

LEGISLATIVE COUNCIL.

No. S. 178.—The following Bills were read a first time at a meeting of the Council held on the 1st June, 1922 :—

C.S.O. 1 in 2576/19.

A BILL

INTITULED

An Ordinance to extend temporarily the provisions of the Rents Ordinances, 1921, with certain amendments.

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 Rents Ordinance, 1922.

Interpretation. 2. In this Ordinance :—

(a.) "Court" means the Supreme Court in its summary jurisdiction.

(b.) "Domestic tenement" includes every bed space, cubicle, room, portion of a floor, floor, or building, which is the subject of a separate letting, and which is used wholly or in part for human habitation, and every hotel and boarding house, whether such hotel or boarding house be held by the keeper thereof under one lease or under more than one lease, and whether such hotel or boarding house be contained in one building or in more than one building: Provided that the following shall not be deemed to be domestic tenements within the meaning of this definition :—

(i) Any building or portion of a building which is used for habitation only by caretakers or watchmen not exceeding two in number.

(ii) Any building or portion of a building which is used for habitation only by office attendants or their families.

(iii) Any particular portion of any hotel or boarding house which is let by the keeper of such hotel or boarding house to a guest of such hotel or boarding house.

(iv) Any furnished house or furnished flat.

(v) Any building for the time being vested in the Custodian of Enemy Property, or any part of any such building.

(c.) "Lease" includes every agreement for the letting of any domestic tenement, whether oral or in writing.

(d.) "Lessee" includes a sub-lessee but does not include the Crown lessee.

(e.) "Lessor" includes every person who lets any domestic tenement to any other person.

(f.) "Standard rent" with respect to any domestic tenement means:—

(i) if the domestic tenement was actually let on the 31st December, 1920, the rate of rent which was recoverable from the tenant in actual occupation on the 31st December 1920; and

(ii) if the domestic tenement was not actually let on the 31st December, 1920, but had been let on some previous date, the rate of rent which was recoverable from the tenant in actual occupation on the last occasion before the 31st December, 1920, on which the domestic tenement was actually let; and

(iii) if the domestic tenement was not let until after the 31st December, 1920, or shall be first let after the commencement of this Ordinance, the rate of rent at which the domestic tenement was or shall be first let to a tenant in actual occupation.

(g.) "Tenant in actual occupation" means a lessee of any domestic tenement who occupies such domestic tenement himself, or by his family or servants: Provided that—

(i) A lessee of any domestic tenement who occupies a portion of such domestic tenement himself, or by his family or servants, and who sub-lets other portions of such domestic tenement, shall be deemed to be the tenant in actual occupation of such domestic tenement as regards his immediate lessor.

(ii) A sub-lessee from any such lessee as is referred to in proviso (i) of any domestic tenement which such sub-lessee occupies himself, or by his family or servants, shall be deemed to be the tenant in actual occupation of such domestic tenement.

3.—(1.) Notwithstanding any agreement to the contrary, whether made before or after the commencement of this Ordinance, and whether oral or in writing, no rent shall be recoverable in respect of any domestic tenement, from the tenant in actual occupation, in excess of the standard rent of such domestic tenement.

No rent in excess of the standard rent to be recoverable.

(2.) This section shall apply to any rent which became due after the 31st December, 1920, and before the commencement of this Ordinance, and to any rent which shall become due during the continuance of this Ordinance, whatever the period may be in respect of which such rent became or shall become due.

4.—(1.) Notwithstanding any notice to quit, whether given before or after the commencement of this Ordinance, and notwithstanding the terms of any agreement whatsoever, whether made before or after the commencement of this Ordinance, and whether oral or in writing, an order or judgment against any tenant in actual occupation for the recovery of possession of any domestic tenement, or for the ejection of a tenant therefrom, shall be made or given only if:—

Restrictions on the right to possession.
10 & 11
Geo. 5,
c. 17, s. 5.

