

# LEGISLATIVE COUNCIL

(Constituted under the British Guiana  
(Constitution) (Temporary Provisions)  
Order in Council, 1953)

THURSDAY, 13TH SEPTEMBER, 1956

The Council met at 2 p.m.

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PRESENT :

The Deputy Speaker,

**Mr. W. A. Macnie, C.M.G., O.B.E.,**  
—In the Chair.

*Ex-Officio Members:*

The Hon. the Chief Secretary,  
**Mr. M. S. Porcher (Acting).**

The Hon. the Attorney General,  
**Mr. C. Wylie, Q.C., E.D.**

The Hon. the Financial Secretary,  
**Mr. F. W. Essex.**

*Nominated Members of Executive  
Council:*

The Hon. **Sir Frank McDavid,**  
**C.M.G., C.B.E.,** (Member for Agriculture,  
Forests, Lands and Mines).

The Hon. **P. A. Cummings** (Mem-  
ber for Labour, Health and Housing).

The Hon. **G. A. C. Farnum, O.B.E.,**  
(Member for Local Government, Social  
Welfare and Co-operative Develop-  
ment).

The Hon. **R. B. Gajraj.**

The Hon. **R. C. Tello.**

*Nominated Unofficials:*

**Mr. T. Lee.**

**Mr. W. A. Phang.**

**Mr. C. A. Carter.**

**Mr. E. F. Correia.**

**Rev. D. C. J. Bobb.**

**Mr. H. Rahaman.**

**Miss Gertie H. Collins.**

**Mrs. Esther E. Dey.**

**Dr. H. A. Fraser.**

**Mr. R. B. Jailal.**

**Mr. Sugrim Singh.**

*Clerk of the Legislature —*

**Mr. I. Crum Ewing.**

*Assistant Clerk of the Legislature*

—**Mr. E. V. Viapree.**

*Absent:*

His Honour the Speaker,  
**Sir Eustace Gordon Woolford, O.B.E.,**  
**Q.C.**

The Hon. **W. O. R. Kendall** (Mem-  
ber for Communications and Works).  
—on leave.

The Hon. **L. A. Luckhoo, Q.C.**

**Mr. W. T. Lord, I.S.O.**—on leave.

**Mr. J. I. Ramphal**—on leave.

The Speaker read prayers.

The Minutes of the meeting of the  
Council held on Thursday, the 6th of  
September, 1956, as printed and circu-  
lated, were taken as read and con-  
firmed.

## ANNOUNCEMENTS

## NEW STANDING ORDERS

**Mr. Deputy Speaker :** I have to announce first that the new Standing Orders of this Council have been approved by His Excellency the Governor and have been in effect since the 7th of September. Those are the Standing Orders which were prepared by a Select Committee of this Council, and which were approved by the Council by resolution. They are therefore now in effect, and we shall be guided by them.

## LEAVE TO MR. LUCKHOO

I also have to announce that leave has been granted to the Hon. Mr. L. A. Luckhoo from the 13th to the 21st of September, to be out of the Colony.

## EARLY ADJOURNMENT

**The Chief Secretary :** Sir, may I suggest before we proceed, that if hon. Members agree, we should adjourn half an hour earlier this afternoon, at half past four instead of at 5 o'clock, in view of a function to which I think most Members have been invited. It would mean adjourning at half-past four until next Thursday at 2 o'clock, because there will be a meeting of Finance Committee tomorrow.

**Mr. Deputy Speaker :** The suggestion is that Council should be adjourned this afternoon at 4.30 in order to enable those hon. Members who wish and are able to attend the presentation of Colours to the St. John Ambulance Brigade, to do so. That ceremony is due to start at 5.30 p.m. and it would probably be difficult for Members to get there in time if we sat until 5 o'clock. Unless any Member wishes to say anything to the con-

trary, I therefore propose to accept the suggestion of the hon. the Chief Secretary and adjourn as soon after 4.30 p.m. as possible.

The other point made is that we should adjourn until Thursday next week, as the Financial Secretary wishes to have a meeting of Finance Committee tomorrow to continue consideration of the Development Plan.

**Mr. Correia :** There is no objection to adjourning at 4.30 p.m. as I think Members would like to attend the ceremony.

## PAPERS LAID

**The Financial Secretary :** I beg to lay on the table :

The Report of the Director of Audit on the accounts of the Controller of Supplies and Prices for the year 1955, together with the related Schedules

**Mr. Farnum** (Member for Local Government, Social Welfare and Co-operative Development) : I beg to lay on the table :

The Report of the Fourth Session of the Eastern Caribbean Hurricane Committee.

## GOVERNMENT NOTICES

DRAINAGE AND IRRIGATION  
(AMENDMENT) BILL

**Sir Frank McDavid** (Member for Agriculture, Forests, Lands and Mines) : I beg to give notice of the introduction and first reading of a Bill intitled :

"An Ordinance further to amend the Drainage and Irrigation Ordinance."

## LABOUR (AMENDMENT) BILL

**Mr. Cummings** (Member for Labour, Health and Housing) : I beg

to give notice of the introduction and first reading of a Bill intituled:

"An Ordinance to amend the Labour Ordinance."

### MOTION

#### PUBLIC TRUSTEE (AMENDMENT) RULES

**The Attorney General:** I beg to give notice of the following motion :-

"Be it resolved:

That this Council, in pursuance of the powers vested in it under section 18 of the Public Trustee Ordinance (Chapter 48), hereby makes the following rules:—

1. These Rules may be cited as the Public Trustee (Amendment) Rules, 1956, and shall be construed and read as one with the Rules made under the Public Trustee Ordinance, 1910, on the 12th July, 1911, hereinafter referred to as the Principal Rules.

2. The Principal Rules are hereby amended by the revocation of Rules 9 and 10."

### ORDER OF THE DAY

#### FACTORIES REGULATIONS (VALIDATION (AMENDMENT NO. 2) BILL

**Mr. Cummings:** I beg to move the first reading of a Bill intituled :

"An Ordinance further to amend the Factories Regulations (Validation) Ordinance, 1956."

**Sir Frank McDavid:** I beg to second the motion.

Question put, and agreed to.

Bill read a first time.

#### PHARMACY AND POISONS BILL

Council resolved itself into Committee to resume consideration of the Bill intituled :

"An Ordinance to make better provision for the control of the profession of pharmacy and the trade in drugs and poisons."

**The Chairman:** When Council adjourned a week ago we were at clause 3 and the First Schedule. Various amendments had been moved to the First Schedule and negatived. Does any Member wish to speak on clause 3 and the First Schedule?

First Schedule.—Paragraph 8.

**Mr. Jailal:** I move the deletion of paragraph 8 of the First Schedule and the substitution of the following:

"The Governor shall appoint any registered medical practitioner who is not in the Public Service to be the Chairman of the Board."

It is not necessary for me to speak on it, because I have made all my points before, and I gave notice of my intention to move an amendment.

**Sir Frank McDavid:** I merely wish to ask the hon. mover what would happen if there is no registered medical practitioner who is not in the Public Service on the Board? There is no certainty that there would be such a person.

**The Chairman:** The Board's constitution only provides for two registered medical practitioners, and not necessarily two. There is the Director of Medical Services, who is a registered medical practitioner, and one person appointed by the British Guiana Branch of the British Medical Association. It is unlikely, I suppose, that the person to be appointed by that body—

**Sir Frank McDavid:** It is very likely that that person would be a public servant.

**The Chairman:** I was going to say that it is possible that he may not be a medical practitioner, and furthermore, it is possible that he would be in the Public Service. Therefore there would be no registered medical prac-

[The Chairman]

titioner on the body, as stated in paragraph 2 of the Schedule, from whom the Governor could make the appointment.

**Mr. Correia :** It is on account of that view — whether the appointee should be a medical practitioner from the Public Service, or a private practitioner—that the hon. Member has suggested this amendment.

**The Chairman :** But this amendment is not going to remove the difficulty.

**Mr. Correia :** The Chairman should be a medical practitioner outside the Public Service.

**The Chairman :** But it may well be that there would be no such medical practitioner on the Board.

**Mr. Correia :** Yes, sir, there is a doubt. He may not be in the Public Service.

**Mr. Jailal :** I tried to find out about the British Medical Association: who were the people in it? I laboured under the delusion that this provision was for an extra medical officer (the Bill sets out, the Director of Medical Services, one person appointed by the British Guiana Branch of the British Medical Association) and that is why I did not press for an additional member of this Board. I was under the impression that this appointee would be a medical practitioner from outside of the Government service. I was trying to get that clear in my mind, but it seems that —

**Sir Frank McDavid :** “I have misled myself.”

**Mr. Jailal :** It is up to Members of this Council to show how they will balance the power on this Board.

**Mr. Cummings :** If the hon. Member had asked me, I would have told him, and I think I am correct in saying this, that the representative of the B.M.A. on the Board was a member of the Government service. We cannot say who the B.M.A. are going to appoint, so if he laboured under a delusion, it was his own.

**Mr. Jailal :** Hence my deeper fear now that this is a Government Board, and that Government is going to seek to control fully the Board as such. Hence enterprise would have clearly nothing to say, because unless the non-Government people have three more votes they would not have a majority.

**Mr. Cummings :** The hon. Member has some fears that the Board would be apparently dominated by Government, but what is wrong with that so far as it concerns a Board to administer the type of Ordinance set out? Look at the arrangement of the sections in the Bill. It shows that there will be a Board, then the keeping of a register of pharmacists, applications for registration are to be considered, certificates are to be issued, certain qualifications will be sought for, and so forth, and there will be a list of poisons. What is wrong with that being a Government Board? The people for whom we seek improvement will be represented. The facilities are there. The Pharmaceutical Association will have its people.

**The Chairman :** And the chemists and druggists?

**Mr. Cummings :** Yes. What is the objection to a Board like this being so constituted?

**Mr. Jailal :** The objection is this: this is a Bill to provide better control

of the profession of pharmacy, but as long as this control includes also the trade in drugs and poisons, I can never support a Government-dominated board. Because of the presence of the word "trade" in the Bill, I am moving such an amendment.

**The Chairman:** Unless the hon. mover wishes to say anything further, I shall put the amendment moved by the hon. Member, Mr. Jailal.

**Mr. Cummings:** I do not think I can usefully add anything further, because the thing speaks for itself.

**Sir Frank McDavid:** I do hope he withdraws it and leaves legislation that means something.

**The Chairman:** Is the hon. Member pressing his amendment?

**Mr. Jailal:** Sir, I will let it stand.

**The Chairman:** The question is, that paragraph 8 of the First Schedule be deleted, and the following be substituted therefor: "The Governor shall appoint a duly registered medical practitioner who is not in the Public Service to be Chairman of the Board."

The Committee divided and voted as follows:

<i>For</i>	<i>Against:</i>
Mr. Singh,	Mr. Rahaman
Mr. Jailal	Mr. Tello
Dr. Fraser,	Mr. Farnum
Mr. Correia,	Mr. Cummings
Mr. Carter	Sir Frank McDavid,
Mr. Phang	The Attorney General
Mr. Lee—7.	The Financial Secretary
	The Chief Secretary—8.

*Did not vote*

Mrs. Dey  
Miss Collins—2.

Amendment lost.

**The Chairman:** Are there any other amendments in respect of this paragraph or the rest of the Schedule?

Question put, and agreed to.

Paragraph 8 passed as printed.

Paragraphs 9, 10 and 11 passed as printed.

First Schedule passed as printed.

Clauses 3 and 4 passed as printed.

Clause 5.—*Appointment of Regis-*

**Mr. Jailal:** I wish to move an amendment at subclause (1), as follows: insert between the bracket and the comma in the third line —

"Who shall be a registered pharmacist."

**Mr. Cummings:** This sort of amendment one might well accept, but for the fact that I am advised that attempts will be made at all times to engage an individual who is a pharmacist. We may not always get a person who is a pharmacist; what will we do if we lay it down in the statute? This is a clerical job. We have no guarantee that the person agreed upon by the Board will serve. For that reason I cannot accept the amendment. It may be impracticable.

**Mr. Jailal:** When I started to speak on this Bill I felt that bringing this Bill forward would prove to be an encouragement: that it would turn out to be something that would encourage youngsters to go in for the profession. If we are being told now that a job of this sort would not be attractive enough, then the whole basis of this legislation breaks down.

In industry, when one wants a good electrical clerk or a good machinist clerk, or somebody to do shop work, one has to find a man who has had practice in the particular field, and who would know what one is talking to him about. Then, and only then will one get the suitable

[Mr. Jailal]

man. What the position is likely to be, if this clause stands as it is, is that we would just be paying a man to do the job although perhaps he has never seen drugs in his life. British Guiana may be a long way off from the stage where we would find a man with a B.Sc. degree to do the job, but I am sure we have men now in the Civil Service who would seek the job. I am positive about that. I cannot share the hon. Member's fear in this matter. We are urging people to qualify; why should we not see that they get to the top bracket. The Registrar of the Board is to be an important person. He is the man who is going to carry out the orders and instructions of the Board.

**Mr. Carter:** If the hon. Member has so much fear and apprehension about being able to find one person only to fill the post of Registrar, how much more fear will he have about finding people to be dispensers?

**Mr. Lee:** If he wants to say he cannot find pharmacists to fill the post and that a position would arise with Government not being able to find anybody in British Guiana, then the Ordinance can be amended in 24 hours. I have seen an amending Bill gain passage in 24 hours. We are going to provide for a particular class of people; if those people want one of their own in this post, let them have one of their own.

**Mr. Sugrim Singh:** I remember that the last time we met the hon. Member spent some time in trying to convince this Council that this sacrosanct Board required specialist knowledge, but I will ask him to be consistent today in accepting this amendment. I am not going to say anything further, but the need is so outstanding that it sticks out a mile.

**Mr. Cummings:** I am afraid that if the need is sticking out a mile then

I am wearing blinkers. I just cannot see any inconsistency in this proposal. The Board is a technical Board and the Registrar as its clerk has to keep minutes of the meetings. Is the hon. Member (Mr. Sugrim Singh) going to say that in order to be the Secretary of a technical Board one has to be a technician himself? That would be very bad logic. We would have no objection to opening the post to pharmacists, but we feel that one who has studied his profession would not find it in keeping with his duties as a pharmacist if he is required to sit down and read minutes that he took at meetings.

**Mr. Sugrim Singh:** The point I am trying to make is that an experienced pharmacist would facilitate the work of the Board. This is a sacrosanct body and I am surprised to hear the hon. Member arguing to the contrary.

**Mr. Jailal:** I cannot reconcile the two words — "Registrar" and "Secretary." To my mind the term "Registrar" cannot mean a man who is an ordinary typist-clerk. When we refer to "Clerk to the Attorney General" do we refer to anyone other than a Barrister? Why do they always choose a man with legal knowledge? Can anyone tell me that all this man will do is to write a few minutes or such odd things? If I am told bluntly that all that is wanted is a minute clerk, I would sit down and say all right. But if they are going to have a Registrar and call upon him to do important work then they are going to find that they need a man with technical knowledge, and I am sure there are a good many persons who feel he should be someone with the qualification of a pharmacist. I maintain that there should be a pharmacist to deal with the business of the Board as affecting the general public from time to time.

**Sir Frank McDavid:** I want to draw from my own personal knowledge

in order to tell the hon. Member that he is quite wrong. The word "Registrar" is used because one would find that the work of a Registrar — as in the case of a University and places like that — deals formally with the extramural work. I have been looking through the Bill to see what are the functions the Registrar will be called upon to do and I think that if the hon. Member reads the Bill he would see that the Registrar would be more or less a superior kind of clerk. The most important thing he has to do is to keep the minutes and the Register of persons who have passed their examinations. He has to keep their names in the register and he would remove a person's name from the register if the Board holds an inquiry and finds that his name should not be there. Similarly, he would have to inspect the Schedules and keep the names of all those who are entitled to trade thereunder. The Registrar, of course, should be a good Permanent Secretary and I have the greatest confidence that nowadays one could get a good senior clerk to fill the post. I am not sure that it is a whole-time job at all. It is probably one of the functions of some senior clerk in the Medical Department. It is not a technical post; it is purely secretarial and that is what it is.

**Rev. Mr. Bobb:** I should like to know if this Registrar is to be an executive of the Board.

**Mr. Cummings:** I would say that he would be an executive, because he would execute the policy decided. Speaking from my own knowledge, he will have to attend meetings of the Board, keep minutes and follow up action that the Board takes. The Registrar would be responsible for keeping the list and for putting the names of persons in the register when they are entitled to be there and, as Sir Frank points out, he

would record the result of inquiries and other administrative action. If the pharmacists are interested in any law they can get in touch with him and it seems to me that there would be no difficulty in getting any representations placed before the Board.

**The Chairman:** Will the Registrar be a whole-time employee?

**Mr. Cummings:** At the moment it is not intended that he should be a whole-time employee. The time might come when we might have a whole-time man, but not at the moment.

**Sir Frank McDavid:** When one uses the word "executive" with respect to an Ordinance it has a special meaning. One implies that he initiates and almost generates the policy on which action is taken. The people who are going to do that here would be the Control Board which is the Government, and I do not conceive that this Registrar will be an executive at all.

**Rev. Mr. Bobb:** I think the question is well answered.

**The Chairman:** Does the hon. Member (Mr. Jailal) want to have the amendment put?

**Mr. Jailal:** Yes, sir.

Amendment put, and the Committee divided and voted as follows:

*For—*

Mr. Singh  
Mr. Jailal  
Dr. Fraser  
Mr. Correia  
Mr. Carter  
Br. Phang  
Mr. Lee.—7.

*Against—*

Mr. Rahaman  
Mr. Tello  
Mr. Farnum  
Sir Frank McDavid  
The Financial Secretary  
The Attorney General  
The Chief Secretary.—3.

*Did not vote—*

Mrs. Dey  
Miss Collins.—2.

Amendment negatived.

First Schedule passed as printed.

[Mr. Jailal]

Clause 5, as amended, passed.

Clause 7 — *Application for registration as a pharmacist.*

**Mr. Sugrim Singh:** I desire to move an amendment to clause 7 (2). I am asking that "fourteen days" be made to read "21 days", and I am also asking that "five dollars" be amended to read "one dollar".

**Mr. Cummings:** I have not heard the hon. Members reason for asking for the amendment.

**Mr. Sugrim Singh:** The 21 days applies to the pharmacist to be registered, and he would not be doing any actual work. He may be in some room not far away and 21 days would be quite sufficient for him to put himself in order.

**Mr. Cummings:** There is no particular reason why "fourteen" was put, and I will accept the amendment.

**Mr. Sugrim Singh:** As regards the second point, nothing will be lost — by the reduction of the fine from five dollars (as proposed) to one dollar. It is just to get the person to do the needful.

Amendment adopted.

Clause 7, as amended, passed.

Clause 8 — *Certificate of registration.*

**Mr. Carter:** I desire to move an amendment, to the effect that the following words be added to subclause (1):

"to which shall be attached a photograph of the pharmacist with his specimen signature thereon."

I have noticed that quite a number of certificates of this nature are issued in this Colony without any real means of identifying the persons. The practice is fairly widespread, and I feel that there should be some means of identification.

**Mr. Cummings:** Without being in any way derogatory to the hon. Member (Mr. Carter) who has rendered some very useful service, I fail to see what my photograph would have to do with my certificate as a Barrister. I do not see any reason why a photograph should be demanded in a provision of this nature. If hon. Members feel that an application for registration should be treated that way, however, I would support the amendment.

**Mr. Sugrim Singh:** I support the amendment. There is a scarcity of qualified pharmacists, and if there is impersonation the whole object of the Bill would be defeated.

**The Chairman:** It is true that passports carry a photograph of the holder for purposes of identification.

**Mr. Cummings:** In matters of this nature the country is in the hands of this Council. If that is what the Council thinks of our pharmacists, well it is a matter for the Council.

**Mr. Lee:** I do not think my hon. friend should press his amendment. After all there are less than half a million people in this country, and I do not think the few persons who have qualified as chemists and druggists should be subject to such an indignity. After all it is a dignified profession.

**Miss Collins:** In my opinion it is an insult to the pharmacists.

**Rev. Mr. Bobb:** While there is a distinction between a certificate of competency and a certificate of registration, and there might be some justification for identification for the purposes of registration, it might be construed that a photograph is attached because of some suspicion about the honesty and integrity of members of the profession. Whatever the local circumstances may be, a person outside reading the Ordinance might put a different interpretation on the provision.

**Mr. Carter:** I do not agree with all the objections which have been put forward with the idea of getting me to withdraw my amendment, but seeing how the wind is blowing I beg to withdraw it.

**The Chairman:** In the face of the elements you will not press it.

Clause 8, with the deletion of the figure in brackets (1), was passed as printed.

Clause 9 — *Qualifications of pharmacist.*

**Mrs. Dey:** I regard this clause as the real meat of the Bill. I had a great deal to say on the last occasion and I had the assurance of the hon. Member for Health that those persons, who are very few in number, who do not happen to have a certificate (I am not referring to the people who have sign boards over more than one drug store) but have had 20 or 25 years' experience, would be granted exemption. In the terms of the reply I received from the hon. Member they would be permitted to carry on indefinitely. I am therefore suggesting that paragraph (c) which requires persons to pass such an examination as may be required by the Board, be deleted. The hon. Member gave us an assurance last Thursday that those people would be allowed to continue their practice indefinitely. If paragraph (c) is allowed to remain in the Bill I would like to know what has happened to the assurance he gave this Council.

**Mr. Cummings:** I think the hon. Member quite misunderstood the assurance. The assurance that was given was with regard to people who sell proprietary medicines. Rather than their being removed completely they would be allowed to continue to sell on a personal basis indefinitely. But at no time did I ever attempt, nor could I have attempted, to give an assurance that such persons would be registered as

pharmacists. The governing words of clause 9 are "No person shall be entitled to registration as a pharmacist unless such person" — then follow paragraphs (a), (b), (c) and (d). I am sure the hon. Member is not asking that we completely destroy the policy of the Bill by registering as pharmacists people who are not pharmacists. That is the effect of what the hon. Member is asking now. The intention, when we set out, was to stop the sale of proprietary medicines by unqualified persons, but we had to consider the hardship on persons who have been for years earning their livelihood in this particular field.

**Mrs. Dey:** In view of what the hon. Member has said, may I ask for the insertion of another paragraph (e)?

**Mr. Cummings:** The assurance which was given was given on the basis of the amendment which is No. 5 on the list of amendments, which would permit those people selling proprietary medicines within certain areas to continue. If the hon. Member is going to ask for the insertion of something new she would be asking for something which was never conceived by anybody.

**Mrs. Dey:** The new paragraph (e) which I suggest should be inserted reads:

"(e) Unless such person has had 20 years' experience in dispensing and compounding of drugs and poisons under supervision in hospitals, dispensaries or drug stores, and is still carrying on business on his own, which comprises the retailing, selling, dispensing or compounding of drugs."

**The Chairman:** With due respect to the hon. Member I regard that as the longest amendment I have heard for some time. Will the hon. Member please pass the amendment up?

**Mr. Sugrim Singh:** I am 75 per cent. in favour of the wording of that

[Mr. Sugrim Singh]

amendment, but as regards the remaining 25 per cent, perhaps the hon. Member can explain how many people actually engaged in the business would be affected by it. I understand that there are about six persons. I would not like to support an amendment which would defeat the whole object of the clause.

**Mr. Cummings:** I am advised that there are a large number of such people. The amendment would include all the hospital nurses and dispensers.

**Mrs. Dey:** Oh no.

**Mr. Cummings:** Perhaps the hon. Member is better informed than the D.M.S.

**Rev. Mr. Bobb:** My own ideas seem to be in conflict with those of the hon. Member, Mrs. Dey, because in the Objects and Reasons of the Bill it is clearly stated that:

"This Bill seeks to make better provision for the control of the profession of pharmacy and the trade in drugs and poisons."

As far as I can remember, what the hon. mover assured the Council about was with respect to the second part of that statement — that those persons who have been in the trade for a certain number of years will be allowed to continue indefinitely. I do not think he said anything to indicate that they would become pharmacists. I would like to know whether that is a correct interpretation of what he said.

**Mr. Cummings:** The hon. Member is quite correct in his interpretation of the assurance I gave to the hon. Member, Mrs. Dey.

**Mrs. Dey:** Because of their experience they would be exempted from an examination.

**Rev. Mr. Bobb:** If I am exempted from an examination I am qualified.

**Mrs. Dey:** A stone's throw from this Building we have the example of a man who has been exempted at the age of 70 years.

**Mr. Cummings:** The hon. Member is quite entitled to ask for any amendment which she thinks is in the public interest. All I am seeking to do is to make it clear that if her amendment is supported those people would become pharmacists, because if we register them as pharmacists without examination then they automatically become pharmacists, and we defeat the object of the Bill. I am not annoyed with the hon. Member for putting her point forward, but let it be clear what we are doing.

**Mr. Sugrim Singh:** We seem to be at cross purposes. I would refer to the precedent which is on the Statute Book — the position of sicknurses and dispensers who have been extracting and looking after teeth for 25 years. As a result of that long experience those persons have been registered as dentists. In simple language that is what we are trying to suggest should be done in this case.

There are a few men who have been trained under pharmacists and have been working in a dispensary or in a hospital, and are actually in the drug business now. I am told that there are not more than 10 or 11 such persons who do not fall within the five-year provision, and would never be able to take an examination. I think it would be a good gesture if we could help those people. A legislator is not worried about what people think. The registered pharmacists would like to drive the unqualified persons out of the business, while the latter would like to remain in. I was appealing to hon. Members to act consistently.

**Mr. Cummings:** I would like to remind the hon. Member that we have passed the stage of the Dental Ordinance. Under the old Ordinance we did make such a provision, so that those people could go through a transition stage. But we have passed that stage; we have come to the stage when we have to stop that if we are really to improve the standard of the profession.

**Mr. Carter:** I supported the suggestion for the exemption of about five dental mechanics who had spent all their lives in dental parlours working under the supervision of registered dentists, and were qualified to do almost everything a dentist could do, but the Council threw out the suggestion. If the suggestion is that sicknurses and dispensers should be given exemption from an examination and be registered as chemists and druggists, I say that the same thing should have been done in the case of those dental mechanics. The hon. mover has rightly said that that day has passed. If those sicknurses and dispensers who have given 25 years' service under the supervision of doctors were ambitious to become pharmacists I do not think there was any age-limit to prevent them taking an examination. If they feel that they are qualified enough to be dispensers and compounders of drugs and poisons I think they should avail themselves of the opportunity to sit an examination in order to qualify as chemists and druggists and put themselves in line to make use of this legislation which is for their own protection.

**Miss Collins:** The *Hansard* report of the Legislative Council of the 27th June, 1952, shows that a similar proposal was made by the hon. Mr. Farnum in a motion recommending that sicknurses and dispensers with long service should be exempted from examination, but the motion was withdrawn. That was in 1952 when there was an elected Council.

**The Chairman:** A partly elected Council.

**Miss Collins:** I can assure hon. Members that the majority of the Members of the Council at that time were not in favour of the exemption, but suggested the appointment of a Committee to go into the question and see what opportunities could be offered to the sicknurses and dispensers.

I am satisfied that the sicknurses and dispensers with their years of service have done their best, and I cannot on principle accept the suggestion that these men should be registered as pharmacists. What about a person who has had practical experience, took the examination three times and failed? He will not be allowed to register unless he has that certificate.

It is time that Government should come to some decision. After spending years on the subject Government has done absolutely nothing to assist these people to qualify, but has only allowed them to continue practising year after year. There should be some kind of Board to look after their affairs, and if they are given a test we will at least be satisfied that we are doing something. If nothing is done now another Legislative Council five years from now will be saying the same things. The hon. Member should consult with the Director as to what is the best type of test for these men with long years of experience. If the 1952 Government did not see fit to support this, I do not see why we should now.

**Mr. Correia:** The last speaker, I think, came straight to the point. The amendment as I see it does not concern sicknurses and dispensers, but a number of people who have been in the drug trade for over 35 years. They have no qualification except that they have been in the trade for a long time. The exemption the hon. Member, Mrs. Dey,

[Mr. Correia]

is asking for, relates to people who have had no qualifications at any time.

**Miss Collins:** It would make it all the worse if it does not concern sick-nurses and dispensers.

**Mr. Cummings:** May I say that the amendment proposed by the hon. Member, Mrs. Dey, would embrace both. She says that a person should be entitled to registration if he has had (a) 20 years experience in the dispensing and compounding of drugs and poisons under supervision in hospitals, dispensaries or drug stores, and (b), and is still carrying on business on his own which comprises the retailing, dispensing or compounding of drugs. That covers both the gentlemen to whom Mr. Correia referred and the sick-nurses and dispensers to whom Miss Collins referred. There are sick-nurses and dispensers who are concerned and so I would say that Miss Collins' remarks were quite relevant to the issue. She did appeal to me to consult with the Director, but there is no need to do that because I presented this Bill in a form which was decided upon after consultation by Government. She said Government was to be blamed for the position. But what could Government do? — and I am speaking of the past.

We are laying down a certain policy now: if they want to become pharmacists, then they must take an examination and qualify. I agree with the view that if we allowed them to remain and practice as they always did, there might be a tendency among them to remain as they are. I fail to see how we can blame this Government with the accusation that it would be preventing people from earning a livelihood in a field which they have devoted their whole lives.

**Mrs. Dey:** I thank the hon. mover for bringing in that point. It actually

concerns my main point — that this is the only means of livelihood for these people. I am still to see how a man 50 to 55 years of age can sit an examination. Leave the door open to his children who wish to follow in his footsteps. I think the circumstances merit their being left where they are.

**Rev. Mr. Bobb:** I would like to follow the hon. Member right on that point. My last observation is that according to the Objects and Reasons of this Bill, it is to control the profession of pharmacy and the trade in drugs and poisons. If the intention of the amendment is to ensure there is no disturbing of people who are engaged in the trade and making a living from it, I do not think the assurance given by the hon. mover is in conflict with that intention. I refer the Committee again to page 7 of the Bill and to Clause 20, where it says,

“A registered pharmacist carrying on a business which comprises the retail sale of drugs should be an authorised seller of poisons within the meaning of this Ordinance”

Now, the category of persons the hon. Member seems to be thinking of in her amendment is not the registered pharmacists who are still carrying on a business and who need to be authorized to sell poisons; my understanding is that the hon. mover has already given the assurance that those persons now engaged in that business will be allowed to go on undisturbed, so there is really no need for the amendment. That is what I keep on saying.

**The Chairman:** There is one observation I would like to make, with reference to the speech made by the hon. Member, Miss Collins. Miss Collins referred to *Hansard* of the Legislative Council and to a motion moved by Mr. Farnum at that time. The Constitution

tion, of course, was partly nominated partly elected and partly official. What I find on looking at the Hansard is that the hon. Member, Mr. Farnum, moved a motion which recommended to Government the early introduction of such legislation which would permit persons of over 20 years experience as sicknurses and dispensers at hospitals under supervision of qualified medical practitioners to be exempted. The point I wish to make is that after debate for the whole day the motion was withdrawn. I did not hear that said.

**Miss Collins :** I said that, sir.

**The Chairman :** There was a varied expression of views. Is the hon. Member, Mrs. Dey, pressing that her amendment should be put?

**Mr. Cummings :** For the benefit of the hon. lady Member, Mrs. Dey, as I understand her, she is seeking to protect those people who are selling proprietary medicines, not the pharmacists. Now, if the hon. Member will look at my amendment to clause 33 (1) she will see that provision is made for all those people to continue to sell drugs and poisons. All that Government is opposed to doing is to making them pharmacists by virtue of their life service in this particular field. I think the effect of what she is seeking is there in that amendment.

**Mr. Dey :** I thank the hon. mover. I have here marked off on his draft amendment the disturbing words "unbroken containers." I get awful headaches after a trying day like this and I have to seek the assistance of a certain tablet. There are people like me who buy one Phensic or one aspirin because they cannot afford more. The words "unbroken containers" mean that the seller will not be able to sell

less than a bottle and these tablets will not be available to these people any more—and I am speaking of the lowest income group (I do not like the term, the common people).

**The Chairman :** That amendment is a long way off from where we are now.

**Mrs. Dey :** All right, sir. I think I should press my amendment.

Question put, the Committee divided and voted as follows:

<i>For</i>	<i>Against</i>
Mr. Sugrim Singh	Miss Collins
Mr. Jailal	Rev. Mr. Bobb
Mrs. Dey	Mr. Carter
Mr. Rahaman	Mr. Phang
Mr. Correia.—5.	Mr. Lee.—
	Mr. Tello
	Mr. Gajraj
	Mr. Farnum
	Mr. Cummings
	Sir Frank McDavid
	The Financial Secretary
	The Attorney General
	The Chief Secretary.—13.

Amendment lost.

Clause 10 passed as printed.

Clause 11—*Removal of names from register.*

**Mr. Jailal :** I should like to have an explanation with regard to the words "deemed guilty by the Board" in paragraph (f). I am a little hesitant to accept them so long as I see the word "guilty" and since "habitual drunkenness" is one of the questions concerned, I am wondering who will be competent to decide it. I suppose it will be based on the evidence of a doctor, but I do not agree that persons outside a judiciary should handle any such matter where guilt has to be established. I would suggest an amendment to the effect that a Court of law should decide the question whether the person concerned is an habitual drunkard.

**Mr. Sugrim Singh:** As a rule these clauses are taken from some legislation in the United Kingdom. It is a known fact that the term "habitual drunkard" is a term of art and carries a specific interpretation in law. That is a question of evidence, for there is no distinction between a drunkard and an habitual drunkard.

The disqualifications under sub-paragraphs (i) and (ii) of paragraph (f), include:

- "(i) habitual drunkenness or habitual addiction to any drug; or
- "(ii) such infamous conduct in any professional or other respect as in the opinion of the Board renders him unfit to be allowed to continue the practice of a pharmacist; . . ."

These can be interpreted to cover a multitude of sins and in that way we are putting a very big weapon in the hands of the Board. If they have been taken from United Kingdom legislation I am asking this Council to delete both of these sub-paragraphs, as I cannot support them. I have already said that I would like to know how this Board will be able to decide who is an habitual drunkard and furthermore, the Board cannot say what constitutes infamous conduct. Drunkenness is not a fault confined to pharmacists only, or to doctors or lawyers for that matter. It is a "universal disease" and, as I have already stated, we cannot make "fish of one and fowl of the other."

**Rev. Mr. Bobb:** It is a general question whether the Board is competent to deal with this matter. Further, I should like to ask whether clause 3 does not provide sufficient protection for any document which carries the seal of the Board.

**Mr. Cummings:** I am very grateful to the Rev. Mr. Bobb for draw-

ing my attention to this clause. I wish to deal with what are the merits or rather lack of merit in what appears to be the observations of the two previous speakers. These provisions would be in every professional code, and this is really a code of ethics. They would be found in the provisions dealing with the Medical Board. It is particularly important that in the course of the sale of poisonous drugs those concerned should not be suffering from alcoholic toxemia whilst selling any of these drugs. One might mistake one compound or one poison for another and consequently the Council must view with seriousness any such offence. As regards the term "habitual drunkard", I have my own interpretation.

I think that if a competent Board of druggists finds that a colleague, when he is selling drugs, seems confused and then goes back and "fires one", and is later heard to say "I am worried" or some such thing, they would be entitled to feel that the profession has been brought into disrepute. Jurors would deal with that sort of thing that way if the matter is put to them. I do not think that this is a provision that the pharmacists need to have any fear in supporting, and I feel that they would not be in good hands. As the hon. Member (Mr. Jallal) has said, they are not the only people who indulge in alcohol, but the Board would not find without just cause that any one of their number is an habitual drunkard. This is a provision which we must have if we are to protect the profession, and I would ask hon. Members not to oppose it because it is in this Bill.

**Mr. Lee:** Let us assume that the Board charges a pharmacist with habitual drunkenness and that he does

not appear drunk before the Board. Is that habitual drunkenness? If an ordinary person appears to be drunk while walking on the road or crossing a bridge, or even if it is said that on two or three occasions he appeared to be drunk, would that be habitual drunkenness? I think there should be a clause defining habitual drunkenness, otherwise the Board would have to go far and would find it difficult to convict a pharmacist of "habitual drunkenness" under the Ordinance. I think the last sub-paragraph (iii) — "negligence in compounding, dispensing or selling drugs" — covers a multitude of sins. If a pharmacist does not compound a prescription properly—in accordance with the doctor's instruction—and that could be proved against him he would be guilty of negligence and he or his firm would be liable for damages, apart from the fact that his name would be removed from the register. It is possible that the person for whom the prescription was compounded might take the medicine to the analyst.

**The Chairman:** What would lead a person to take the medicine to the analyst?

**Mr. Lee:** The person might become worse after having taken the medicine.

**Mr. Cummings:** The patient might be dead for that matter.

**Mr. Lee:** I know of cases where the pharmacist telephoned the doctor to say that something appeared to be wrong in the prescription. Let us assume that a pharmacist does this and is told to carry out his instructions, then there will be no negligence in the compounding. If it could be proved that there is negligence in compounding or in any other respect, such as writing wrong directions on the bottle, he would be guilty of negligence. Further, if a pharmacist sells a

dangerous drug in such a manner as to be a danger to the person to whom he sells it, he could be struck off from the register, under this very sub-clause (3). Why then should one go into a man's private life—in regard to the question of habitual drunkenness?

**The Chairman:** May I ask the hon. Member (Mr. Lee) a question? Will he say that so long as a man is not negligent it is immaterial whether he is an habitual drunkard or a drug addict? That is the inference as I see it.

**The Attorney General:** If in fact we are going to say that, I think we would be in a dangerous situation because as it is we are not going to do anything about it unless we know that the pharmacist has been negligent and kills somebody. I think we can say that a man is negligent or is an habitual drunkard if he is a danger to the public, and that is as far as we can put it. I suggest that it would be equivalent to saying that a drunken motorist should not be prosecuted unless he has knocked someone down.

I would suggest for the consideration of hon. Members that the real answer to this problem lies in subclause (3) which gives such a person a right of appeal to the Supreme Court whose decision shall be final. In other words, if a registered chemist whose name has been removed from the register feels that he has been unfairly dealt with, he could take the matter to the Court and get a proper hearing of the issue.

May I remind my hon. friend once again, that in the profession to which he belongs if he (I know he would not be guilty of it) were guilty of infamous conduct the Benchers of his Inn could disband him, and he would have no right of appeal to any Court whatever. But here the law is being fair,

and is giving the members of this profession a right of appeal to the Supreme Court.

**Mr. Lee :** I think there should be definitions of "habitual drunkenness" and "habitual addiction to drugs" in the interpretation clause. Suppose, for the sake of argument, a chemist and druggist was seen to be intoxicated at two successive annual dinners of the profession, he might be deemed by the Board an habitual drunkard.

**Mr. Jailal:** In view of what the hon. the Attorney-General has just said I feel that my amendment would really serve no useful purpose, having regard to sub-clause (3), and I therefore beg to withdraw it.

**Mr. Sugrim Singh :** I also wish to withdraw my amendment, as I accept the explanation of the hon. mover that this provision has been taken from the Medical Practitioners Ordinance.

Clause 11 passed as printed.

Clause 12.—*Enquiry before removal of name from register.*

**Mr. Jailal:** In view of the fact that clause 12 gives an accused person the right to be represented by a barrister or a solicitor before a Committee of Enquiry, I am wondering whether it would not be desirable to have a lawyer on the Board's side, probably as the Chairman of the Committee. I am not moving an amendment; I am merely making the suggestion for consideration by the hon. Member.

**Mr. Sugrim Singh :** I must part company with the hon. Member on this point.

**The Chairman:** Is the hon. Member moving an amendment?

**Mr. Sugrim Singh:** No, sir. I merely wish to suggest that the Board could be given the right to retain counsel if necessary.

**Mr. Cummings :** I am grateful to the hon. Member, Mr. Jailal, for his confidence in barristers, to the extent that he would like to see one on the Board. I am flattered. But in practice on such Boards, when a defendant is represented by counsel, the Board usually has someone from the Legal Department present during the proceedings. This is more or less a Government Board. Government is concerned with the control of drugs and will see that an accused person is properly represented, and, what is more, this Committee does not make a finding; it reports back to the Board, and if there are any points of law they are referred to the Law Officers for advice. So I do not think there is any fear of a barrister or a solicitor slipping through with anything.

Clause 12 passed as printed.

Clause 13. — *Certificate to be surrendered upon removal of name from register.*

**Mr. Lee:** This clause merely says that every registered pharmacist whose name is removed from the register shall surrender the certificate of registration to the Registrar for cancellation. I suggest the addition of the words "provided such certificate is in his possession." He may find that somebody had removed his certificate from his house. I suggest that provision should be made for a reasonable excuse to be given to the Registrar for a person's inability to produce his certificate.

**Mr. Cummings:** I must concede that there is some merit in the hon. Member's point. In legislation where

liability is absolute it is always necessary to limit the appearance of its being absolute by using the term "without reasonable excuse." Subject to the advice of the hon. the Attorney General I would therefore ask for the recommittal of clause 7 (2) for the insertion of the words "without reasonable excuse."

Clause 13 passed as printed.

Clause 7 recommitted.

**Mr. Lee:** I move the insertion of the words "without reasonable excuse" between the words "do" and "he" in the fourth line of sub-clause (2).

Agreed to.

Clauses 14, 15, 16 and 17 passed as printed.

Clause 18. — *Evidence before registration.*

**Mr. Lee:** Sub-clause (2) states:

"Any person aggrieved by the decision of the Registrar may appeal to the Board."

Nothing, however, is mentioned to show what is the procedure to be followed in making an appeal. Will there be an appeal form? If not, the appellant will have to write a letter to the same Registrar who informed him of the decision. There should be some way of doing it without having to go back to the Registrar.

**Mr. Cummings:** I cannot see the need for a form. If one tells a man he can appeal, one does not tell him how. He just makes an appeal. I think it is when one brings in forms and so on that one also has to bring in the lawyers to interpret what they really mean.

**Mr. Lee:** I am only trying to save trouble, but if they think it is all right, then it would have to remain. If the Registrar tells me, "I am not registering you" and I decide to appeal he is the same person to receive the notice of appeal. How am I to know that my appeal will go up to the Board unless I have a friend on the Board. My appeal might be rejected.

**Mr. Cummings:** Let me say at the outset, there are several bars to that. What is provided here is quite empirical and it has worked. If the secretary of the Board is a dishonest person, the person appealing will soon be asking what happened to the appeal, and if the Chairman of the Board finds that the secretary is not performing his duties as he ought to, the remedy is quite clear. No such case has arisen up to now.

Question put, and agreed to.

Clause 18 passed as printed.

Clause 19. — *Prohibition of any unregistered person assuming titles.*

**Mrs. Dey:** May I ask if this clause means that a chemist and druggist or sicknurse and dispenser would have to remove his sign from his present business place?

**Mr. Cummings:** I hope I can help the hon. Member. All I can say is that this provision means what it says. This is what it says, at sub-clause (1):

"No person other than a person duly registered as a pharmacist under the provisions of this Ordinance shall assume or use the title of Pharmacist, Chemist and Druggist, Chemist, Druggist or Dispens-

ing Chemist or any name, title or sign implying that he is registered under this Ordinance."

In other words, only a registered pharmacist can use these titles. A pharmacist perhaps can use these titles even if he is not registered, but —

**The Chairman :** Does the clause say that?

**Mr. Cummings :** I do not see anything unsound about it. It is not a question of not being allowed to sell proprietary medicines. This is a question of a person putting up a sign, "John Jones" etc. Does that suit the hon. Member?

**Mrs. Dey :** It will have to.

**Mr. Cummings :** It does not necessarily "have to". I want to help the hon. Member.

**Mr. Sugrim Singh :** If a person uses the description, "Pharmacy" or "Drug Store" in connection with his business it suggests that the owner of the business and the person having control are registered pharmacists. It implies, according to this Bill, that a pharmacist is there if one puts up "Campbell's Pharmacy" or "Campbell's Drug Store." It is an important point and must be clarified because quite a few of these drug businesses will have to change their signs. If a man puts up, "Campbell's Pharmacy," is that not all right if he is unregistered?

**Hon. Members :** No.

**Mr. Cummings :** May I read the clause and see where there is room for doubt? Subclause (2) reads:

"It shall not be lawful for a person to use in connection with any business any title, emblem or description reasonably calculated to suggest that he or any person employed in the business possesses any qualification with respect to the selling, dispensing or compounding of any drugs or poisons other than the qualification which he in fact possesses."

This subclause goes on to say:

"For the purpose of this subsection the use of the description 'pharmacy' or 'drug store' in connection with a business carried on in any premises shall be deemed to be reasonably calculated to suggest that the owner of the business and the person having control of the business are registered pharmacists."

I see the learned Member's point. A number of well known druggists call their businesses this way and also a number of people who sell drugs — and some of them are here this afternoon. All I can say is, that the policy of the Bill is to try to prevent the impression on a member of the public that he is not going to find a qualified pharmacist when he goes to such a place. I hope that it will not create much of a hardship. I see no harm in their putting up, "John Jones, licenced to sell drugs" or "For sale — the following drugs" if they are permitted to sell. This was not one of the representations made by the majority of the people who spoke to me on this Bill.

**Miss Collins :** We are concerned with human health. If one walks into a pharmacy or a drug store it is almost always with a view to helping someone's affected health. One hopes to get advice and assistance there.

**Mr. Cummings :** I have no wish that this Bill should go through in any form other than that before the Committee. The registered people must have their

proper place. If there is a final way in which we would have second thoughts then we will have second thoughts, but I do not particularly want to.

Let us look at my example again. "Campbell's Pharmacy" can mean two things: Campbell is unregistered and is carrying on alone without a registered pharmacist attached to his business, or Campbell is unregistered but is keeping with the law and has a registered pharmacist there.

**Mr. Sugrim Singh:** What I am trying to say is that this clause is confusing not only to the pharmacist but the owner of a business himself, because of the inconvenience it is going to cause. I am therefore asking that the clause be deferred so that it could be examined a little closer.

**Mr. Lee:** May I say that the time is now half past four?

**The Chairman:** I have just observed that myself.

**Rev. Mr. Bobb:** May I suggest that while the hon. Mover is considering this clause further, he might also consider those persons who would be left to continue their drug stores undisturbed since they would not be regarded as registered pharmacists.

**Mr. Cummings:** I give the hon. Member the assurance that that will be done.

**The Chairman:** The hon. Mover will give consideration to that next-week.

Council resumed.

**Mr. Deputy Speaker:** Council will now adjourn until 2 p.m. on Thursday next, September 20.