

OFFICIAL REPORT OF PROCEEDINGS**Meeting of 20th July, 1955.****PRESENT:**HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

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

HIS EXCELLENCY THE COMMANDER BRITISH FORCES

LIEUTENANT-GENERAL CECIL STANWAY SUGDEN, K.C.B., C.B.E.

THE HONOURABLE THE COLONIAL SECRETARY

MR. EDGEWORTH BERESFORD DAVID, C.M.G.

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.

THE HONOURABLE THE FINANCIAL SECRETARY

MR. ARTHUR GRENFELL CLARKE, C.M.G.

THE HONOURABLE THEODORE LOUIS BOWRING, C.M.G., O.B.E.

(Director of Public Works).

THE HONOURABLE DOUGLAS JAMES SMYTH CROZIER

(Director of Education).

DR. THE HONOURABLE YEO KOK CHEANG

(Director of Medical and Health Services).

THE HONOURABLE HAROLD GILES RICHARDS, O.B.E.

(Director of Urban Services).

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

THE HONOURABLE CHARLES EDWARD MICHAEL TERRY, O.B.E.

THE HONOURABLE NGAN SHING-KWAN, O.B.E.

THE HONOURABLE DHUN JEANGIR RUTTONJEE.

THE HONOURABLE KWOK CHAN, O.B.E.

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

THE HONOURABLE RICHARD CHARLES LEE, O.B.E.

THE HONOURABLE JOHN ARTHUR BLACKWOOD.

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

MINUTES.

The Minutes of the meeting of the Council held on 6th July, 1955, 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>
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Sessional Paper, 1955: —

No. 10—Annual Report by the Commissioner of Labour for the
year 1953-54.

Emergency Regulations Ordinance (Chapter 241).

Emergency (Agricultural Poisons) Regulations, 1955.	A. 71
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PENSIONS (AMENDMENT) (No. 2) REGULATIONS, 1955.

THE ATTORNEY GENERAL moved the following resolution: —

Resolved that the Pensions (Amendment) (No. 2) Regulations, 1955, made by the Governor in Council on the 12th day of July, 1955 under section 3 of the Pensions Ordinance (Chapter 89), be approved.

He said: Sir, I think it would be convenient if at this stage I mentioned the three succeeding items as well, and with your permission and the indulgence of the Council I will do so. Sir, the two sets of regulations for which approval is sought by this resolution and the next, and the next two amending Bills which follow, are rendered necessary in consequence of the recent salaries revision. In each case an ample written explanation of the amendments is given. There is nothing I can usefully add.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

**WIDOWS AND ORPHANS PENSION (APPLICATION)
(AMENDMENT) REGULATIONS, 1955.**

THE ATTORNEY GENERAL moved the following resolution: —

Resolved that the Widows and Orphans Pension (Application) (Amendment) Regulations, 1955, made by the Governor in Council on the 12th day of July, 1955, under section 3 of the Widows and Orphans Pension Ordinance (Chapter 94), be approved.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

PENSIONS (AMENDMENT) BILL, 1955.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Pensions Ordinance, Chapter 89."

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 amendments made to the Pensions Ordinance (Chapter 89) (the principal Ordinance) by this Bill are mainly consequential upon Government's acceptance of the revised scheme for salaries and allowances which has received the approval of the Secretary of State.

2. Clause 2 amends the definition of "pensionable emoluments" contained in section 2 of the principal Ordinance by providing that, as from 1st October, 1953, only one half of expatriation pay is pensionable.

3. Clause 3 makes three amendments to section 16 of the principal Ordinance. Under that section, the Governor in Council may grant a gratuity to the legal personal representative

of an officer who dies while in the Service or after retirement, or if the gratuity does not exceed \$2,500 to such person as he names as the recipient. This latter provision saves the dependants of lower paid pensionable officers the trouble and expense of applying for letters of administration. Under the revised scheme for salaries and allowances the pensionable emoluments of such officers are increased by reason of the incorporation into basic salary (which is pensionable) of a proportion of cost of living allowance (which is not pensionable). The first amendment to section 16 of the principal Ordinance contained in clause 3 accordingly raises the amount which may be granted to a person named by the Governor in Council from \$2,500 to \$5,000. The other two amendments made by clause 3 correct an omission and a grammatical error made when section 16 of the principal Ordinance was repealed and replaced by the Pensions (Amendment) (No. 2) Ordinance, 1954.

4. Clause 4 amends section 17(1) of the principal Ordinance. That subsection enables the Governor in Council to grant a pension to the dependants of an officer killed on duty and provides that the minimum amount of such pension shall be \$780. In view of the increase of pensionable emoluments the amendment raises the minimum amount from \$780 to \$1,152 per annum.

5. Clause 5 provides that these amendments to the principal Ordinance which are consequential upon revision of salaries shall be retrospective to the date of that revision, namely, 1st October, 1953. It further provides that those amendments due to omission and grammatical error in the Pensions (Amendment) (No. 2) Ordinance, 1954, shall be retrospective to the date when that Ordinance came into force, namely, 24th September, 1954.

**PROBATE AND ADMINISTRATION
(AMENDMENT) BILL, 1955.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Probate and Administration Ordinance, Chapter 10."

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: —

Section 58 of the Probate and Administration Ordinance (Chapter 10) gives jurisdiction to the Registrar of the Supreme Court to grant probate or administration without reference to the Court where the deceased's estate does not exceed in value the sum of \$2,500. Section 59 of that Ordinance permits the Accountant General on the death of a public officer to authorize payment of a sum not exceeding \$2,500 due in respect of emoluments to such officer, without production of probate or administration, to the person he considers entitled thereto.

2. This Bill amends sections 58 and 59 of the Probate and Administration Ordinance by increasing the aforesaid sums of \$2,500 to \$5,000 in cases where death has occurred after 30th September, 1953. The increased sums are in conformity with the provisions of the Estate Duty Ordinance (Chapter 111) which provide that no estate duty is payable in respect of any estate which does not exceed \$5,000, and with the provisions of the Pensions (Amendment) Ordinance, 1955, which increases to \$5,000 the sum which may be granted as a death gratuity to a person nominated by the Governor in Council.

JURY (AMENDMENT) (No. 2) BILL, 1955.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Jury Ordinance, Chapter 3."

He said: Sir, this Bill provides for the payment of common jurors in civil cases: provision already exists for payment of special jurors. Honourable Members will remember the Quie case, a lengthy civil action earlier this year which took 20 hearing days. As a result of that case, which was tried with a common jury, the Acting Chief Justice looked into the question of payment of common jurors and found that there was no statutory authority. He then recommended that the law should be altered.

I would only add that the expense when a jury is empanelled will, of course, be borne by the litigants.

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 payment of common jurors in civil cases in the Supreme Court at the rate of \$10 per day. Special jurors are at present paid at the rate of \$25 per day. It was long the practice of the courts in England to order payment of common jurors, and this practice received statutory sanction in 1934 in the case of County Courts and generally in 1949.

FACTORIES AND INDUSTRIAL UNDERTAKINGS

BILL, 1955.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the law relating to factories and industrial undertakings and to the employment of women, young persons and children therein."

He said: Sir, the last occasion on which the "factories law" was reviewed was in 1937, and in consequence a consolidating Ordinance came into force on the 1st of January, 1938. That Ordinance, as amended from time to time, is on the Statute Book today as Chapter 59, and it is Chapter 59 which it is proposed to repeal and replace by the Bill before Council. Sir, it is obviously desirable that this type of legislation should be reviewed from time to time in order to meet new trends in industry. In the present instance, however, there is no change in fundamental principle, but a good example of the type of amendment involved is given in paragraph 4 of the statement of objects and reasons; it is there explained that registration with the Commissioner of Labour is extended to mines and places in which a dangerous or scheduled trade is carried on, irrespective of the number of workers employed or the presence or absence of machinery. Other amendments are similarly explained in the "Objects and Reasons."

A most important part of factory legislation is of course the regulations made thereunder and the existing regulations are being brought up to date and into line with our obligations under International Labour Conventions. Such regulations are made by the Commissioner of Labour; but they are subject to the approval of this Council, and they will be laid before this Council in due course.

Finally, Sir, I might just mention that penalties have been increased as explained in paragraph 6 of the "Objects and Reasons" to make them in keeping with the present-day value of money.

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 increasing industrial activity in the Colony has brought about a need for legislation to make better provision than at present for the conditions of employment of workmen in industrial undertakings. This Bill, in replacing the Factories and Workshops Ordinance, Chapter 59, in effect retains all the provisions of that Ordinance, but in certain instances the wording and arrangement has been altered for the purpose of clarification. These alterations and any new provisions are listed in the Appendix, and the more important of them are explained more fully below. For the same reasons, and to ensure that Hong Kong's obligations under the International Labour Organization Conventions are fully met, it is intended that the Factories and Workshops Regulations will be revised and considerably extended, in the near future.

2. The short title "Factories and Industrial Undertakings Ordinance" in clause 1 is new, and describes the scope of the legislation more accurately.

3. The meaning of "factory" has been considerably altered and extended. The distinction between factories and workshops is considered unnecessary, and the term "factory" defined in clause 2 is designed to include places which at present are workshops, with the exception of those in which merely scheduled trades are carried on. (See paragraph 4). Also included in this definition are places in respect of which special regulations are made under clause 5(2), as it is considered that such places should be required to be registered under clause 7.

4. Clause 7 provides for the registration of factories, as at present, and extends this requirement to mines and places in which a dangerous or scheduled trade is carried on, irrespective of the number of workers employed or the presence or absence of machinery. The term "scheduled trade" is new and refers to those undertakings which are of such a nature as to merit registration and are listed in the Second Schedule.

5. At present the Commissioner may by regulations declare trades, processes or occupations to be dangerous trades for the purposes of the existing Ordinance and Regulations. For convenience the dangerous trades are in this Bill listed in a Schedule rather than left to be declared as such by regulations, and the scheduled trades are dealt with in a similar manner. Under clause 6, the Governor in Council would be enabled to amend each of these Schedules.

6. Under section 8(1) of the existing Ordinance the maximum penalty for any offence against the Ordinance is a fine of \$1,000. This amount is now considered to be insufficient, and clause 8, in making specific reference to each particular offence, increases the amount of the fine to \$5,000 or \$2,000 dependent upon the gravity of the offence. The maximum penalty to be specified in regulations is also raised from \$1,000 to \$5,000 (see clause 5(5)).

7. Clause 9 deals with continuing offences and raises the additional daily fine which may be imposed from \$100 to \$500. The ten days period of grace for continuing offences permitted under section 8(1) of the existing Ordinance has not been retained, in order to ensure that failure to comply with the provisions of the Ordinance will when discovered be remedied without delay.

CHUNG CHI COLLEGE INCORPORATION BILL, 1955.

DR. CHAU SIK NIN moved the Second reading of a Bill intituled "An Ordinance to provide for the incorporation of the members of Chung Chi College.

MR. NGAN SHING-KWAN 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 12 were agreed to.

Council then resumed.

DR. CHAU SIK NIN reported that the Chung Chi College Incorporation Bill, 1955 had passed through Committee without amendment and moved the Third reading.

MR. NGAN SHING-KWAN seconded.

The question was put and agreed to.

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

ADJOURNMENT.

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

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

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