- (a) the tenant has or shall have failed to pay duly the standard rent recoverable in respect of his domestic tenement ; or
- (b) the tenant has or shall have failed to perform some obligation of his tenancy ; or
- (c) the tenant or any person residing with him has or shall have been guilty of conduct which is a nuisance or annoyance to adjoining occupiers, or has or shall have been convicted of using the domestic tenement or allowing the domestic tenement to be used for an immoral or illegal purpose, or the condition of the domestic tenement has or shall have, in the opinion of the court, deteriorated owing to acts of waste by or the neglect or default of the tenant or any such person ; or
- (d) the tenant has or shall have given notice to quit, or has or shall have agreed in writing to quit, and in consequence of that notice or agreement the lessor has or shall have contracted to sell or let the domestic tenement or has or shall have taken any other steps as a result of which he would, in the opinion of the court, be seriously prejudiced if he could not obtain possession ; or
- (e) the domestic tenement is reasonably required by the lessor for occupation as a residence for himself or for his family, or for any person *bona fide* residing or to reside with him, or for some person in his whole time employment or in the whole time employment of some tenant from him, and the court is satisfied that alternative accommodation, reasonably equivalent as regards rent and suitability in all respects, is available ; or
- (f) the lessor *bona fide* requires possession of the domestic tenement in order to pull down such domestic tenement or in order to reconstruct such domestic tenement to such an extent as to make such domestic tenement a new building within the meaning of the Public Health and Buildings Ordinance, 1903, and shall have given the tenant three months notice to quit, stating in writing whether he intends to pull down or to reconstruct such domestic tenement, and in the latter case stating the exact nature of the reconstruction intended : Provided that if the lessor fails to begin the work of pulling down or reconstruction within one month after the lessee shall have given up to the lessor possession of the domestic tenement, or shall fail to carry out the said work with reasonable expedition, the lessor shall, unless the contrary be proved, be deemed for the purpose of section 20 to have, in giving such notice, done an act *mala fide* with intent to induce the lessee to give up possession.

Ordinance
No. 1 of 1903.

(2.) If but for this Ordinance, or but for the Rents Ordinances, 1921, any tenancy would have expired by effluxion of time, or by reason of a notice to quit, or for any other reason, so that the tenancy is preserved only by reason of this Ordinance, or by reason of the Rents Ordinances, 1921, and this Ordinance, the terms of the tenancy so preserved, except as they may be modified by this Ordinance, and except as to the agreed period of tenancy, shall be as far as possible the same as the terms of the tenancy as it existed immediately before

the time at which, but for this Ordinance, or but for the Rents Ordinances, 1921, the tenancy would have expired.

(3.) At the time of the application for or the making or giving of any order or judgment for the recovery of possession of any domestic tenement, or for the ejectment of a tenant therefrom, or in the case of any such order or judgment which has been made or given, whether before or after the passing of this Ordinance, and not executed, at any subsequent time, the court may adjourn the application, or stay or suspend execution on any such order or judgment, or postpone the date of possession, for such period or periods as it thinks fit, and subject to such conditions (if any) in regard to payment by the tenant of arrears of rent, rent, or mesne profits and otherwise as the court thinks fit, and, if such conditions are complied with, the court may, if it thinks fit discharge or rescind any such order or judgment.

(4.) Where any order or judgment has been made or given before the passing of this Ordinance, but not executed, and, in the opinion of the court, the order or judgment would not have been made or given if this Ordinance had been in force at the time when such order or judgment was made or given, the court may, on application by the tenant, rescind or vary such order or judgment in such manner as the court may think fit.

(5.) Where a lessor has obtained an order or judgment for possession or ejectment on the ground that he requires a domestic tenement for his own occupation, and it is subsequently made to appear to the court that the order was obtained by misrepresentation or the concealment of material facts, the court may order the lessor to pay to the former tenant such sum as appears sufficient as compensation for damage or loss sustained by that tenant as the result of the order or judgment.

(6.) Nothing in this Ordinance shall be construed as affecting the operation of sections 205, 206, 207 or 207a of the Public Health and Buildings Ordinance, 1903. Ordinance No. 1 of 1903.

5.—(1.) Where the rights of any lessee of any building or buildings, other than the Crown lessee and the tenant in actual occupation, are affected by the operation of this Ordinance, it shall be lawful for such lessee to apply to the court for the revision of the rent payable to the lease, and upon such application the court may make such order as it shall think fit. Revision of the rent payable under intermediate leases.

