

OFFICIAL REPORT OF PROCEEDINGS.**Meeting of 3rd July, 1957.****PRESENT:**

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR ALEXANDER WILLIAM GEORGE HERDER GRANTHAM, G.C.M.G.
THE HONOURABLE THE COLONIAL SECRETARY
MR. CLAUDE BRAMALL BURGESS, O.B.E. (*Acting*).
THE HONOURABLE THE ATTORNEY GENERAL
MR. ARTHUR RIDEHALGH, Q.C.
THE HONOURABLE THE SECRETARY FOR CHINESE AFFAIRS
MR. JOHN CRICHTON McDOUALL.
THE HONOURABLE THE FINANCIAL SECRETARY
MR. JOHN JAMES COWPERTHWAITTE (*Acting*).
DR. THE HONOURABLE YEO KOK CHEANG, C.M.G.
(*Director of Medical and Health Services*).
THE HONOURABLE DAVID CLIVE CROSBIE TRENCH, M.C.
(*Commissioner of Labour*).
THE HONOURABLE EDMUND BRINSLEY TEESDALE, M.C.
(*Director of Urban Services*).
THE HONOURABLE ALLAN INGLIS
(*Director of Public Works*).
DR. THE HONOURABLE CHAU SIK NIN, C.B.E.
THE HONOURABLE CHARLES EDWARD MICHAEL TERRY, O.B.E.
THE HONOURABLE LO MAN WAI, C.B.E.
THE HONOURABLE NGAN SHING-KWAN, O.B.E.
THE HONOURABLE DHUN JEHANGIR RUTTONJEE, O.B.E.
THE HONOURABLE KWOK CHAN, O.B.E.
DR. THE HONOURABLE ALBERTO MARIA RODRIGUES, M.B.E., E.D.
MR. MAURICE DEREK SARGANT (*Deputy Clerk of Councils*).

ABSENT:

HIS EXCELLENCY THE COMMANDER BRITISH FORCES
LIEUTENANT-GENERAL EDRIC MONTAGUE BASTYAN, K.B.E., C.B.
THE HONOURABLE CEDRIC BLAKER, M.C., E.D.

MINUTES.

The Minutes of the meeting of the Council held on 19th June, 1957, were confirmed.

PAPERS.

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

Subject. *G.N. No.*

Report of the Director General of the Overseas Audit Service
on the Accounts of Hong Kong for the year ended the
31st day of March, 1956.

Public Order Ordinance.

Military Installations Closed Areas (Amendment and
Consolidation) (Amendment) Order, 1957 A. 53.

**RESOLUTION REGARDING EX-GRATIA GRATUITY
FOR CHAN HAE YIN, WIDOW OF THE LATE
LAM YUNG FOOK.**

THE COLONIAL SECRETARY moved the following resolution: —

WHEREAS—

- (1) LAM Yung Fook, formerly Dispensary Supervisor on the non-pensionable establishment in the Medical Department, (hereinafter referred to as the deceased) died on 18th October, 1956;
- (2) CHAN Hae Yin, the widow of the deceased (hereinafter referred to as the widow) was awarded a death gratuity of nine months' salary, that is, \$7,425.00, under regulation 29(1) of the Pensions Regulations made under the Pensions Ordinance, Chapter 89;
- (3) the deceased had reached the retiring age of 55 on 16th December, 1954, but his services were, however, retained in the public interest until 16th December, 1956;

- (4) had the deceased retired on the date of his death he would have been eligible under Part V of the Pensions Regulations for a reduced retiring allowance of \$4,653.00 per annum plus a gratuity of \$19,387.50;
- (5) it is considered that the widow should not suffer financially and that she should be granted an *ex-gratia* award of \$11,962.50, being the difference between \$19,387.50 (the retiring gratuity to which the deceased would have been eligible had he retired on the date of his death) and \$7,425.00 (the death gratuity awarded to the widow under the said regulation 29(1)) :

NOW, THEREFORE, BE IT RESOLVED that CHAN Hae Yin, the widow of the deceased, LAM Yung Fook, be granted an *ex-gratia* gratuity of \$11,962.50.

He said: The late Mr. Lam Yung Fook, formerly Dispensary Supervisor in the Medical Department, died on 18th October, 1956. His widow was awarded a death gratuity of nine months' basic salary under Regulation 29(1) of the Pensions Regulations. This amounted to \$7,425.

