

# LEGISLATIVE COUNCIL.

**No. S. 186.**—The following Bills were read a first time at a Meeting of the Council held on the 20th July, 1911 :—

## A BILL.

ENTITLED

An Ordinance to amend the Post Office Ordinance, 1900, and the Laws relating to the Post Office.

WHEREAS it is expedient to amend the law relating to the Post Office :

BE it therefore 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 Post Office Amendment Ordinance, 1911", and shall be read and construed with the Post Office Ordinance, 1900, hereinafter referred to as "the Principal Ordinance".

Repeals sub-section (2) of section 6 of the Principal Ordinance and new sub-section substituted therefor.

2. Sub-section 2 of section 6 of the Principal Ordinance is hereby repealed and the following sub-section substituted therefor :—

"(2.) The Postmaster General shall also have the exclusive privilege within the Colony of performing all the incidental services of receiving from all persons who arrive in the Colony with letters, of collecting, despatching and delivering all correspondence arriving from or intended to be despatched to any place out of the Colony; and no letters from out of the Colony, unless exempt by law, shall be conveyed in the Colony otherwise than by the post or shall be delivered in or transmitted from the Colony otherwise than by or through the General Post Office."

Repeals sections 26 and 27 of the Principal Ordinance and new section substituted therefor.

3. Sections 26 and 27 of the Principal Ordinance are hereby repealed and the following section substituted therefor :—

Gratuities to ship masters.

"26. The Postmaster General shall pay to every master of a vessel, not being a contract packet, a gratuity of one cent for every letter and other article, other than a parcel, and five cents for every parcel delivered to him by the Post Office: Provided that the gratuity payable on correspondence transmitted to Canton and Macao shall be one cent only on each description of correspondence and provided also that the application for payment of such gratuity must be made by the master within six months after the delivery of such correspondence on board. The Postmaster General may before paying such gratuity require a receipt accounting for the due delivery at its destination of such correspondence and may also require proof to his satisfaction that there has been no unreasonable delay on the part of the master."

4. Section 12 of the Principal Ordinance is hereby repealed and the following substituted therefor :—

Repeals section 12 of the Principal Ordinance and new section substituted therefor.

12. The Governor may subject to any instructions from the Secretary of State for the Colonies or from the Imperial Postmaster General from time to time, make, alter and repeal in relation to correspondence sent by post regulations for prohibiting the conveyance of such articles as he may think fit; for preventing the sending or delivery by post of seditious, indecent or obscene prints, paintings, photographs, lithographs, engravings, books or cards or of other indecent or obscene articles, or of letters, newspapers, supplements, publications, packets or post cards having thereon or on the covers thereof any words, marks or designs of an indecent, obscene, libellous or grossly offensive character: and for prohibiting the receiving in and delivery by the Post Office of correspondence containing or believed to contain any lottery ticket or any advertisement of prizes or any other announcement relating to any public lottery sweepstakes or other gambling transaction. Such regulations shall be published in the *Gazette* and shall have no effect until so published."

The Governor may make regulations.

5. The following shall be added to section 40 of the Principal Ordinance and numbered sub-section 3 :—

Adds new sub-section to section 40 of the Principal Ordinance.

(3.) In any proceedings for the recovery of postage or other sum in respect of postal packets,—

Post Office mark evidence of refusal, etc.

(a.) The production of any postal packet in respect of which any such postage or sum is sought to be recovered having thereupon a Post Office stamp or any writing denoting that the packet has been refused or rejected, or that the addressee was dead or could not be found, shall be *prima facie* evidence of the fact denoted; and

(b.) the person from whom any postal packet in respect of which any such postage or sum is sought to be recovered purports to have come shall, until the contrary is proved, be deemed to be the sender of the packet."

6. If the Postmaster General shall have reason to believe that any postal article received from beyond the limits of the Colony contains goods, the importation of which is forbidden or restricted or anything liable to duty or if he be so informed, he shall require by notice in writing the attendance at the Post Office, at a specified time, of the addressee of such postal article or of some agent deputed in writing by such addressee and such postal article shall then be opened by the addressee or his agent in the presence of the Postmaster General or in the presence of an officer of the Post Office. If the addressee or his agent fail to attend in pursuance of the notification the article shall be opened by the Postmaster General and may be delivered to the addressee or confiscated or otherwise dealt with as, subject to any Ordinance or regulation in force, he may think fit.

Power to deal with postal articles containing contraband goods.

Provision for stamps.

7. All duties of postage and other sums in respect of postal packets payable in pursuance of this Ordinance, or of any regulations made under this Ordinance, shall be chargeable as stamp duties, and all enactments relating to stamp duties shall apply accordingly.

Prohibition of imitation of post office stamps, envelopes, forms and marks.

8.—(1.) A person shall not without due authority—

- (a.) make, issue, or send by post or otherwise any envelope, wrapper, form, or paper in imitation of one issued by or under the authority of the Postmaster General, or of any foreign or colonial postal authority, or having thereon any words, letters, or marks which signify or imply or may reasonably lead the recipient to believe that a postal packet bearing them is sent on His Majesty's service; or
- (b.) make on any envelope, wrapper, card, form, or paper for the purpose of being issued or sent by post or otherwise, or otherwise used, any mark in imitation of or similar to or purporting to be any stamp or mark of any post office under the Postmaster General, or under any foreign or colonial postal authority, or any words, letters, or marks which signify or imply, or may reasonably lead the recipient thereof to believe, that a postal packet bearing them is sent on His Majesty's service; or
- (c.) issue or send by post or otherwise any envelope, wrapper, card, form, or paper so marked.

(2.) If any person acts in contravention of this section he shall be liable on summary conviction to a fine not exceeding twenty dollars.

Prohibition of placing injurious substances in or against post office letter boxes.

9.—(1.) A person shall not place or attempt to place in or against any post office letter box any fire, any match, any light, any explosive substance, any dangerous substance, any filth, any noxious or deleterious substance or any fluid, and shall not commit a nuisance in or against any Post Office letter box and shall not do or attempt to do anything likely to injure the box, appurtenance or contents.

(2.) If any person acts in contravention of this section he shall be guilty of an offence against the Principal Ordinance.

Prohibition of sending by post explosive, inflammable, or deleterious substances, or indecent prints, words, etc.

10.—(1.) A person shall not send or attempt to send a postal packet which either—

- (a.) encloses any explosive, any dangerous substance, any filth, any noxious or deleterious substance, any sharp instrument not properly protected, any living creature which is either noxious or likely to injure other postal packets in course of conveyance or an officer of the Post Office, or any article or thing whatsoever which is likely to injure either other postal packets in course of conveyance or an officer of the Post Office; or
- (b.) encloses any indecent or obscene print, painting, photograph, lithograph, engraving, book or card or any indecent or obscene article whether similar to the above or not; or
- (c.) has on the packet, or on the cover thereof any words, marks or designs of an indecent, obscene or offensive character.

(2.) If any person acts in contravention of this section, he shall be guilty of an offence against the Principal Ordinance.

(3.) The detention in the Post Office of any postal packet on the ground of its being in contravention of this section shall not exempt the sender thereof from

any proceedings which might have been taken if the packet had been delivered in due course of post.

11.—(1.) If any person wilfully obstructs, or incites any one to obstruct, an officer of the Post Office in the execution of his duty or whilst in any post office, or within any premises belonging to any post office or used therewith, obstructs the course of business of the Post Office, he shall be liable on summary conviction to a fine not exceeding twenty dollars.

Obstruction  
of officers of  
Post Office.

(2.) Any officer of the Post Office may require any person guilty of any offence under this section, to leave a post office or any such premises as aforesaid and, if the person so required refuses or fails to comply with the requirement, he shall be liable on summary conviction to a further fine not exceeding fifty dollars, and may be removed by any officer of the Post Office, and all constables are required on demand to remove or assist in removing every such person.

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*Objects and Reasons.*

The new sub-section (2) of section 6 of the Principal Ordinance differs from the sub-section it replaces by the addition of the words "from all persons who arrive in the Colony with letters, of", by the substitution of the words "intended to be despatched" for the word "transmitted", and by the addition of the words "from out of the Colony". These amendments were rendered necessary as it was found that the original wording was not sufficient to enable the authorities to deal with attempts to encroach on the exclusive privileges of the Postmaster General.

Section 3 of the Bill is based on section 49 of the Singapore Ordinance No. 5 of 1904 and is introduced for the purpose of giving legislative sanction to a new arrangement.

Section 4 is based on section 16 of the Imperial Post Office Act 1908 and on section 31 of the Singapore Ordinance. The importation of lottery tickets is already prohibited by regulations. Section 5 is based on section 9 of the Imperial Act and section 25 of the Singapore Ordinance, section 6 on section 18 of the Imperial Act and section 36 of the Singapore Ordinance, section 7 on section 10 of the Imperial Act, section 8 on section 64 of the Imperial Act, section 9 on section 61 of the Imperial Act, section 10 on section 63 of the Imperial Act with additions to cover the cases of gum, dyes and other injurious substances, and section 11 on section 67 of the Imperial Act.

C. G. ALABASTER,  
*Attorney General.*

A BILL

ENTITLED

An Ordinance to make provision for the appointment of and to define the powers of the Crown Solicitor and Assistant Crown Solicitor.

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

Short title. 1. This Ordinance may be cited as the Crown Solicitors Ordinance, 1911.

Governor may appoint any qualified person as Crown Solicitor and any person as Assistant Crown Solicitor. 2.—(1.) The Governor shall have, and shall be deemed at all times to have had, power to appoint any qualified person to be Crown Solicitor and any person to be Assistant Crown Solicitor.

(2.) For the purposes of this section a person shall be deemed a qualified person if, at the time he first commences to perform his duties as Crown Solicitor, he shall possess any of the qualifications which would entitle the Court to approve, admit and enrol him as a barrister or as a solicitor and proctor under section 21 of the Legal Practitioners Ordinance, 1871.

The Court shall admit Crown Solicitor and Assistant Crown Solicitors to practise. 3. The Court shall approve, admit and enrol any person appointed by the Governor under the powers conferred by this Ordinance to practise as solicitor and proctor in the Court, and thereafter any such person shall have, as long as he continues to hold the appointment of Crown Solicitor or Assistant Crown Solicitor, all the rights and powers of a person duly admitted to practise as a solicitor and proctor under the Legal Practitioners Ordinance, 1871: Provided always that neither the Crown Solicitor nor the Assistant Crown Solicitor shall without the general or special permission and instructions of the Governor directly or indirectly practise in any proceeding, matter or thing unless the Crown or the Government of the Colony, or some Department of such Government, or some officer of such Government (in his official capacity) is a party to, or interested in such proceeding, matter or thing or may be affected thereby.

Proviso. 4. In any cause or proceeding before any Court or Tribunal in the Colony in which any party, for whom the Crown Solicitor or any Assistant Crown Solicitor appears or acts as solicitor or proctor, obtains an order for costs against any other party and in which the Crown Solicitor or Assistant Crown Solicitor is not allowed to receive costs as solicitor or proctor such costs shall be taxed against and payable by the losing party in the same manner as if the Crown Solicitor or Assistant Crown Solicitor had been allowed to retain such costs. Such costs so taxed when recovered shall be paid into the General Revenue of the Colony.

Costs. cf. section 2 of Ordinance No. 1 of 1904. 5. The appointment of any person as Crown Solicitor or Assistant Crown Solicitor under this Ordinance shall not in any way affect the professional status of the person so appointed notwithstanding any professional rule of etiquette or custom to the contrary: Provided always that no such person shall be entitled to practise as a barrister as long as he is continuing to discharge the duties of Crown Solicitor or Assistant Crown Solicitor.

Professional status preserved. Proviso. 6. Nothing in this Ordinance shall confer any rights as against the Crown on any person appointed as Crown Solicitor or Assistant Crown Solicitor under this Ordinance.

Saving of Crown rights. 6. Nothing in this Ordinance shall confer any rights as against the Crown on any person appointed as Crown Solicitor or Assistant Crown Solicitor under this Ordinance.

7. This Ordinance shall come into force on the 18th day of August, 1911. Commencement.

*Objects and Reasons.*

This Bill is necessary owing to the appointment as Crown Solicitor of Mr. Kemp, who will be an English barrister by the time he arrives in the Colony, and of the decision of the Government to appoint one or more persons, not necessarily legally qualified persons, as Assistant Crown Solicitors. Section 4 is analogous to section 2 of the Crown Counsel's Fees Ordinance, 1903, which deals with the Attorney General's costs.

C. G. ALABASTER,  
*Attorney General.*

A BILL

ENTITLED

An Ordinance to further amend the Crown Lands Resumption Ordinance, 1900.

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 "Crown Lands Resumption Amendment Ordinance, 1911". Short title.

2. The Crown Lands Resumption Ordinance, 1900, as amended by the Crown Lands Resumption Amendment Ordinance, 1910, is hereby further amended by the repeal of sub-section (2) of section 8 thereof and by the substitution thereof of the following sub-section:— Amends Ordinance No. 10 of 1900.

"(2.) to award costs, including fees to the members of the Board and remuneration to the clerk to the Board, in its discretion, either for or against the Crown or for or against any parties claiming compensation, such costs, if desired by the Crown or any party, to be taxed by the Registrar of the Supreme Court: Provided always that no member of the Board who is a public officer may receive any fees, and provided that the fees received by any member of the Board not being a public officer shall not exceed fifty dollars a day, and provided also that the remuneration of the clerk shall not differ from the amount of the remuneration the Governor may have fixed."

*Objects and Reasons.*

H. M. Secretary of State for the Colonies has, in despatches dated respectively the 13th January and the 11th May, 1911, advised that the Crown Lands Resumption Ordinance, 1900, should be amended by some express provision being made as to arbitrators' fees. The remuneration of the clerk is fixed by the Governor under section 4 (4) of the Principal Ordinance.

C. G. ALABASTER,  
*Attorney General.*

A BILL

ENTITLED

An Ordinance to further amend the Prison Ordinance, 1899.

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

Short title. 1. This Ordinance may be cited as the Prison Amendment Ordinance, 1911.

Amends Ordinance No. 4 of 1899. 2. The Prison Ordinance, 1899, as amended by the Prison Amendment Ordinance, 1909, is hereby further amended as follows:—

- (a.) in section 6 (1) thereof by the deletion of the words "a prisoner shall be deemed to be in legal custody" and by the substitution thereof of the words "a person shall be deemed to be a prisoner and in legal custody";
- (b.) in section 6 (1) thereof by the insertion after the words "lawfully confined," of the words "whether under criminal or civil process,";
- (c.) in section 11 (1) and also in section 11 (2) thereof by the insertion in each case after the word "prison" of the words "or from legal custody".

*Objects and Reasons.*

There has been a recent decision to the effect that although persons in custody on criminal process may be punished for escaping from such custody, and that although any person may be punished for escaping from prison, yet a person in lawful custody on civil process cannot be punished for escaping from such custody unless he happens to escape from prison. This Bill will have the effect of reversing that decision in future cases.

C. G. ALABASTER,  
*Attorney General.*

No. S. 187.—The following Bills which have been read a second time are substituted for those published under Government Notifications Nos. S. 42 of the 24th February, and S. 55 of 10th March, 1911, respectively:—

A BILL

ENTITLED

An Ordinance to abolish Minimum Penalties, and to bring the Law of the Colony as to Penalties into uniformity with the Law of England, and for other purposes.

WHEREAS it is expedient for the better administration of justice to abolish minimum penalties, and so to bring the law of the Colony as to penalties into uniformity with the law of England:—

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

Short title. 1. This Ordinance may be cited as the "Penalties Amendment Ordinance, 1911".