(2.) It shall be lawful for the court to give such directions as it shall think fit for the procedure to be followed on such applications, and for the notice to be given to the other parties to any such lease, or to their agents.

(3.) Pending the decision of the court upon any such application the lessee under any such lease shall be bound to pay at the due date the rent reserved by such lease, as if no such application had been made, but if the court shall order the rent payable to be reduced, the lessee shall be entitled to recover back from the lessor any amount paid in excess of the revised rate of rent in respect of any period after the commencement of this Ordinance, or to deduct such amount from any subsequent rent payable under such lease, and such amount shall be ascertained by apportionment if necessary.

(4.) There shall be no appeal from any decision of the court under this section except with the leave of the court or of the full court of two judges, and if any appeal is allowed under this sub-section it shall be to the full court of two judges, whose decision shall be final.

(5.) Any application to the court for leave to appeal against any decision by it under this section shall be

made within 14 days after such decision shall have been given, and any application to the full court for leave to appeal under this section shall be by notice of motion which shall be filed with the Registrar within 14 days after the decision of the court under this section has been given, or, as the case may be, within 14 days after the refusal of the court to allow an appeal under this section.

Determina-
tion of the
construction
of the
Ordinance.

6.—(1.) If in any civil proceeding any question arises as to the recovery of possession of any domestic tenement, or as to the ejection of a tenant therefrom, or as to the construction of this Ordinance, such question shall be decided in the first instance by the court, and there shall be an appeal as of right from any decision of the court under this section to the full court of two judges, whose decision shall be final.

(2.) An appeal from any decision of the court under this section shall be by notice of motion which shall be filed with the Registrar within 14 days after such decision shall have been given.

Collection of
rates not to
be affected.

7. Nothing in this Ordinance shall be construed so as to prevent a lessor of a domestic tenement from collecting from his lessee the rates for the time being payable in respect of such domestic tenement, or such apportioned sum as shall properly be attributable to such domestic tenement in respect of rates, provided that the obligation of paying the rates in respect of such domestic tenement has not been assumed by the lessor under terms of the tenancy.

Evidence.

Ordinance
No. 6 of 1901.

8.—(1.) In any matter arising under or in consequence of this Ordinance, any returns made under the Rating Ordinance, 1901, relating to any domestic tenement, shall be admissible as evidence of the rent of such domestic tenement at the time when such return was made, and any return under the Rating Ordinance, 1901, which includes such domestic tenement shall be deemed to relate to such domestic tenement although such domestic tenement be not treated as a separate unit in such return.

(2.) In any matter arising under or in consequence of this Ordinance, any assessment whatsoever made under the Rating Ordinance, 1901, which may appear to the court to be relevant shall be admissible in evidence.

(3.) Any such return or assessment as is referred to in sub-sections (1) and (2) may be proved by a certificate under the hand of the Assessor or Assistant Assessor.

(4.) In any matter arising under or in consequence of this Ordinance, it shall be lawful for the court to order the production of any books of account or documents whatsoever if it shall appear to the court that such books of account or documents may be relevant for the purpose of determining such matter.

Application
of Ordinance.

Ordinance
No. 1 of 1903.

9.—(1.) This Ordinance shall not apply to the New Territories, except New Kowloon.

(2.) This Ordinance shall not apply to any entirely new building in the case of which the certificate referred to in section 204 of the Public Health and Buildings Ordinance, 1903, shall not have been issued before the commencement of this Ordinance.

Duration of
Ordinance.

10. This Ordinance shall continue in force until, and including, the 30th day of June, 1923, provided that it shall be lawful for the Legislative Council from time to time by resolution to extend the duration of this Ordinance for such term, not exceeding one year at any one time, as may be specified in such resolution.

11. Immediately after this Ordinance shall cease to be in force any tenant who shall have been in occupation at the time when this Ordinance ceases to be in force shall be deemed to be holding over lawfully on the tenancy terms on which he shall have been holding immediately before this Ordinance ceases to be in force, and at the standard rent, unless the lessor shall have given such tenant such notice to quit, terminating with the termination of this Ordinance, as would have been, as regards length of notice, a due notice to quit under the terms of the tenancy if this Ordinance had not been passed.

