of this section shall upon summary conviction be liable to a fine of two thousand dollars."

Addition of new section 8 to the principal Ordinance.

7. The following section shall be inserted as section 8 immediately after section 7 of the principal Ordinance—

"Appeal to Governor in Council.

8. (1) Whenever any person is dissatisfied with the exercise of the discretion of any person to whom discretionary power is given under this Ordinance in respect of any act, matter, or thing, which is by this Ordinance made subject to the exercise of the discretion of such authority, or with any action or decision of any such person either as to the carrying out of or the meaning of any of the provisions of this Ordinance, or whenever any of the provisions of this Ordinance are, owing to special conditions, undesirable, the person so dissatisfied may, unless proceedings have already been taken before a magistrate in relation thereto, appeal to the Governor in Council, who, if in his opinion the exercise of such discretion or such action or decision requires modification, revocation, or setting aside, or such special conditions exist as render any such provision undesirable, may make such order in respect thereof as may be just.