The late Mr. Lam, who was born on 16th December, 1899, would in normal circumstances have retired in December, 1954, on reaching the age of 55, but his services were retained in the public interest until December, 1956. Had he retired on the date of his death, he would have been eligible under Part V of the Pensions Regulations for a reduced retiring allowance of \$4,653 per annum plus a gratuity of \$19,387.50.

Since the late Mr. Lam remained in the service after the retiring age to suit the convenience of Government, it is considered that his widow should not lose financially; it is therefore proposed that she should be granted an *ex-gratia* award of \$11,962.50 being the difference between the retiring gratuity which the officer would have drawn if he had retired on the date of his death and the death gratuity actually awarded to the widow.

The purpose of this resolution is to provide for the grant of this *ex-gratia* award.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

**SUPPLEMENTARY PROVISIONS FOR THE QUARTER
ENDED 31st MARCH, 1957.**

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Supplementary Provisions for the quarter ended 31st March, 1957, as set out in Schedule No. 4 of 1956/57, be approved.

He said: Sir, all the items in the Schedule have been considered and approved by Finance Committee and the covering approval of this Council is now required.

It is noteworthy that supplementary provision of nearly \$2¾ million has been required for various Public Works projects because progress was more rapid than was expected at the time of the Budget.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

SOCIETIES (AMENDMENT) BILL, 1957.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Societies Ordinance, Chapter 151."

He said: Sir, there is a very full explanation of the provisions of this Bill in the statement of objects and reasons, but the proposals are important for the maintenance of peace within our gates, and so perhaps I may properly say a word or two more.

When on 18th May, 1949, my predecessor introduced the Bill which became the Ordinance that the Government now wishes to amend, he pointed out certain historical matters which I think are of some significance. He said that the Ordinance then to be replaced was an Ordinance of 1920 which, although it declared to be unlawful Triad Societies and societies having unlawful objects or purposes incompatible with peace and good order, did not provide for registration or exemption as did its predecessor—the Societies Ordinance of 1911. He went on to say, and I quote his actual words as reported in the Hong Kong Hansard: —

"At this time when the state of the world is gravely unsettled and the maintenance of law and order in the Colony is likely to be endangered by outside influence it is considered

necessary that there should be in existence a record of all societies in the Colony and a knowledge of their objects combined with enhanced powers to control societies. It is for this reason that this Bill has come before Council with the objectives of re-establishing, in effect, the Ordinance of 1911 as the law of the Colony so as to require, as that Ordinance of 1911 required, that all societies, coming within the definition of "local society" given in clause 2 of the Bill, shall apply for registration and be placed by the Registrar of Societies upon the registered list or the exempted list, if registration is not refused."

Sir, whether or not the world is in a more stable condition now than it was when my predecessor spoke in 1949 is a question I leave to the historians to answer. Two things which I think may be accepted by responsible opinion in this Colony as axiomatic are; first, that there is just as much need now to maintain control over societies and to combat activities of a subversive or otherwise criminal character; and second, that this Colony is particularly exposed to undesirable organizations such as those whose lawlessness was demonstrated during the riots last October.

Triad societies are of course specifically declared unlawful by section 15 of the principal Ordinance, as are also by section 9 societies which are neither registered nor exempted under the Ordinance. One of the difficulties in the way of criminal prosecutions has always been proof of the existence of an unlawful society and proof of membership. Clause 5 of the Bill amends section 14 to facilitate proof of these matters.

Another important provision in the Bill is that which fixes an office-bearer with liability for offences committed in the name or on behalf of a society, unless he can show that the offence was committed without his knowledge and that he exercised all due diligence to prevent its commission. The real culprits—those who, having procured the commission of a crime, stay in the background—have too often in the past escaped the embrace of the criminal law and their just deserts.

Furthermore, the Registrar's powers of rescission of exemption and cancellation of registration have been extended as explained in paragraph 2 of the Objects and Reasons.