Effect on tenancies of the termination of the Ordinance.

12.—(1.) Notwithstanding anything contained in the Rating Ordinance, 1901, it shall be lawful for the Assessor, in his absolute discretion, on the application of the owner or occupier of any tenement, to reduce the valuation of such tenement in any case in which the rent actually paid in respect of such tenement shall have been temporarily reduced in consequence of the operation of this Ordinance.

Assessor to have power to reduce valuations in certain cases. Ordinance No. 6 of 1901.

(2.) Such reduced valuation shall apply to the quarter in which the reduction is made, and, subject to the provisions of the Rating Ordinance, 1901, with regard to interim valuations, shall continue to be in force while this Ordinance is in force and until the coming into effect of the first annual valuation made after this Ordinance shall have ceased to be in force.

(3.) If the valuation of any tenement is reduced under the provisions of this section, and if the rates in respect of such tenement for the quarter in which the reduction is made shall have been paid to the Treasurer before the making of such reduction, the Treasurer shall refund the sum by which the amount of the rates payable under the valuation exceeds the amount of the rates payable under the reduced valuation.

13. If the rent recoverable from the tenant in actual occupation of any domestic tenement on the 31st day of December, 1920, either (a) was a rent which had been agreed upon at some date before the 1st day of January, 1918, or (b) was not higher than the rent recoverable from the tenant in actual occupation on the 1st day of January, 1918, it shall be lawful for the lessor of such tenement to apply to the court to fix such other rent than the standard rent as the court shall think fit as the rent to be paid in respect of such tenement during the continuance of this Ordinance, provided that nothing in this section shall affect any rent which became due before the commencement of this Ordinance, and provided that nothing in this section shall entitle any lessor, during the currency of any written lease of any domestic tenement for a definite and unexpired term, to any rent higher than the rent reserved in such lease.

Court may revise the rent in certain cases.

14. In case a lessor of any domestic tenement has expended or shall expend after the 31st day of December, 1920, the sum of five hundred dollars or upwards on additions or improvements thereto by which in the opinion of the court the rateable value thereof shall have been or shall be increased, the court may on application by the lessor for such purpose order that the rent of such tenement shall be increased beyond the standard rent by an annual sum equal to 8 per cent. on the amount so expended by the lessor on such additions, or improvements, provided that nothing in this section shall affect any rent which became due before the commencement of this Ordinance.

Court may increase rent in case of certain rateable improvements.

Certain tenancies to determine upon the lessee ceasing to occupy any portion of the domestic tenement.

15.—(1.) If a lessee of any domestic tenement ceases to occupy, by himself or by his family or servants, any portion of such domestic tenement, so that the whole of such domestic tenement is occupied by some other person or persons, the interest of such lessee shall thereupon cease and determine, and any person to whom such lessee shall have lawfully sub-let any portion of such domestic tenement shall thereupon become a tenant of the lessor, upon the same terms as those upon which he held from such lessee.

(2.) This section shall not apply to any case in which, at the commencement of the tenancy, it was not in contemplation of the parties that any part of the domestic tenement would be occupied by the lessee or by his family or servants.

Money not to be demanded for the grant, renewal or continuance of tenancies.

16.—(1.) No person shall, as a condition or pretended condition of the grant, renewal, or continuance, by himself or by any other person of a tenancy of any domestic tenement, demand payment of any sum of money whatsoever, in addition to the rent.

10 & 11 Geo. 5, c. 17, s. 8.

(2.) Every person demanding any payment in contravention of this section shall be liable upon summary conviction to a fine not exceeding one thousand dollars, and the magistrate by whom such person is convicted may order the amount paid to be repaid to the person by whom the same was paid.

(3.) This section shall not apply to any fine, premium, or other like sum, which any person, before the commencement of the Rents Ordinance, 1921, shall have agreed in writing to pay.

Recovery of rent by lessee.

10 & 11 Geo. 5, c. 17, s. 14 (1).

17. Where any sum shall, after the commencement of this Ordinance, have been paid on account of any rent, being a sum which is by virtue of this Ordinance irrecoverable by the lessor, the sum so paid shall be recoverable from the lessor who received the payment or his legal personal representative by the lessee by whom it was paid, and any such sum may, without prejudice to any other method of recovery, be deducted by the lessee from any rent payable by him to the lessor.

Transfer of actions to the original jurisdiction of the Supreme Court.

Ordinance No. 4 of 1873.

18.—(1.) Nothing contained in this Ordinance shall be deemed to affect the power of transferring actions from the summary jurisdiction of the Supreme Court to the original jurisdiction of the Supreme Court conferred by section 28 of the Supreme Court (Summary Jurisdiction) Ordinance, 1873.

(2.) Subject to the provisions of sub-section (3), if any action, to which any of the provisions of this Ordinance would have applied if such action had not been transferred to the original jurisdiction of the Supreme Court, is transferred to the original jurisdiction of the Supreme Court, the provisions of this Ordinance shall apply, in the further proceedings in such action, as if there were substituted for the term "court" in this Ordinance the term "Supreme Court in its original jurisdiction" except (i) in paragraph (a) of section 2, and (ii) where the word "court" forms part of the term "full court".

(3.) The special provisions of this Ordinance relating to appeals shall not apply to any action which is transferred from the summary jurisdiction of the Supreme Court to the original jurisdiction of the Supreme Court.

(4.) This section shall apply to actions instituted before the commencement of this Ordinance as well as to actions instituted after such commencement.

19.—(1.) Every person who, without lawful excuse, applies for a warrant of distress for any amount of rent in excess of the rent recoverable in accordance with the provisions of this Ordinance, and every person who, without lawful excuse, under threat of applying for or executing a warrant of distress, demands any amount of rent in excess of the rent recoverable in accordance with the provisions of this Ordinance, shall upon summary conviction be liable to a fine not exceeding two hundred and fifty dollars.

Distress for rent made irrecoverable by this Ordinance, and demand made under threat of such distress.

(2.) Upon the hearing of any summons issued under the provisions of this section, it shall be lawful for a magistrate, whether the defendant be convicted or not, and in addition to imposing a fine if the defendant be convicted, to order the defendant to pay to the tenant:—

- (a) any sum recovered or obtained from the tenant, by means of the distress or threatened distress, in excess of the rent recoverable in accordance with the provisions of this Ordinance;
- (b) any costs recovered or obtained from the tenant by means of the distress or threatened distress; and
- (c) damages, not exceeding two hundred and fifty dollars.

20. Every person who shall *mala fide* do any act whatsoever with intent to induce the lessee of any domestic tenement to give up possession of such domestic tenement shall be liable upon summary conviction to a fine not exceeding one thousand dollars, and shall also be liable in damages to the lessee for any loss which the lessee may sustain by reason of such act.

Acts done *mala fide* with intent to induce a lessee to quit prohibited.

21. Notwithstanding anything contained in this Ordinance, any *bona fide* notice to quit duly given by a lessor to a lessee in reliance on the provisions of paragraph (f) of sub-section (1) of section 4, or in reliance on such provisions and on the provisions of section 22, and given in accordance with the provisions of the said paragraph, shall operate so as to bind all sub-lessees deriving title directly or indirectly from the lessee to whom such notice shall have been given.

Notice to quit to bind sub-lessees in certain cases.

22. If the owner of any domestic tenement agrees to sell such domestic tenement to a purchaser who *bona fide* intends forthwith to pull down such domestic tenement or to reconstruct such domestic tenement to such an extent as to make such domestic tenement a new building within the meaning of the Public Health and Buildings Ordinance, 1903, and if such owner agrees with such purchaser to give the necessary notices to quit, any notice to quit given by such owner in pursuance of such agreement shall enure for the benefit of such purchaser as if such purchaser had been the owner at the time when such notice to quit was given and had given such notice to quit, provided that nothing in this section shall relieve such owner from the obligation to state in writing at the time of giving such notice to quit whether such purchaser intends to pull down such domestic tenement or to reconstruct such domestic tenement, and in the latter case to state the exact nature of the reconstruction intended, and provided also that notwithstanding anything in this section the lessee shall have, in addition to any remedies which he

Notice to quit given by vendor to enure for benefit of purchaser in certain cases. Ordinance No. 1 of 1903.

may have against such owner, such remedies against such purchaser as he would have had if such notice to quit had been given by such purchaser.

Bankruptcy of lessee.

23. If the lessee of any domestic tenement is adjudged bankrupt neither the said lessee nor his trustee in bankruptcy shall be entitled to claim any right or benefit under section 4 in respect of the said domestic tenement by virtue of the tenancy, whether contractual or statutory, under which the said lessee held immediately before the making of the adjudication order.

Power to exclude operation of Ordinance.

24. It shall be lawful for the Governor in Council to order that the provisions of this Ordinance, or any specified provision of this Ordinance, shall not apply in the case of any particular domestic tenement, if he thinks that the circumstances are sufficiently exceptional, and from the publication of such order in the Gazette the said provisions shall not apply to the said domestic tenement so long as such order remains unrevoked.

Notices given before the commencement of this Ordinance.

25. Every notice given before the commencement of this Ordinance which would have been valid under the provisions of the Rents Ordinances, 1921, and which would have been valid under the provisions of this Ordinance if given after the commencement of this Ordinance, shall be valid and effectual for all the purposes of this Ordinance.

Repeal of Rents Ordinances, 1921, not to affect existing tenancies.

26. Notwithstanding anything contained in section 11 of the Rents Ordinance, 1921, and notwithstanding anything else contained in the Rents Ordinances, 1921, the repeal of the Rents Ordinances, 1921, shall not have the effect of determining any tenancy, and shall not operate so as to enable any lessor to recover possession of any domestic tenement except upon the conditions provided in this Ordinance.

Repeal of Ordinances Nos. 13, 25 and 30 of 1921.

27. The Rents Ordinance, 1921, the Rents Amendment Ordinance, 1921, and the Rents Second Amendment Ordinance, 1921, are repealed.

Objects and Reasons.

1. The object of this bill is to extend temporarily the provisions of the Rents Ordinances, 1921. A few amendments have been made, but, as this is a temporary measure, it has been thought desirable to avoid change as much as possible.

2. Ordinance No. 30 of 1921 is absorbed into section 2 of Ordinance No. 13 of 1921. A better arrangement of the section of Ordinances Nos. 13 and 25 of 1921 could have been made, but for convenience the sections of each of these two Ordinances have been kept together in the bill. Clauses 1 to 17, both inclusive, represent Ordinance No. 13 of 1921; clauses 18 to 23, both inclusive, represent sections 4 to 9 of Ordinance No. 25 of 1921, and clauses 24 to 27 are new. Sections 1, 2 and 3 of Ordinance No. 25 of 1921 disappear as they are absorbed into other sections.

3. Some of the amendments made are necessary in order to link up the proposed legislation with the Ordinances which are to be repealed. Examples of this class of amendment are to be found in clauses 3 (2), 4 (2), 16 (3), and 25.

4. Clause 4 (1) (f) has been strengthened by the addition of a proviso which is aimed at *mala fide* action by a lessor under that paragraph. The paragraph in question is the one which gives a lessor power to recover possession if he intends to pull down or reconstruct the domestic tenement. The proviso lays down that if the lessor fails to begin the work within one month after obtaining possession, or fails to carry out the work with reasonable expedition, the onus shall lie upon him of showing that he acted *bona fide* in giving the notice. If he acted *mala fide* he is liable to a fine, and to damages, under clause 20. The express reference to damages in clause 20 is new, but it probably does not give any new right which did not exist before.

5. Section 15 of Ordinance No. 13 of 1921 is not very clear. An attempt is made in clause 15 of the bill to make the point clearer. The clause is intended to prevent subletting of the whole of a domestic tenement by a tenant who has ceased to use any part of it for himself. The section will not apply to the farming out of a block of buildings.

6. Clause 24 gives the Governor in Council power to exclude the operation of the Ordinance in any particular case in which the circumstances are sufficiently exceptional. One kind of case to which this section might be applied is where the premises are required for some charitable or public purpose. Another class of case to which it might be applied would be the case of a permanent resident who had bought a house for his own occupation before the commencement of the original Rents Ordinance.

7. