

## LEGISLATIVE COUNCIL.

No. S. 110.—The following Bills were read a first time at a Meeting of the Council held on the 11th May, 1911 :—

### A BILL

INTITLED

An Ordinance to authorise the publication of a Newly Revised Edition of the Revised Edition of the Statute Laws of the Colony prepared in virtue of Ordinance No. 12 of 1900.

WHEREAS owing to the great number of Amending and Consolidating Ordinances which have been passed since the publication of the Revised Edition of the Laws of the Colony by Sir John Carrington, Kt., late Chief Justice of Hongkong, that Edition is in need of revision, and it is expedient to authorise the publication of a Newly Revised Edition of the Laws of the Colony :

BE it enacted by the Governor of Hongkong, with the advice and consent of the Legislative Council thereof, as follows :—

1. This Ordinance may be cited as “The Statute Laws (New Revised Edition) Ordinance, 1911”.

2. In this Ordinance—

“Revised Edition” means the Revised Edition of the Laws of Hongkong prepared by His Honour Sir John Carrington, Knight, C.M.G., late Chief Justice of the Colony, and authorised to be used by proclamation of the Governor, dated 20th July, 1904, made in virtue of Ordinance No. 12 of 1900.

“New Revised Edition” means the newly Revised Edition of the Laws of Hongkong authorised by this Ordinance.

3.—(1.) His Honour Sir Francis Taylor Piggott, Knight, Chief Justice of Hongkong, hereinafter called the Editor, is hereby authorised to prepare a new and revised edition of the Ordinances of the Colony, including those contained in the Revised Edition, to make the necessary arrangements for publishing the same, and for the supply of copies to the Government, and the reprinting of the Edition in case of need, as the Governor shall approve.

(2.) In case the said Sir Francis Taylor Piggott is unable from any cause to complete the New Revised Edition the Governor may appoint some other fit and proper person or persons to complete the work, subject to such equitable arrangements as may be agreed upon between the Governor and the said Sir Francis Taylor Piggott, or his representatives, or failing such agreement, as the Attorney General shall determine.

4. In the preparation of the New Revised Edition the Editor shall have the following powers :—

(i.) to omit—

(a.) all Ordinances or parts of Ordinances which have been repealed;

(b.) all introductory words of enactment;

(c.) prefatory words to short titles,

(d.) headings of sub-divisions of Ordinances which in the opinion of the Editor are not necessary to the proper interpretation of the Ordinances, so long as they are not headings or titles of Parts, where an Ordinance is divided into Parts, in which case such omission shall not be made, nor shall any alteration in such headings or titles be made, unless they are included in the Ordinances mentioned in section 6 (4);

- (ii.) to insert in their proper place in the Ordinances amended all provisions of amending Ordinances as indicated in such Ordinances, as if the said amended Ordinances had been ordered to be printed as amended in such amending Ordinances; and further, where all the amendments made by such amending Ordinances are so inserted as aforesaid so that the object of such Ordinances has been effected, to treat the remainder of such Ordinances as exhausted, and to omit the same.
- (iii.) to correct typographical errors, and to revise the punctuation where in the opinion of the Editor such revision is necessary;
- (iv.) to do all such things relating to form and method which may be necessary for the perfecting of the New Revised Edition.

5. The numbering of the Ordinances contained in the Revised Edition, and of the sections of such Ordinances, shall be preserved, unless by special authority of the Governor a new numbering of the sections of any Ordinance is considered advisable, when such new numbering shall be included in one of the Ordinances referred to in section 6 (4).

The numbering of the Ordinances passed since 1901, and of the sections of such Ordinances, shall in nowise be altered.

6.—(1.) All omissions and amendments in the language of the Ordinances comprised in the New Revised Edition, including those referred to in the preceding section, which do not affect the matter and substance of the provisions thereof shall be collected by the Editor and submitted to the Legislative Council in the form of one or more "Law Revision" and "Law Amendment" Ordinances respectively; provided that where such omissions or amendments are sufficiently material, although they do not affect the spirit and meaning of the provisions amended, the authority of the Governor shall be first obtained.

(2.) Where any omission or amendment is in the opinion of the Editor sufficiently important and does not come within the preceding sub-section, an Ordinance shall be submitted to the Legislative Council, and if such Ordinance is passed the authority to make such omissions and amendments shall be the coming into force of such Ordinance.

(3.) The following omissions shall be held to be included in sub-section (1):—

- (a.) parts of Ordinances which have expired or have become spent or have lost their effect;
- (b.) repealing sections, and tables and lists of repealed enactments, in schedules or otherwise;
- (c.) preambles, or parts of preambles, to Ordinances which in the opinion of the Editor no longer serve any useful purpose;
- (d.) introductory words of enactment in any part of an Ordinance, which in the opinion of the Editor are no longer required;
- (e.) sections prescribing the date when, or the method by which, any Ordinance, or any part of any Ordinance, is to come into force, where the omission in the opinion of the Editor can be conveniently made; provided that in all cases a note shall be inserted at the commencement of all Ordinances of the date of their commencement, and where any special method of bringing an Ordinance into operation has been prescribed, of the method and date by and at which the Ordinance has been brought into operation.

(4.) Where entire Ordinances have expired, or have become spent, or have lost their effect, or where it is considered, subject always to the authority of the Governor being obtained, advisable to repeal entire Ordinances, or a considerable part of any Ordinance, such repeals shall

be embodied in a special Ordinance "for promoting the General Revision of the Law", to be submitted to the Legislative Council, in which the reason for each such repeal shall be succinctly stated in a special preamble.

(5.) The Editor shall be at liberty to recast the marginal notes of the sections of all Ordinances included in the New Revised Edition where in his opinion it is necessary for greater clearness; and he shall introduce into the margin such references to the "Law Revision", the "Law Amendment" and the "General Revision" Ordinances above referred to as he may consider advisable.

7.—(1.) The New Revised Edition shall be comprised in two Volumes, and shall include all the Ordinances in force down to the end of the year 1911, together with all the Ordinances passed in the year 1911 as, having regard to the exigencies of printing, can conveniently be included. All the Ordinances of the year 1911, which cannot be so conveniently included shall be collected and printed with the necessary references, as an Appendix, to be included in the third Volume hereafter referred to, which however shall for all purposes be considered to form part of the New Revised Edition.

(2.) The Editor shall prepare and issue as part of his undertaking:—

- (a.) a chronological table of all the Ordinances of the Colony, including those which have been repealed, or which were not included in the Revised Edition; provided that he may for such purpose adopt the Chronological Table prepared for the Revised Edition by Sir John Carrington;
- (b.) a full and complete index to the subject matter of all Ordinances contained in the New Revised Edition;
- (c.) a collection of Orders issued by the Sovereign in His Privy Council relating to or affecting the Colony, in so far as it may be practicable;
- (d.) such Tables of references to the aforesaid or other matters as he may consider necessary for perfecting the New Revised Edition of the Laws of Hongkong;

all which things, together with the Appendix of the Ordinances passed in 1911 above referred to, shall be included in a third Volume, and the three Volumes together shall form one series entitled "The Laws of Hongkong".

8.—(1.) Each Volume of the series before it is issued shall, by general order of the Governor in that behalf, be impressed on the title page thereof with the seal of the Colony.

(2.) On some convenient day after the issue and publication of the Second Volume, and after the passing of the Ordinances referred to in section 6 (4), the New Revised Edition shall be laid before the Legislative Council for approval, and such approval, if given, shall be notified, by proclamation of the Governor.

9.—(1.) Ordinance No. 16 of 1886 (the Statute Law Revision Ordinance 1887) is repealed.

(2.) A copy of all Ordinances passed after the coming into force of this Ordinance, certified under the hand of the Governor and the seal of the Colony shall, as soon as conveniently may be after they have been passed by the Legislative Council, be transmitted by the Clerk of the Councils to the Registrar of the Supreme Court, for record; and such copies shall be deemed to be the originals thereof, and may be proved in any Court or judicial proceeding by certified copies thereof, or, by order of a Judge, by the production thereof by the Registrar. Subject only to the foregoing provision any Ordinance passed after the commencement of this Ordinance shall be sufficiently proved by the production of a copy of the *Gazette* containing the print of such Ordinance as passed by the Legislative Council, or a copy thereof purporting to be printed by the Government Printer at or about the time of the passing thereof.

(3.) The provisions of the preceding sub-section shall apply to all proclamations issued and to all rules, orders, regulations, or by-laws heretofore or hereafter made, in virtue of any Ordinance, now in force or hereafter to be passed.

(4.) The Registrar shall carefully preserve and file all such Ordinances, proclamations, rules, orders, regulations, or by-laws so transmitted to him.

(5.) Any person shall be entitled to inspect such Ordinances and other documents aforesaid during the office hours of the Registry on payment of twenty-five cents for each inspection not exceeding three hours and to take copies or extracts therefrom for certification by the Registrar, on payment of twenty-five cents per folio of seventy-five words for each copy or extract.

10.—(1.) Ordinance No. 12 of 1900 (The Statute Law (Revised Edition) Ordinance, 1900) is repealed.

(2.) The Revised Edition, so far as Ordinances contained in it are concerned, is hereby declared to have been the true and only version of those Ordinances, all variances between such Ordinances as printed therein and the sealed copies thereof deposited in the Registry under Ordinance No. 1 of 1887, and anything in Ordinance No. 1 of 1887, to the contrary notwithstanding; and in so far as there are such variances the Ordinances as contained in such sealed copies are to be taken to be and to have been repealed by Ordinance No. 12 of 1900.

(3.) This section shall come into force at the same time as the New Revised Edition.

11. From and after the date of the proclamation referred to in section 6 (4), the Revised Edition shall cease to be the sole and only proper statute book of the Colony up to the date of the latest of the Ordinances contained therein, and subject only to the provisions of section 9, it shall be lawful to use the New Revised Edition in all Courts of Justice and for all purposes whatsoever as being the authorised statute book of the Colony in regard to all Ordinances passed by the Legislative Council up to the end of the year 1911; Provided that nothing in this section shall affect the operation of any Ordinance which may be passed, before the issue of such proclamation, for the repeal, alteration or amendment of any earlier Ordinance after such Ordinance has been printed in the New Revised Edition.

12. Where in any enactment or in any document of whatever kind, reference is made to an Ordinance which is affected by or under the operation of this Ordinance, such reference shall, where necessary and practicable, be deemed to extend and apply to the corresponding enactment as contained in the New Revised Edition.

## A BILL

ENTITLED

An Ordinance to amend the Law with respect to Persons carrying on business as Money-lenders.

BE it enacted by the Governor of Hongkong, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as “The Money-lenders Ordinance, 1911”.

2.—(1.) Where proceedings are taken in any Court by a money-lender for the recovery of any money lent after the commencement of this Ordinance, or the enforcement of any agreement or security made or taken after the commencement of this Ordinance, in respect of money lent either before or after the commencement of this Ordinance, and there is evi-

Short title.  
Re-opening  
of transac-  
tions of  
money-  
lender.

dence which satisfies the Court that the interest charged in respect of the sum actually lent is excessive, or that the amounts charged for expenses, inquiries, fines, bonus, premium, renewals, or any other charges, are excessive, and that, in either case, the transaction is harsh and unconscionable, or is otherwise such that a Court of Equity would give relief, the Court may re-open the transaction, and take an account between the money-lender and the person sued, and may, notwithstanding any statement or settlement of account or any agreement purporting to close previous dealings and create a new obligation, re-open any account already taken between them, and relieve the person sued from payment of any sum in excess of the sum adjudged by the Court to be fairly due in respect of such principal, interest, and charges as the Court, having regard to the risk and all the circumstances, may adjudge to be reasonable; and if any such excess has been paid, or allowed in account, by the debtor, may order the creditor to repay it; and may set aside either wholly or in part, or revise, or alter, any security given or agreement made in respect of money lent by the money-lender, and if the money-lender has parted with the security may order him to indemnify the borrower or other person sued.

(2.) Any Court in which proceedings might be taken for the recovery of money lent by a money-lender shall have and may at the instance of the borrower or surety or other person liable, exercise the like powers as may be exercised under this section, where proceedings are taken for the recovery of money lent, and the Court shall have power, notwithstanding any provision or agreement to the contrary, to entertain any application under this Ordinance by the borrower or surety or other person liable, notwithstanding that the time for repayment of the loan, or any instalment thereof, may not have arrived.

(3.) On any application relating to the admission or amount of a proof by a money-lender in any bankruptcy proceedings, the Court may exercise the like powers as may be exercised under this section when proceedings are taken for the recovery of money.

(4.) The foregoing provisions of this section shall apply to any transaction which, whatever its form may be, is substantially one of money-lending by a money-lender.

(5.) Nothing in the foregoing provisions of this section shall affect the rights of any *bona fide* assignee or holder for value without notice.

(6.) Nothing in this section shall be construed as derogating from the existing powers or jurisdiction of any Court.

Registration  
of money-  
lenders, &c.

3.—(1.) A money-lender as defined by this Ordinance :—

- (a.) shall register himself as a money-lender in accordance with regulations under this Ordinance at an office provided for the purpose by the Governor-in-Council, under his own or usual trade name and in no other name, with the address, or all the addresses if more than one, at which he carries on his business of money-lender; and
- (b.) shall carry on the money-lending business in his registered name, and in no other name, and under no other description, and at his registered address or addresses, and at no other address; and
- (c.) shall not enter into any agreement in the course of his business as a money-lender with respect to the advance and repayment of money, or take any security for money

in the course of his business as a money-lender, otherwise than in his registered name ; and

(d.) shall on reasonable request, and on tender of a reasonable sum for expenses, furnish the borrower with a copy of any document relating to the loan or any security therefor.

(2.) If a money-lender fails to register himself as required by this Ordinance, or carries on business otherwise than in his registered name, or in more than one name, or elsewhere than at his registered address, or fails to comply with any other requirement of this section, he shall be liable on summary conviction to a fine not exceeding one thousand dollars, and in the case of a second or subsequent conviction to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding one thousand dollars, or to both ; Provided that if the offender be a body corporate that body corporate shall be liable on a second or subsequent conviction to a fine not exceeding five thousand dollars.

(3.) A prosecution under sub-section (1) (a) of this section shall not be instituted except with the consent of the Attorney General .

4.—(1.) The Governor-in-Council may make regulations respecting the registration of money-lenders, whether individuals, firms, societies or companies, the form of the register, and the particulars to be entered therein and the fees to be paid on registration and renewal of registration, not exceeding \$10 for each registration or renewal, and respecting the inspection of the register and the fees payable therefor. Regulations as to registration.

(2.) The registration shall cease to have effect at the expiration of three years from the date of the registration, but may be renewed from time to time, and if renewed shall have effect for three years from the date of the renewal.

5. If any money-lender, or any manager, agent, or clerk of a money-lender, or if any person being a director, manager, or other officer of any corporation carrying on the business of a money-lender, by any false, misleading, or deceptive statement, representation, or promise, or by any dishonest concealment of material facts, fraudulently induces or attempts to induce any person to borrow money or to agree to the terms on which money is or is to be borrowed, he shall be guilty of a misdemeanor, and shall be liable on indictment to imprisonment with or without hard labour, for a term not exceeding two years, or to a fine not exceeding five thousand dollars, or to both. Penalties for false statements and representations.

6. The expression " money-lender " in this Ordinance shall include every person whose business is that of money-lending, or who advertises or announces himself or holds himself out in any way as carrying on that business ; but shall not include :— Definition of money-lender.

(a.) any pawnbroker in respect of business carried on by him in accordance with the provisions of any Ordinance for the time being in force in relation to pawnbrokers ; or

(b.) any body corporate, incorporated or empowered by any Ordinance or special Act of Parliament to lend money in accordance with such Ordinance or Act ; or

(c.) any person *bonâ fide* carrying on the business of banking or insurance or *bonâ fide* carrying on any business not having for its primary object the lending of money, in the course of which and for the purposes whereof he lends money ; or

(d.) any company, association or partnership for the time being exempted from registration under this Ordinance by Order of the Governor-in-Council made and published pursuant to the regulations of the Governor-in-Council.

7. This Ordinance shall come into operation on the first day of January, 1912.

*Objects and Reasons.*

This Bill introduces into the Colony the principal provisions of the Imperial Money-lenders Act 1900.

C. G. ALABASTER,  
*Attorney General.*

A BILL

ENTITLED

An Ordinance to amend the University Ordinance, 1911.

BE it enacted by the Governor of Hongkong, with the advice and consent of the Legislative Council thereof, as follows:—

Short title and construction.

1. This Ordinance may be cited as The University Amendment Ordinance, 1911, and shall be read and construed as one with the University Ordinance, 1911, hereinafter called the Principal Ordinance.

Amendment of Part I of the First Schedule to Ordinance No. 10 of 1911.

2. Part I of the First Schedule to the Principal Ordinance is hereby amended by the deletion of the words "Two representatives of Asiatic races other than Chinese" and the substitution therefor of the following words "Two additional members nominated by the Governor".

Amendment of Part II of the First Schedule.

3. Part II of the First Schedule to the Principal Ordinance is hereby amended by inserting after the words "Provided that" the following words, namely, "pending the sufficient constitution of the Senate for the purpose of transacting business it shall be lawful for the Chancellor to nominate a member of the Senate of the Hongkong College of Medicine who is also a member of the Court of the University to be an additional member of the Council, and provided also that".

*Objects and Reasons.*

Section 2.—It is proposed to abolish the words limiting the choice of these two members to representatives of Asiatic races other than Chinese.

Section 3.—The Senate cannot be constituted until the academic staff of the University has been selected: but in the meantime it is desirable that a member of the Senate of the Hongkong College of Medicine should have a seat in the Council of the University.

C. G. ALABASTER,  
*Attorney General.*

A BILL

ENTITLED

An Ordinance to amend the Sale of Food and Drugs Ordinance, 1896.

BE it enacted by the Governor of Hongkong, with the advice and consent of the Legislative Council thereof, as follows :—

1. This Ordinance may be cited as "The Sale of Food and Drugs Amendment Ordinance, 1911", and it shall be read and construed as one with the Sale of Food and Drugs Ordinance, 1896, hereinafter called "the Principal Ordinance".

Short title and construction.

2. The Principal Ordinance is hereby amended by the insertion after section 10 thereof of the following section :—

Inserts a new section in the Principal Ordinance.

" 10A. Every tin or other receptacle containing condensed separated or skimmed milk shall bear a label clearly visible to the purchaser on which the words "Machine skimmed Milk (去取器機用經膏之奶此)" or "Skimmed Milk (奶之膏去此)" as the case may require, and "not suitable for the feeding of infants under one year of age (食合不孩小之歲週滿未)" are printed in English and Chinese in large and legible type, and if any person sells or exposes or offers for sale condensed separated or skimmed milk in contravention of this section he shall be liable on summary conviction to a penalty not exceeding one hundred dollars and, in default of payment thereof, to imprisonment, with or without hard labour, for any term not exceeding three months."

Provisions as to condensed separated or skimmed milk. 62 & 63 Vict. c. 51 s. 11.

3. The Principal Ordinance is hereby amended by the addition after section 27 thereof of the following section :—

Adds a new section to the Principal Ordinance.

" 28.—(1.) The Governor-in-Council may make regulations for determining what deficiency in any of the normal constituents of genuine milk, cream, butter, or cheese, or what addition of extraneous matter or proportion of water, in any sample of milk including condensed milk, cream, butter, or cheese, shall for the purposes of this Ordinance raise a presumption, until the contrary is proved, that the milk, cream, butter, or cheese is not genuine or is injurious to health, and an analyst shall have regard to such regulations in certifying the result of of an analysis under this Ordinance.

Power for Governor-in-Council to make regulations as to analysis of milk, cream, butter, or cheese. 62 & 63 Vict. c. 51 s. 4.

(2.) Any regulations made under this section shall be notified in the *Gazette* and shall also be made known in such other manner as the Governor-in-Council may direct."

*Objects and Reasons.*

This Bill introduces two important provisions of the Imperial Sale of Foods and Drugs Act 1899, the introduction of which has been strongly urged by the Government medical advisers.

C. G. ALABASTER,  
*Attorney General.*