

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".

2.—(1.) Subject to the provisions of section 8, in any enactment now in force which provides for the imposition by any Court of minimum penalties, whether of imprisonment or of a fine, the provisions relating to such minimum penalties are repealed.

Abolition of minimum penalties.

(2.) In any enactment now in force which provides for the imposition by any Court of the penalty of imprisonment with hard labour, the words "with hard labour" are repealed; and where the penalty provided is imprisonment with or without hard labour, the words "with or without hard labour" are repealed.

(3.) Unless any enactment now in force, as printed in the New Revised Edition of the Laws of Hongkong, presently to be published, otherwise provides, where a Court is empowered or required to impose a sentence of imprisonment for life or for a period not exceeding a specified term, or of a fine, the Court may, after conviction of any person of an offence, award a sentence less than for life or for the specified term, or less than the fine specified, in the enactment.

3. Where under any enactment now in force, or under any future enactment, a Court shall sentence a person convicted of an offence for which the penalty of imprisonment is provided, the Court may, unless the enactment as printed in the New Edition of the Revised Laws of Hongkong, presently to be published, provides that the imprisonment shall be without hard labour, inflict imprisonment with or without hard labour.

Where imprisonment may be with or without hard labour.

Provided always, that where under this or the preceding section, a sentence of imprisonment is imposed for more than two years, it shall always be with hard labour; and provided further, that where any person is sentenced to imprisonment under any existing enactment for not finding sureties, such imprisonment shall be without hard labour.

This section shall not apply to commitments of any person to prison by a Magistrate under the following sections of the Magistrates Ordinance No. 3 of 1890:—Sections 14 (2), 18 (2), 25 (4), 64 (3), 70 (1), and 75 (3).

4. Wherever in any enactment now in force there is provided in addition to the penalty of imprisonment for life or for a term of years an alternative penalty of "imprisonment (for any term) with or without hard labour", either with or without the further alternative "with or without solitary confinement", both or either of such alternative penalties, as the case may be, are and is repealed; and where either of the aforesaid alternative penalties is provided as alternative to any other penalty, it is repealed; and where the aforesaid alternative as to solitary confinement is provided as an alternative to a penalty of imprisonment, whether with or without hard labour, it is repealed. Provided that nothing in this section shall affect the provisions of section 80 (2) of the Magistrates Ordinance, No. 3 of 1890.

Alternative penalties in existing legislation repealed.

5. In all enactments now in force the words "at" or "in the discretion of the Court", and the words "on conviction thereof" when used in relation to an indictment, or other words of like meaning, wherever they occur respectively in relation to the imposition of penalties after conviction of any person of an offence, are repealed.

Repeal of words of discretion.

6. In all editions of the Laws of Hongkong hereafter to be printed the provisions which are repealed by this Ordinance shall be omitted; and the sections so affected are hereby authorised to be printed as so amended, and shall be construed and enforced accordingly.

Authority to incorporate repeals in new editions of the Laws.

7. In order to bring other forms of penalties not included in the foregoing sections into harmony with the principles laid down therein, it is hereby further enacted as follows:—

Repeals and amendments in Ordinances in schedule.

(1.) In the sections of the Ordinances mentioned in Part I of the schedule, in lieu of the words "for the term of" there shall be read "for any term not exceeding".

(2.) In the sections of the Ordinances mentioned in Part II of the schedule, after the word "imprisonment" there shall be inserted the words "without hard labour".

Saving of minimum penalties in certain Ordinances.

8. Nothing in this Ordinance contained shall be construed as giving to a Court the power of inflicting a punishment less than the minimum punishment, if any, provided for offences against any revenue, customs or quarantine law now in force or hereafter to be enacted; nor against any statute or Ordinance relating to any of His Majesty's regular or auxiliary forces, or which carries into effect any treaty by which a minimum penalty is stipulated or the offence in question.

AND WHEREAS the language now used in the laws of the Colony in regard to other matters relating to the imposition of penalties, and to the jurisdiction of Magistrates, is cumbersome and out of date, and it is expedient both to simplify the language and to introduce uniformity in the enactments in which such matters are dealt with, Be it further enacted as follows:—

9.—(1.) Whenever in any enactment now in force provisions occur to the effect that if a person is convicted of an offence before a Magistrate he "shall be committed to the common gaol, there to be imprisoned, or to be imprisoned and kept to hard labour" for any term, or other like words are used which have a similar meaning, such person shall be liable to imprisonment, with or without hard labour, as the case may be, for any period not exceeding the term specified.

(2.) In all editions of the Laws of Hongkong hereafter to be printed there shall be substituted for such provisions words indicating that the person shall, on such conviction before a Magistrate, be liable to imprisonment, with or without hard labour, as the case may be, for any period not exceeding the term specified.

(3.) The enactments mentioned in Part III of the schedule are hereby declared to be amended accordingly, and the sections in which such provisions occur shall be construed and enforced accordingly.

10.—(1.) Whenever in any enactment now in force provisions occur to the effect that if a person is convicted of an offence before a Magistrate he shall be "liable to pay", or shall "forfeit and pay", a sum of money, or such sum of money not exceeding a specified sum "as to the Magistrate may seem meet", or other like words are used which have a similar meaning, they shall be held to be the equivalent of the following provision:—

such person "shall on conviction before a Magistrate" (or "shall on summary conviction") "be liable to a fine" not exceeding the amount so specified;

and such provision shall be substituted accordingly in all editions of the Laws of Hongkong hereafter to be printed.

(2.) Whenever in any enactment now in force similar provisions occur, but it is further provided that the liability to pay, or to forfeit and pay, a sum of money as aforesaid is over and above a liability to pay the value, or such sum as the Magistrate may estimate as the value, of any animal or thing, the subject of the offence, they shall be held to be the equivalent of the following provision:—

such person "shall be liable to pay, over and above the value of such animal," or "of such thing," as the case may be "a fine" not exceeding the amount specified in the provision;

and such provision shall be substituted accordingly in all editions of the Laws of Hongkong hereafter to be printed.

(3.) The enactments mentioned in Part IV of the schedule are hereby declared to be amended accordingly, and the sections in which such provisions respectively occur shall be construed and enforced accordingly.

Alternative and cumulative penalties, how distinguished.

11.—(1.) Whenever in any enactment now in force or in any future enactment, several penalties are provided for one offence, the use of the word "or" in relation to such penalties shall signify that they are to be inflicted alternatively;

the use of the word "and" shall signify that the penalties may be inflicted alternatively or cumulatively; and

the use of the words "together with" or "in addition to", or other expressions which convey the same meaning, shall signify that the penalties are to be inflicted cumulatively.

(2.) The enactments mentioned in Part V of the schedule are hereby declared to be amended to the extent indicated in the said Part; and in all editions of the Laws of Hongkong hereafter to be printed, the said enactments are hereby authorised to be printed as so amended, and shall be construed and enforced accordingly.

12. In this Ordinance the word "term" when used in relation to a period of imprisonment includes, unless the contrary intention is indicated, imprisonment for a period not exceeding a specified term.

13. The following enactments, being rendered unnecessary by the provisions of this Ordinance, are hereby repealed:—

Ordinance No. 3 of 1887,—the Transportation and Penal Servitude Abolition Ordinance, 1887.

In Ordinance No. 2 of 1865, sections 59 and 60.

„ No. 4 of 1865, sections 51 and 52.

„ No. 5 of 1865, sections 99 and 100.

„ No. 6 of 1865, sections 59 and 60.

„ No. 7 of 1865, sections 30 and 31.

14. This Ordinance shall apply to penalties imposed on a summary conviction by a Magistrate, or by two Magistrates, or by the Marine Magistrate; and in consequence of the following provisions of the Magistrates Ordinance, 1890, are repealed:—sections, 3, 4, 33 (1), and 33 (3).

15.—This Ordinance shall come in force by proclamation of the Governor, which shall not be issued until after the Legislative Council has authorised the use of the New Edition of the Laws of Hongkong now in course of preparation.

SCHEDULE.

PART I.

Sections of Ordinances in which, in virtue of section 7 (1), in lieu of the words "for the term of" there are to be read the words "for any term not exceeding".

Ordinance No. 2 of 1865, sections 19, 23, 25, 26, 30 (1), 42, and 48.

„ No. 4 of 1865, section 33.

„ No. 5 of 1865, sections 5, 10, 19, 21, 30, 33, 46, 75, and 77.

„ No. 6 of 1865, sections 19, 20, and 22 (2).

„ No. 7 of 1865, section 10.

PART II.

Sections of Ordinances in which, in virtue of section 7 (2), after the word "imprisonment" there are to be inserted the words "without hard labour".

Ordinance No. 1 of 1845, sections 19, 20, 21, 22, and 23.

„ No. 7 of 1865, section 19, in relation to first offence.

„ No. 1 of 1867, section 4 (2).

„ No. 2 of 1869, section 6.

„ No. 3 of 1873, section 30.

„ No. 7 of 1875, section 29.

„ No. 4 of 1886, sections 4 and 18.

„ No. 3 of 1888, section 31 (2).

„ No. 3 of 1890, s. 49 (2) (as amended by No. 1 of 1909, s. 3), section 50 (2), and rule 15 of the second schedule.

- Ordinance No. 2 of 1891, section 9.
 „ No. 7 of 1891, section 82 (4).
 „ No. 4 of 1893, section 27.
 „ No. 4 of 1895, section 4.
 „ No. 10 of 1899, sections 5 (8) and 36
 (14).
 „ No. 10 of 1900, section 10 (2).

PART III.

Sections of Ordinances in which, in virtue of section 9, the term of imprisonment is substituted for references to committed to the common gaol, etc.”

- Ordinance No. 5 of 1865, sections 12 (1), 15 (1),
 24 (2), 25 (2), 27 (1), 28 (1),
 28 (2), 52, and 53 (2).
 „ No. 6 of 1865, sections 21 (1), 21 (2),
 22 (1), 23 (1), 23 (2), 24 (2),
 28 (2), 29, 32 (1), 43 (1).

PART IV.

Sections of Ordinances in which, in virtue of section 10 (1) and 10 (2) the expression “liable to a fine” is substituted for the expression “forfeit and pay” a sum of money.

- Ordinance No. 5 of 1865, sections 12 (1), 13 (1),
 17, 24 (1), 25 (1), 26, 27 (1),
 28 (1), 52, 53 (2).
 „ No. 6 of 1865, sections 21 (1), 22 (1),
 23 (1), 24 (1), 28 (2), 29, 32 (1),
 43 (1).
 „ No. 1 of 1875, section 4.

PART V.

Sections of Ordinances in which the following amendments are made, in virtue of section 11, in order to make the words used in regard to the imposition of alternative or cumulative penalties uniform :—

- Ordinance No. 2 of 1865, in section 7, for the words “or to pay” there shall be read “and to pay”, and the words from “in addition to” to the end are repealed.
- Ordinance No. 2 of 1870, in sections 2 and 5 (2), for the words “with or without” there shall be read “and to”.
- Ordinance No. 1 of 1874, in section 6, for the words “or to a fine to” there shall be read “and to a fine of”, and the words “or to both” are repealed.
- Ordinance No. 6 of 1885, in section 3 (3) for the words “with or without imprisonment with hard labour” there shall be read “and to imprisonment”.
- Ordinance No. 10 of 1886, in sections 4, 5, 9 (3), and 12, for the words “or to imprisonment” there shall be read “and to imprisonment” and the words “or to both” are repealed.
- Ordinance No. 1 of 1887, in section 6, for the words “and to pay” there shall be read “and in addition to pay” ;
 and in section 7, for the words from “or fine or both” to the end, there shall be read “for any term not exceeding one year and to such fine as the Court may award”.

Ordinance No. 1 of 1889, in section 9 the words "either in addition to or in substitution for such imprisonment" are repealed; in section 65, for "or to imprisonment" there shall be read "and to imprisonment" and the words "or to both" are repealed;

in section 78 (1) and (2), for the words "or imprisonment" there shall be read "and imprisonment", and the words "or either of such punishments in the discretion of the Court" are repealed;

in section 83, for the words "and to a penalty" there shall be read "or to a fine", and the words "or to either of such punishments in the discretion of the Court" are repealed;

and in section 87, the words "either or in addition or in substitution for such imprisonment" are repealed.

Ordinance No. 4 of 1890, in section 3 (3) (a), for the words "or to a fine, or to both imprisonment and fine" there shall be read "and to a fine not exceeding 2,000 dollars".

Ordinance No. 2 of 1891, in section 6, for the words "be liable to a penalty, or to imprisonment, with or without hard labour, or to both: Provided that such penalty shall in no case exceed the sum of 1,000 dollars, and that" there shall be read "be liable to a fine not exceeding 1,000 dollars and imprisonment; provided that".

Ordinance No. 4 of 1893, in section 27 for the words "or to imprisonment" there shall be read "and to imprisonment", and the words "or to both" are repealed.

Ordinance No. 2 of 1897, in section 15, for the words "or to imprisonment" there shall be read "and to imprisonment", and the words "or to both such penalty and imprisonment" are repealed.