Sir, the provisions of this Bill are not the product of panic; they have received very close consideration, and are thought to be reasonable and necessary having regard to the present situation of Hong Kong. They may not, of course, appeal to some persons, and they will certainly not appeal to the lawless, the thugs and racketeers, and persons with subversive designs; but Sir, the first duty of the Government is to maintain law and order, and this we mean to do. Your Excellency has from time to time spoken of our dislike of controls, and lest the ignorant should misunderstand or the malicious should misrepresent, I am to emphasize that Your Excellency's references have been to the control of legitimate business activities. Here, we seek additional powers of control to deal with activities of a criminal or subversive character. In my submission no law-abiding citizen or body of citizens has anything to fear as a result of the passage of this Bill: it is no doubt irksome for persons associated for lawful purposes to be compelled to apply for registration, but that has evidently been accepted by persons of common-sense as the price they have to pay for some assurance that a state of affairs will not be permitted to occur in which their own way of life and freedom to associate would be imperilled.

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 main object of the amendments to the Societies Ordinance, Chapter 151 (the principal Ordinance) contained in this Bill is to provide a greater measure of control over the activities of societies and persons acting in the capacity of office-bearers. The steps taken to achieve this end are referred to in paragraphs 2, 3 and 4. In addition the opportunity is taken to make certain other amendments which are referred to in paragraphs 5 to 9.

2. Under section 5(5) of the principal Ordinance the Registrar may rescind the exemption granted to a society on certain grounds. Clause 3(b), in replacing that subsection, introduces three new grounds which may be summarized as follows—

- (i) participation in the performance of an illegal act;
- (ii) the performance of an illegal act on the society's premises;
- (iii) exercising or attempting to exercise political or undesirable influence over schools.

The registration of a society may be cancelled under section 5(6) of the principal Ordinance on the same grounds, and the new grounds mentioned above will therefore apply equally for that purpose.

3. Clause 4 introduces two new sections 12C and 12D, prohibiting any person convicted of an offence under section 10, 11 or 15(2) of the principal Ordinance and any office-bearer of a society the exemption or registration of which has been rescinded or cancelled from becoming an office-bearer of another society without the Registrar's permission. It is considered that the prior consent of the Attorney General to the institution of a prosecution for an offence against these new sections is not necessary. Clause 6 seeks to make the necessary provision by excluding these new sections from the operation of section 21 of the principal Ordinance.

4. Clause 4 also introduces a new section 12E designed to attach liability to the office-bearer and persons assisting in the management of a society on behalf of which a criminal offence is committed unless non-complicity in the offence is established. Such a provision is considered to be necessary in view of the growing tendency of certain local societies to participate in the commission of illegal acts in the name of the society. In order to facilitate proof in any prosecution under the new section that anything has been done or purports to have been done by or on behalf of a society, it is provided that documents found in the possession of an office-bearer or person assisting in the management of the society shall be *prima facie* evidence of the contents thereof.

5. The circumstances in which the Registrar at present refuses registration to a society are set out in section 5(3) of the principal Ordinance. The effect of clause 3(a) is to make section

5(3) permissive, and to extend its provisions to a society connected with another society of which the exemption or registration has been rescinded or cancelled. Section 5 of the principal Ordinance is further amended by the addition of a new subsection (3A) which prohibits the use of certain names.

6. Section 5(7) of the principal Ordinance provides for an appeal to the Governor in Council against the Registrar's refusal to register a society or his decision to rescind the exemption from registration or cancel the registration of a society. These decisions of the Registrar are administrative and it is considered that any appeal therefrom should be by way of petition. Clause 3(c) amends section 5(7) accordingly.

7. Section 5(5) of the principal Ordinance at present provides that a society of which the exemption from registration has been rescinded shall not be deemed to be an unlawful society until thirty days have elapsed from the date of the notification of such rescission and the society has failed to obtain registration within that period. Clause 3(d) adds a new subsection (8) to section 5 extending a similar period of grace to a society of which the registration has been cancelled, and permitting this period to run until any time for appeal has expired or an appeal has been determined. In order to enable the activities of the society to be limited during this period the new subsection allows only those activities and meetings which are conducted with the permission of the Registrar and in accordance with such conditions as the Registrar may see fit to impose.

8. Section 14(3) of the principal Ordinance provides that, upon proof that any place entered under any power conferred by section 19 was immediately before or at the time of such entry being used by or for the purposes of an unlawful society, persons on or escaping from the premises shall be deemed to be members of such society. Experience has shown that it is difficult to prove beyond doubt that a place was being used by an unlawful society. Clause 5, in replacing that subsection, permits the presumption to arise if the magistrate has reasonable cause to suspect that the place has been so used unless the person concerned gives a satisfactory account of the reasons for his presence there.

9. Section 2 of the principal Ordinance is amended by clause 2 to make it clear that "office-bearer" in relation to a society includes an office-bearer of a branch of the society.

**LAW OF PROPERTY (ENFORCEMENT OF
COVENANTS) (AMENDMENT) BILL, 1957.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to amend the Law of Property (Enforcement of Covenants) Ordinance, 1956."

He said: Sir, this Bill proposes an amendment of a technical character which is fully explained in the Objects and Reasons, to which I have nothing to add.

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 is designed to amend the Law of Property (Enforcement of Covenants) Ordinance, No. 56 of 1956. When that Ordinance was considered in the Colonial Office, it was suggested that section 3(1) made it possible for the owner of a flat to enforce a covenant against another owner of a flat although the former owner had no pecuniary interest in seeing that the covenant was enforced. An eminent conveyancing counsel in London has advised that technically the criticism directed against the language of section 3(1) is justified, and has advised that although from a practical point of view the criticism may have little, if any, substance, it would be better to amend the Ordinance to put an end to any question. Counsel also advised on the form which the amendment should take, and the provisions of this Bill are based on that advice.

MIDWIVES (AMENDMENT) BILL, 1957.

DR. YEO KOK CHEANG moved the First reading of a Bill intituled "An Ordinance to amend the Midwives Ordinance, Chapter 162."

He said: Sir, this Bill has for its object the amendment of section 4 of the Ordinance to provide for greater midwife representation on the Midwives Board. As at present constituted, the Board has only three midwives, whereas the doctor membership is seven. The amendment will cause a reversal of this state of affairs and provide for seven midwives and three doctors. Thus the constitution of the Midwives Board will follow more closely that of the Nursing Board, on both of which it is desirable to enable the respective professions to play a major part in the work.

Each of the three non-Government midwifery training schools will be represented by a midwife and the Hong Kong Nurses and Midwives Association will have three midwife representatives on the Board. The University will be represented by a member of the Medical Faculty as on the Nursing 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 amend the Midwives Ordinance, Chapter 162, so as to emphasize the representation of certified and enrolled midwives on the Midwives Board.

2. At present the Midwives Board consists in practice of seven doctors and only three midwives. The effect of this measure will be to provide that the Board shall consist of seven midwives and three doctors.

3. It is considered that in the present constitution of the Board the emphasis is wrongly placed and that the Board should consist primarily of midwives and not doctors. Furthermore the introduction of this measure will bring the constitution of the Midwives Board more closely into line with that of the Nursing Board established under the Nurses Registration Ordinance, Chapter 164.

ADDRESS BY THE GOVERNOR.

Honourable Members: this is another sad occasion because today this Council must bid farewell to yet another of its Members. I refer to Dr. Yeo. The whole of Dr. Yeo's public service has been with this Government. He has been Director of Medical and Health Services and a Member of this Council for 5½ years and it is unnecessary for me to tell you gentlemen what an excellent D.M.H.S. he has been because that is public knowledge. But why we are particularly proud of Dr. Yeo is because he is a local boy—or perhaps I should correct that by saying he is almost a local boy because I believe he was born in Penang and not in Hong Kong. But none the less I think we can claim him as our own and he also graduated from our University.

When he goes not only are we losing a very good Director of a very important department a post which will not be easy to fill, but we are also—and here I speak for almost everybody here I know—we are also losing a very good personal friend. (*Hear, hear*). Unfortunately we are losing two very good friends because naturally that very charming lady, his wife, will be going with him.

Of what use is it for us to bemoan and to bewail what is to be. It won't do Dr. and Mrs. Yeo any good; it won't do us any good. Far better that we should wish them, as I on your behalf do, many many happy years of retirement, because in their happiness we will rejoice. (*Applause*).

DR. YEO: —Your Excellency, I thank you for your kind remarks and your good wishes. It has been a great honour and privilege to be associated with this Council and I assure you that my interest in its work and the life of the Colony will continue despite my absence from Hong Kong. I should like to take this opportunity to thank you, Sir, for your understanding, sympathy and guidance and my many friends in this Council for their cooperation and help at all times. (*Applause*).

ADJOURNMENT.

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