Ordinance No. 4 of 1897, in section 12 for the words "or to imprisonment" there shall be read "and to imprisonment" and the words "or to both" are repealed:

in section 13, as amended by Ordinance No. 11 of 1904, for the words "or to imprisonment" three times there shall be read "and to imprisonment", and the words from "Provided always" to "think fit" are repealed:

and in section 47 (3), for the words "or to imprisonment" there shall be read "and to imprisonment", and the words "or to both penalty and imprisonment" are repealed.

Ordinance No. 1 of 1898, in sections 3, 4, 5, 6 (1), and 6 (2), for the words "or to a fine" there shall be read "and to a fine", and the words "or to both" are repealed.

Ordinance No. 4 of 1899, in section 12, for the words "or to imprisonment" there shall be read "and to imprisonment", and the words "or to both in the discretion of the Court" are repealed.

Ordinance No. 10 of 1899, in section 23 (2), for the words "or to imprisonment" there shall be read "and to imprisonment", and the words "or, at the discretion of the Stipendiary Magistrate, to both penalty and imprisonment" are repealed.

Ordinance No. 7 of 1903, (as amended by Ordinance No. 42 of 1909), in section 5, for the words "or to a fine" there shall be read "and to a fine", and the words "or both" are repealed.

Ordinance No. 3 of 1904, in section 6, for the words "by fine or imprisonment" there shall be read "by fine and imprisonment", and the words "or both" are repealed.

Ordinance No. 11 of 1907, in section 30, for the words "or to a fine" there shall be read "and to a fine", and the words "or to both" are repealed.

Ordinance No. 15 of 1907, in section 2, for the words "or to a fine" there shall be read "and to a fine" and the words "or to both" are repealed.

Ordinance No. 21 of 1909, in sections 42, 58 and 59, for the words "or to" there shall be read "and to", and the words "or to both" are repealed.

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A BILL

ENTITLED

An Ordinance to amend and codify the law as to
the Interpretation of Terms and as to Common
Forms used in Ordinances.

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 " Interpretation Short title,
Ordinance, 1911 ".

2. This Ordinance shall apply to the Colony of Hong- Application
kong and its dependencies, including the New Territories, of the Or-
unless it is otherwise expressed, dinance.

PART I.

Of Ordinances Generally.

3. All Ordinances now in force or hereafter to be passed Application
shall, except as provided by section 4 of Ordinance No. 34 of subse-
of 1910, extend to the New Territories unless it other- quent
wise appear from express provision or by necessary im- Ordinances.
plication.

4. The provisions of this Ordinance shall apply Application
(a.) to this Ordinance and to all Ordinances here- of provisions
after to be passed, unless the contrary inten- of Ordin-
tion appear; ances.
(b.) to Ordinances now in force unless otherwise
expressly herein provided.

5.—(1.) Every Ordinance shall, unless otherwise pro- Commence-
vided therein, come into operation on the day of its publi- ment of
cation in the *Gazette*. Ordinances
and Acts of
Parliament
in the
Colony.

(2.) Statutes of the Imperial Parliament extending to the Colony, which require any act to be done in the Colony, or forbid the commission of any act in the Colony, or impose any duty on or create any right in any person in the Colony, and which do not contain any express provision for bringing them into operation in the Colony, shall come into operation on the day of a notification by the Governor to that effect in the *Gazette*.

6. This Ordinance shall come into operation by pro- Commence-
clamation of the Governor, which shall not be issued until ment of this
after the Legislative Council has authorised the use of the Ordinance.
New Edition of the Laws of Hongkong now in course of
preparation.

7. The word " commencement ", when used with re- Definition of
ference to any enactment, shall mean the day on which the " Commence-
enactment comes into operation. ment ".

8. Where any enactment, or any proclamation, notice, Time of
order, warrant, scheme, or letters patent, made, granted, or commence-
issued, under a power conferred by any enactment, or by ment.
any competent authority, is expressed to come into opera-
tion on a particular day, the same shall be construed as
coming into operation on the expiration of the previous day.

9. Where the operation of any Ordinance is suspended Exercise of
and confer power to make any appointment, to make, grant, statutory
or issue any instrument, to give notice, to prescribe forms, powers
or to do any other thing for the purpose of bringing the between
Ordinance into operation, that power may be exercised and
before the Ordinance comes into operation. commencement of
Ordinance.

10.—(1.) In all Ordinances there shall be a short Citation of
title, and in all references to Ordinances in any enactment Ordinances.
or in any legal document it shall be sufficient, but not
essential, to mention the short title thereto, together
with the number of the section referred to.

(2.) Where however the short title is not used, it shall be lawful to indicate any Ordinance referred to as aforesaid by the serial number of the year in which it was passed, together with such year, and the number of the section referred to, as the same appear in the copy deposited in the Registry of the Supreme Court.

(3.) In the case of Ordinances included in Sir John Carrington's "Revised Edition" of the Laws of Hongkong the numbers both of the year and the section shall be those given to them respectively in the said Revised Edition in so far as they are perpetuated in the "New Edition" of such "Revised Laws" presently to be published, but the reference shall be taken to be to the "New Edition."

(4.) Where such reference includes the description or citation of a portion of another Ordinance it shall, unless the contrary intention appear, be construed as including the word, section, or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

(5.) Where the reference to any Ordinance is to any "line" in any section thereof, it shall be held to refer, in the case of Ordinances included in the "New Edition" of the "Revised Laws" of Hongkong presently to be published, to the line of such section as printed therein; and in the case of Ordinances, hereafter to be passed, not included in the "New Edition", to the line of such section as printed in the copy deposited in the Registry of the Supreme Court.

PART II.

Of Repeals.

Effect of repeal on existing proclamations and regulations.

11.—(1.) Where any Ordinance repeals wholly or in part any former enactment and substitutes other provisions therefor, the repealed enactment shall remain in force until the substituted provisions come into operation.

(2.) Where any Ordinance, or any part of an Ordinance, is repealed, all proclamations, orders, notices, rules, and regulations, issued or made in virtue thereof shall remain in force, so far as they are not inconsistent with the provisions of the repealing Ordinance, and, unless the contrary intention appear, until they shall have been repealed or have been replaced by proclamations, orders, notices, rules or regulations, as the case may be, issued or made under the provisions of the said repealing Ordinance.

Effect of repeal generally.

12. The repeal of any enactment shall not, unless the contrary intention appear—

- (a.) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b.) affect the previous operation of any enactment so repealed, or anything duly done or suffered under any enactment so repealed; or
- (c.) affect any right, privilege, obligation or liability acquired, accrued, or incurred under any enactment so repealed; or
- (d.) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e.) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceeding, or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Ordinance had not been passed.

Provided that where the penalty, forfeiture, or punishment imposed by the repealing Ordinance is heavier than that imposed by the repealed enactment, the provisions by which the lighter penalty, forfeiture or punishment is imposed shall, unless such repealing enactment otherwise provides, be applied if the Court decides to inflict any punishment.

13. When any Ordinance which repeals in whole or in part any earlier Ordinance is itself repealed, such last repeal shall not be construed as reviving the enactment previously repealed, unless such revival be expressly enacted.

Repeal of Ordinances.

14. Where any Ordinance repeals and re-enacts, with or without modification, any provisions of a former Ordinance, references in any other Ordinance to the provisions so repealed, shall, unless the contrary intention appear, be construed as references to the provisions so re-enacted.

References to re-enacted provisions.

15. Where any statute of the Imperial Parliament repeals and re-enacts, with or without modification, any provisions of a former statute of the Imperial Parliament, references in any Ordinance to the provisions so repealed, shall, unless there is any provision in the repealing statute from which the contrary intention shall appear, be construed as references to the provisions so re-enacted.

Reference to re-enacted Acts of Parliament.

16. Any Ordinance which amends, repeals, or adds to, the provisions of a former Ordinance shall, unless the contrary intention appear, be read and construed as forming part of the Ordinance so affected.

Operation of amending Ordinances.

17. Whenever any enactment shall be disallowed by His Majesty, such disallowance shall be notified by the Governor in the *Gazette*; and from and after the date of such notification, the enactment, and all proclamations, orders, notices, rules, regulations, or other like documents made thereunder shall cease to have effect.

Disallowance.

Provided always that the provisions of section 12 shall apply to such disallowance as if the words "disallowance" and "disallowed" were read therein in lieu of the words "repeal" and "repealed"; with this exception only, that any enactment repealed, modified, or amended by any enactment disallowed, together with all proclamations, orders, notices, rules, regulations, or other like documents made under such previous enactment, shall revive and continue in force in their original form as from the date of the said notification.

The expression "disallowance" shall include the signification of His Majesty's pleasure not to allow any Ordinance.

PART III.

General Provisions.

18. Every Ordinance shall be a public Ordinance, and shall be judicially noticed as such, unless the contrary is expressly provided by the Ordinance.

Ordinances to be public Ordinances.

19. Every section of an Ordinance shall have effect as a substantive enactment without introductory words.

Sections to be substantive enactments.

20. Every schedule to or Table in any Ordinance, shall, together with any notes thereto, be construed and have effect as part of the Ordinance.

Schedules, etc., to be part of Ordinances.

21. Where an Ordinance is divided into Parts, Chapters, Titles, or other sub-divisions, the fact and particulars of such division shall, with or without express mention thereof in such Ordinance, be taken notice of in all Courts and for all other purposes whatsoever.

Sub-divisions of Ordinances to be recognised.

22. References to the Sovereign reigning at the time of the passing of any Ordinance, or to the Crown, shall, unless the contrary intention appear, be construed as references to the Sovereign for the time being, and it shall not be necessary to refer to or include the Sovereign's Heirs and Successors.

References to the Sovereign.

23. No Ordinance shall be binding on the Crown, or shall in any manner affect the rights of the Crown, unless it is so provided in express terms.

Ordinances not binding on Crown unless expressed.

This Ordinance shall be binding on the Crown.

Construction of provisions as to exercise of powers and duties. **24.** Where any Ordinance confers a power or imposes a duty, then, unless the contrary intention appear, the power may be exercised and the duty shall be performed from time to time as occasion requires.

Construction of references to public officers. **25.—(1.)** Where reference is made to any person by the term designating his office, such term shall include the person for the time being executing the duties of such office, as well as such other person as may be appointed to perform any portion of such duties.

Construction of provisions granting powers to the holder of an office. **(2.)** Where any Ordinance confers a power or privilege, or imposes a duty on the holder of any office as such, then, unless the contrary intention appear, the power may be exercised and the duty shall or may be performed, as the case may be, by the holder of the office for the time being, or by any person appointed to act in, or perform the duties of, the said office for the time being.

Proceedings not abated by change in office. **(3.)** Any civil or criminal proceedings taken by any person in virtue of his office shall not be discontinued or abated by his death, resignation, or removal from office, but may be carried on by and in the name of the person appointed to perform the duties of the office.

Construction of references to other enactments. **26.—(1.)** Where reference is made in any enactment to the numbers of any series of sections of any enactment, or to any part of any enactment, the reference shall be held to be inclusive of the sections or words mentioned in the reference.

and to a series of days. **(2.)** When any particular number of days is prescribed for the doing of any act or for any other purpose, the same shall, unless the contrary intention appear, be reckoned exclusive of the first and inclusive of the last day.

Measurement of distances. **27.** In the measurement of any distance for the purposes of any Ordinance that distance shall, unless the contrary intention appear, be measured in a straight line on a horizontal plane.

Reference to time. **28.—(1.)** Whenever any expression of time occurs in any enactment or in any legal document, the time referred to shall, unless the contrary intention appear, be held to be standard time.

The expression "standard time" means standard time as used in the Colony, that is to say, the mean time of the 120th meridian East of Greenwich, and is exactly eight hours in advance of Greenwich mean time.

(2.) The expression "a.m." indicates the period between midnight and noon on the day succeeding; and the expression "p.m." indicates the period between noon and the midnight following; and where in any enactment two such expressions occur conjunctively in relation to any specified hours, or in conjunction with the words "sunset" or "sunrise", they shall be construed to relate to consecutive periods of time.

Meaning of service by post. **29.** Where any Ordinance authorises or requires any document to be served by post, whether the expression "serve", or "give", or "send", or any other expression is used, then, unless the contrary intention appear, the service shall be deemed to be effected by properly addressing, pre-paying, and posting a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Meaning of writing. **30.** In any enactment expressions referring to writing or printing shall include, unless the contrary intention appear, writing, printing, lithography, photography, type-writing, and every other mode of representing words or figures in a visible form, but in the case of a book "printing" shall not include writing or type-writing.

Nothing in this section shall be taken to apply to signatures.

31. In all Ordinances, unless the contrary intention appear, the words "oath" and "affidavit" include, in the cases of persons allowed or required by law to declare or to solemnly affirm instead of swearing, "declaration" and "solemn affirmation"; and "swear", in the like cases, includes "declare" and "solemnly affirm".

Meaning of "oath", "affidavit" and "swear".

32. Where in any enactment Chinese words or terms are used, or where English words are used, followed, in brackets or otherwise, by Chinese words or terms whether in Chinese characters or not, the Chinese words or terms shall be held to be included in the enactment, and the meaning and construction thereof shall be in accordance with Chinese language and custom.

Use of Chinese expressions in Ordinances

33. Where the words "or", "other", and "otherwise" are used, they shall, unless the contrary intention appear, be construed disjunctively and not as implying similarity, unless the word "similar"; or some other word of like meaning, is added.

Meaning of "or" "other" "otherwise".

Nothing in this section shall be taken to affect section 11 of the Penalties Amendment Ordinance, 1911.

34. Where the offence with which any person is charged is:—

Burden of proof where acts done without lawful excuse.

- (a.) the doing of any act; or
- (b.) the omission to do any act.

without lawful authority or purpose or reasonable excuse, the proof of such authority, purpose or excuse shall lie on the person charged.

35. In the construction of every Ordinance relating to an offence punishable on indictment or on summary conviction, the expression "person" shall, unless the contrary intention appear, include a body corporate.

Meaning of "person" in Criminal Ordinances.

36. In all enactments, unless the contrary intention appear, words importing the masculine gender shall include females, and words in the singular shall include the plural, and words in the plural shall include the singular.

Rules as to gender and number.

37. Where any notice, order, or other document is required by any Ordinance to be published in the *Gazette*, or where any document is published in the *Gazette* under section 26 (3) of the Evidence Ordinance, 1889, a copy of the *Gazette* in which it is so published shall be *prima facie* evidence of the facts stated in such notice, order, or document.

Effect of notices in *Gazette*.

38.—(1.) Where under any enactment any person is required to pay any charge or fee for any act or thing done, or document issued, or signature or seal affixed to any document, by any public officer or department, or where any person is adjudged by any Court, or other authority duly authorised by law, to pay or forfeit any sum of money, such charge or fee and such sum of money shall be paid into the Treasury, unless the contrary is otherwise provided; and if any such charge or fee, or any commission on money received or taken possession of, realised or otherwise dealt with, is required to be paid to any public officer or department, such officer or department receiving the same shall pay it into or account for the same in due course to the Treasury.

Application of fees, fines and forfeiture.

(2.) Where under any enactment any thing or any animal is adjudged by any Court, or other authority duly authorised by law, to be forfeited, it shall, unless the contrary is otherwise provided, or unless it is expressed by law to be forfeited to any person, be forfeited to the Crown, and the net proceeds thereof if it is ordered by competent authority to be sold, shall be paid into the Treasury, unless the contrary is otherwise provided.

(3.) Nothing in this section shall affect any provision in any existing enactment or any enactment hereafter to be made, whereby any shares of fines or forfeitures, or of proceeds of forfeitures are expressed to be recoverable by any person, or may be granted by any authority to any person or officer.

(4.) The Governor may in any special case, not provided for by Ordinance, award a share not exceeding three-fourths, of any fines or forfeitures adjudged by any Court, or of any proceeds of any forfeitures, as a reward, bounty or gratuity, to any member of the police force, for meritorious conduct, zeal displayed or injury sustained in the execution of his duty, or to such private persons or informers as may be deserving of reward for assisting in the detection of crime or the apprehension of offenders.

(5.) Section 2 of Ordinance No. 2 of 1867 is repealed.

PART IV.

Definitions.

Definitions. 39. In all enactments the following words shall have the meanings hereby assigned to them, unless otherwise provided or unless the context otherwise requires:—

A.—Official Definitions.

Official definitions.

“Governor” means the Governor of Hongkong and includes the Officer for the time being administering the Government of Hongkong;

and where the Governor of Hongkong is not intended—

“Governor” means, as respects Australia, Canada, India and United South Africa, the Governor General, and includes any person who for the time being has the power of the Governor General;

and as respects any other British possession or territory under the protection of the King, means the Governor or Administrator of that possession, and includes the Officer for the time being administering the Government of that possession or territory.

“Governor-in-Council”, or “Governor in Executive Council”, or “Governor with the advice of the Executive Council”, means the Governor acting with the advice of the Executive Council, but not necessarily in such Council assembled.

“Officer Administering the Government” means the Officer who succeeds to or is appointed to the administration of the Government of the Colony.

“Secretary of State” means His Majesty’s Principal Secretary of State for the Colonies, unless another Secretary of State is indicated.

“Crown Agents” means the person or persons for the time being acting as Crown Agents for the Colonies in England, or any one of them.

“The Admiralty” means the Lord High Admiral of the United Kingdom for the time being, or the Commissioners for the time being executing the Office of Lord High Admiral of the United Kingdom.

“Privy Council” means the Lords and others for the time being of His Majesty’s Most Honourable Privy Council, and “Order in Council” means an Order made by the Privy Council.

“Board of Trade” means the Lords and others of the Committee for the time being of the Privy Council appointed for the consideration of matters relating to trade and foreign plantations.

“Imperial Parliament”, and “Parliament”, mean the Parliament of the United Kingdom.

“Consul” and “Consular Officer” include, consul-general, consul, vice-consul, consular agent, and any person for the time being authorised to discharge the duties of consul-general, consul or vice-consul.

“Legislative Council” and “Legislature”, mean the Council of Government of Hongkong, and when used with reference to a British possession other than Hongkong, the authority, other than the Imperial Parliament, or His Majesty the King in Council, competent to make laws for such British possession.

“The Treasury” and “Treasurer” mean the Colonial Treasury and the Colonial Treasurer respectively.

“Justice of the Peace” means a person appointed by the Governor to act as Justice of the Peace for the Colony.

B.—Colonial Definitions.

“The Colony”, “this Colony”, or “Hongkong”, means the Island of Hongkong and Kowloon, and the dependencies thereof, together with Stonecutters Island and Keller Island, and includes the New Territories, unless it appears from express provision or by necessary implication that the New Territories or New Kowloon is not intended.

“Kowloon” means that portion of the peninsula of Kau-lung in the Province of Kwang-tung in the Empire of China which was ceded to Her Majesty the Queen of Great Britain and Ireland and to her heirs and successors by His Imperial Majesty the Emperor of China under Article VI of the Convention of Peace and Friendship between Great Britain and China signed at Peking on the twenty-fourth day of October, 1860.

“The New Territories” means the additional territories acquired by this Colony under the Convention dated the 9th day of June, 1898, between Her late Majesty Queen Victoria and His Majesty the Emperor of China for the enlargement of the limits of this Colony including the City of Kowloon.

“New Kowloon” means that portion of the New Territories which is delineated and shewn upon a plan marked “New Kowloon” signed by the Director of Public Works and countersigned by the Governor and deposited in the Land Office.

“City of Victoria”, or “Victoria”, means the area within the following boundaries :—

on the North.—The Harbour ;

on the West.—A line running north and south drawn through the north-west angle of Inland Lot No. 1299 and extending southwards a distance of eight hundred and fifty feet from the aforesaid angle ;

on the South.—A line running east from the southern extremity of the western boundary until it meets a contour of the hill-side seven hundred feet above the level known as Ordnance datum thence following the said contour until it meets the eastern boundary ;

on the East.—A line following the western boundary of the Queen’s Recreation Ground until it meets the old Shaukiwan Road, thence to the south-east angle of Inland Lot No. 1018, thence along the southern boundary of Inland Lot No. 1018, produced until it meets the road on the east side of Wongneichong Valley, thence to the north-west angle of Wongneichong School, produced until it meets the southern boundary.

“The Waters of the Colony” or “Colonial Waters” means all waters, whether navigable or not, included within the following boundaries :—

on the South, the parallel of latitude $22^{\circ} 9'$ North between the points where it is intersected by the meridians of longitude $113^{\circ} 52'$ East and $114^{\circ} 30'$ East of Greenwich ;

on the North, from the point where the meridian of longitude $113^{\circ} 52'$ East of Greenwich intersects the parallel of latitude touching the extreme south-west point of the shore of Deep Bay to the said south-west point of the shore of Deep Bay, and thence along the high water mark upon the shore of Deep Bay to the estuary of the Sham Chiu River. Thereafter the land boundary is as described in the agreement delimiting the northern frontier of the New Territories signed by James Haldane Stewart Lockhart and Wong Ts'ün-shin at Hongkong on 19th March, 1899, and follows the high water mark in Mirs Bay to the point where the meridian of longitude $114^{\circ} 30'$ East of Greenwich intersects the mainland ;

on the East, the meridian of longitude $114^{\circ} 30'$ East of Greenwich between the points where it intersects the mainland and the parallel of latitude $22^{\circ} 9'$ North ;

on the West, the meridian of longitude $113^{\circ} 52'$ East of Greenwich between the points where it intersects the parallel of latitude touching the extreme south-west point of the shore of Deep Bay and the parallel of latitude $22^{\circ} 9'$ North ; and between the points on the north and south coast of Lantau where the meridian of $113^{\circ} 52'$ East of Greenwich intersects the island the boundary follows the western coastline of Lantau and includes the waters appertaining thereto.

“ Harbour ” means, unless any other harbour is expressly indicated, the harbour of Victoria, and includes the waters of the Colony within the following boundaries :—

on the East.—A line drawn from “ North Point ” on the island of Hongkong to Kowloon City ; and

on the West.—A line drawn from the westernmost point of the Island of Hongkong to the western side of Green Island, continued to the western point of Stonecutters' Island, thence to the north point of Stonecutters' Island, and thence to the Harbour Master's Station at Saunshuipo.

“ Public Seal ” means the public seal of the Colony.

“ Public Office ” and “ Public Department ” mean and include every office or department invested with or performing duties of a public nature, whether under the immediate control of the Governor or not.

“ Public Officer ” or “ Public Servant ” means any person holding or discharging the duties, whether permanently or temporarily, of any office or appointment in the Civil Service of the Colony, and includes every member of the Police Force, and of the District Watchmen Force appointed under the Regulation of Chinese Ordinance, 1888.

“ Officer of police ” or “ Police officer ” includes members of the Police Force of all ranks ; and where any duty or power is imposed or conferred in any Ordinance on any “ officer of police ”, or “ police officer ”, it may be performed and exercised by any member of the police force ; and where any duty or power is imposed or conferred on any “ constable of police ” or any “ constable ”, it may be performed or exercised by any member of the police force ; and where any duty or power is imposed on any officer of police other than a constable it may be performed or exercised by any member of the police force of higher rank ;

and where any person is referred to as "not being a constable of police" it shall be construed to mean "any person not being a member of the police force";

and the expression "person employed in the police force" or other words of like meaning, shall include all the employees referred to in section 3 (2) of Ordinance No. 11 of 1903, as well as all members of the police force.

"Emigration Officer", as respects Hongkong, means and includes every person lawfully acting as emigration officer and any person deputed or authorised by him to execute any power or perform any duty vested in or imposed upon him by any Ordinance; and, as respects any other places, means any person acting as emigration officer under the law in force in such place.

"Medical Officer of Health" and "Assistant Medical Officer of Health" means the persons appointed respectively to act as such officers under Ordinance No. 1 of 1903.

"Government Analyst" includes any analyst appointed by the Governor under Ordinance No. 8 of 1893.

"Revenue Officer" means any person appointed to act as Revenue Officer under Ordinance No. 9 of 1911.

"Excise Officer" means any person appointed to act as Excise Officer under Ordinance No. 23 of 1909.

"Forest Officer" means any Forest Guard or other person appointed by the Governor for the control or superintendence of any forest.

"The Gaol" means Victoria Gaol, and includes any place that may hereafter be set apart as a prison.

"Superintendent of the Gaol" includes the Assistant Superintendent of the Gaol. This definition shall apply to all warrants of committal, or other documents, whether issued, made, sealed or signed before or after the commencement of this Ordinance.

C.—Geographical Definitions.

"United Kingdom" means the United Kingdom of Great Britain and Ireland. Geographical definitions.

"British Islands" means the United Kingdom, the Channel Islands and the Isle of Man.

"British Possession" means any part of His Majesty's Dominions exclusive of the United Kingdom; and where parts of such Dominions are under both a central and a local Legislature, all parts under the central Legislature shall, for the purpose of this definition, be deemed to be one British possession.

"British Colony" or "Colony" means, where the Colony of Hongkong is not intended, any part of His Majesty's Dominions exclusive of the United Kingdom and of British India; and where parts of such Dominions are under both a central and a local Legislature, all parts under the central Legislature shall, for the purposes of this definition, be deemed to be one Colony.

"British India" means all territories and places within His Majesty's Dominions which are for the time being governed by His Majesty through the Governor General of India, or through any Governor or other officer subordinate to the Governor General of India.

"India" means British India together with any territories of any Native Prince or Chief under the suzerainty of His Majesty exercised through the Governor General of India or other officer subordinate to the Governor General of India.

*D.—Judicial Definitions.*Judicial
definitions

- “High Court” means, when used with reference to England or Ireland, His Majesty’s High Court of Justice in England or Ireland, as the case may be.
- “Court of Assize” or “Assizes”, means, as respects England, Wales, and Ireland, a Court of Assize, a Court of Oyer and Terminer, and a Court of Gaol Delivery, or any of them, and as respects England and Wales, includes the Central Criminal Court ;
and as respects Hongkong, means the Supreme Court, either one Judge or the Full Court, sitting in its criminal jurisdiction ; and unless it is specially provided that any offence is to be or may be tried summarily before a Magistrate or otherwise, all offences shall be triable before the Supreme Court sitting in its criminal jurisdiction.
- “Supreme Court” means the Supreme Court of Hongkong.
- “Full Court” means the Chief Justice and the Puisne Judge sitting together in Court or in Chambers.
- “Probate Court” means, as respects Hongkong, the Supreme Court sitting in its probate jurisdiction.
- “Bankruptcy Court” means, as respects Hongkong, the Supreme Court sitting in its bankruptcy jurisdiction.
- “Colonial Court of Admiralty” means, as respects Hongkong, the Supreme Court sitting in its Admiralty jurisdiction.
- “Court” means the Supreme Court as well as any other Court holden in the Colony.
- “Magistrate” means a Magistrate appointed under Ordinance No. 3 of 1890, but does not include the Marine Magistrate in cases not coming within section 8 of the said Ordinance, unless such Magistrate is expressly indicated ; and unless the contrary intention appears, the expression “triable before a Magistrate” or “tried summarily”, or any other expression having the like intent, means that an offence may be tried as provided by Ordinance No. 3 of 1890 ; and the expression “on summary conviction” or “on conviction before a Magistrate”, and any other expression having the like intent, means that the offence to which it relates was triable, and has been tried, and the offender convicted, as provided by the said Ordinance ; and in both cases the procedure respecting the imposition of fines and forfeitures and all other provisions respecting the jurisdiction of the Magistrate, and the procedure of such trial, shall be held to be included ; and where by any Ordinance an offence is made punishable by summary conviction, the Magistrate, or two Magistrates, as the case may require, shall be deemed thereby to be invested with jurisdiction to try any person accused of such offence.
- “Judge” means any Judge of the Supreme Court ; and where any civil jurisdiction is required to be exercised by a Judge, such jurisdiction, if it is not otherwise expressed, shall be exercisable by a Judge sitting in Chambers.
- “Rules of Court” means, when used in relation to any Court, rules made by the authority having for the time being power to make rules and orders regulating the practice and procedure of such Court, together with the forms necessary thereto.

The power of the said authority to make rules of Court as above defined shall include a power to make rules of Court for the purpose of any Ordinance hereafter to be passed directing or authorising anything to be done by rule of Court.

F.—General Definitions.

- “Gazette” means the Hongkong Government Gazette. General definitions.
- “Proclamation” means, as respects Hongkong, a proclamation of the Governor or of the Governor-in-Council.
- “Definition” means the interpretation to be given to words or expressions used in the Ordinance or part of an Ordinance used in which such interpretations are declared to be applicable; and the words or expressions are to have in such Ordinance or part of an Ordinance, and in any rules, regulations, orders, or other documents made thereunder, the meanings assigned to them unless inconsistent with the context.
- “Month” means calendar month, unless it appears from the context that lunar month, or Chinese “moon” is intended.
- “Year” means a year according to the Georgian Calendar, unless it appears from the context that a Chinese year is intended.
- “Person”, and words applied to any person or individual, shall apply to and include, subject only to the provisions of section 35, bodies corporate, joint tenants and tenants in common.
- “Statutory Declaration” means a declaration made by virtue of the Statutory Declarations Act, 1835, or of the Statutory Declaration Ordinance, 1893.
- “Enactment” means any provision made by competent authority, having the force of law, and any part of such provision, and includes rules and regulations made in virtue of powers conferred by any Ordinance or statute; and
- “Provided” or “Prescribed”, when used in reference to any enactment, means provided or prescribed by such enactment.
- “Any Ordinance” or “Any enactment” means and includes any Ordinance or any enactment, as the case may be, which is in force in the Colony at the time when the enactment in which the expression occurs is enforced or applied.
- “Offence” means any crime, misdemeanor, contravention, or other breach of the law for which a penalty is provided.
- “Committed for trial” means when used in relation to any person, committed to prison with the view to his being tried before a Judge and Jury, or otherwise as the law directs; and includes a person who is admitted to bail upon recognizances to appear and take his trial before a Judge and Jury, or otherwise.
- “Statute” or “Act” means an Act of the Imperial Parliament.
- “Treaty” means and includes a treaty, convention or agreement made with a foreign State, together with protocols or declarations attached thereto, or independent thereof but referring thereto.
- “Will” means and includes a will, testament, codicil, and all other testamentary papers whatsoever.
- “Medical Practitioner”, or any words importing a person recognized at law as a practitioner in medicine or surgery or as any kind of medical practitioner duly registered under Ordinance No. 1 of 1884.
- “Solicitor” means a legal practitioner admitted to practice as a solicitor before the Supreme Court under Ordinance No. 1 of 1871.

“Years of age”, or words of a like meaning, when used in reference to the age of any person, mean years according to English reckoning, unless Chinese reckoning is expressly indicated.

“Bank of England” means the Governor and Company of the Bank of England.

“Bank of Ireland” means the Governor and Company of the Bank of Ireland.

PART V.

Of Regulations, Forms, and other Matters.

Extent of power to make regulations. 40.—(1.) Where any Ordinance confers on any person a discretionary power to make regulations, to issue any order, or to do any act, the power shall, unless the contrary intention appear, be construed as including the power, exercisable in like manner, and subject to the same conditions, if any, to amend, vary, rescind, revoke, or suspend the regulations made, or order issued, or any part thereof, and to make or issue new regulations, or a new order, or to abstain from doing the act.

Meaning of “regulation”. (2.) “Regulations” means both in this section, and generally in this Ordinance, as well as in all other enactments, regulations, rules and bye-laws, not inconsistent with the provisions of the Ordinance under which they are made, and includes rules of Court.

Publication. (3.) All regulations shall, unless otherwise provided, come into force on the day of their publication in the *Gazette*, and not before, and shall have the same force and effect and be equally binding, and shall be construed for all purposes as if they had been contained in the Ordinance empowering them to be made: and any reference to the Ordinance shall be construed as including the regulations in such reference.

Other documents. (4.) The same rule shall apply to any order made by the Governor or the Governor-in-Council, and to any order, warrant, scheme, letters patent, or other instrument made or issued under the provisions of any Ordinance.

Powers of Governor-in-Council over regulations. 41.—(1.) Unless it is otherwise enacted, whenever in any Ordinance it is provided that regulations shall be

(a.) made; or

(b.) made subject to the approval or confirmation (or other words are used of like meaning) of the Governor-in-Council, the following rules shall be observed:—

(i.) the regulations shall be submitted for the approval of the Governor-in-Council;

(ii.) the Governor-in-Council shall have power to amend, or to disapprove the whole or any part of the regulations, and may, if he disapprove them either in whole or in part, require further or other regulations to be submitted for approval.

The word “to amend” shall include the power to add to, alter, or otherwise vary.

(2.) This section shall apply to regulations which are by any Ordinance made subject to the approval or confirmation (or other words are used of like meaning) of the Governor or of the Legislative Council.

Forms in repealed Ordinances. 42. All forms in use under any Ordinance repealed by any subsequent Ordinance, and which are not replaced by forms in the repealing Ordinance, shall remain in force so far as they are not inconsistent with its provisions, until they have been replaced by forms prescribed in accordance with the provisions of the repealing Ordinance.

PART VI.

Of Proclamations and Orders of the Governor.

Coming into force of proclamations. 43. Proclamations and notifications of the Governor shall come into operation on the date of their publication in the *Gazette*.

44. Where power is given to the Governor to issue a proclamation or notification, it shall include the power of amending, revoking, or suspending the said proclamation or notification, and of declaring the date of its coming into force, and also of substituting another therefor.

Extent of power to issue proclamations.

Provided always that where any Ordinance is to come into force on a day to be fixed by proclamation, the power to issue such proclamation shall not include the power of amending, revoking or suspending the same.

45. Where power is given to the Governor to make any order or give any direction, it shall be sufficient, unless it is otherwise expressed, for such order or direction to be signified under the hand of the Colonial Secretary or of the Assistant Colonial Secretary.

Signification of orders of the Governor.

This section shall not apply to the issue of any warrant by the Governor: such warrant shall be under his hand and seal.

46. Sections 43 and 44 shall apply to proclamations and notifications issued by the Governor-in-Council: and section 45 shall apply to orders and directions of the Governor-in-Council, except that the signification thereof shall be under the hand of the Clerk of the Councils.

PART VII.

Of Public Officers.

47.—(1.) Unless it is otherwise expressly provided in any Ordinance; if any person shall, by force or violence, resist, oppose, molest, hinder, or obstruct any public officer in the performance of his duty, or any person lawfully engaged, authorised or employed in the performance of any public duty, or any person lawfully acting in aid or assistance of any such public officer or person, he shall be liable to a fine not exceeding 100 dollars, and to imprisonment not exceeding 3 months.

Interfering with public officers.

(2.) The following enactments are repealed:—

- Ordinance No. 2 of 1885, section 6 (3).
- „ No. 1 of 1903, section 25.
- „ No. 15 of 1903, so much of section 5 as relates to obstructing and hindering officers.
- „ No. 23 of 1909, section 86.

48.—(1.) Unless it is otherwise expressly provided in any Ordinance; all actions and prosecutions to be commenced against any public officer for anything done or omitted to be done in pursuance of any enactment shall be commenced within six months after the act or omission, and not otherwise.

Protection of public officers acting under authority of enactment.

(2.) Notice in writing of such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action.

(3.) In any such action the defendant may plead the general issue, and give this Ordinance and the special matter in evidence at any trial to be had thereupon.

(4.) No plaintiff shall recover in any such action if tender of sufficient amends has been made before such action brought, or if a sufficient sum of money has been paid into Court after such action brought, by or on behalf of the defendant.

(5.) If a verdict passes for the defendant, or the plaintiff becomes nonsuit or discontinues any such action after issue joined, or if, on demurrer or otherwise, judgment is given against the plaintiff, the defendant shall recover his full costs as between solicitor and client, and shall have the like remedy for the same as any defendant has by law in other cases; and though a verdict is given for the plaintiff in any such action, the plaintiff shall not have costs against the defendant unless the Judge before whom the trial is had certifies his approbation of the action.

(6.) The term "public officer" in this and the preceding section shall include members of the Sanitary Board and commissioners and persons acting under Ordinance No. 13 of 1886, and persons acting under Ordinance No. 6 of 1893, and Excise Officers.

(7.) The following enactments are repealed :—

- Ordinance No. 5 of 1865, section 97.
- " No. 6 of 1865, section 58.
- " No. 7 of 1865, section 27.
- " No. 3 of 1873, sections 19, 20.
- " No. 2 of 1885, section 6 (3).
- " No. 13 of 1886, section 11.
- " No. 1 of 1889, section 81.
- " No. 3 of 1890, section 28 (4) from the words "so, however," to "taxed costs".
- " No. 6 of 1893, section 21.
- " No. 4 of 1897, section 46.
- " No. 4 of 1899, section 16.

PART VIII.

Miscellaneous Provisions.

Citation of Imperial Acts.

49.—(1.) In any Ordinance, instrument, or document, any Act of the Imperial Parliament may be cited by reference to its "short title", if any, either with or without a reference to the chapter, or by reference to the regnal year in which it was passed, and, where there are more statutes or sessions than one in the same regnal year, by reference to the statute or the session, as the case may require, and where there are more chapters than one, by reference to the chapter, and any enactment may be cited by reference to the section or sub-section of the Act in which the enactment is contained.

(2.) Where any Ordinance passed after the 18th day of November, 1897, contains such reference as aforesaid, the reference shall, unless the contrary intention appear, be read as referring, in the case of statutes included in any revised edition of the statutes purporting to be printed by authority, to that edition; and in case of statutes not so included and passed before the reign of King George the First, to the edition prepared under the direction of the Record Commission; and in other cases to the copies of the statutes purporting to be printed by the King's Printer or under the superintendence or authority of His Majesty's Stationery Office.

(3.) In any Ordinance a description or citation of a portion of an Act of Parliament shall, unless the contrary intention appear, be construed as including the word, section, or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

(4.) Any reference to an Act of Parliament shall include a reference to regulations made thereunder.

Repeat.

50. The following enactments are repealed :—

- Ordinance No. 8 of 1897.
- Ordinance No. 20 of 1908.
- Ordinance No. 18 of 1909.
- Ordinances No. 19 of 1901 and No. 20 of 1903, and all definitions of the "City of Victoria" contained in any Ordinance heretofore passed.
- The definitions of the "Waters of the Colony" and of the "Harbour limits" in Ordinance No. 10 of 1899, and in any other Ordinance heretofore passed.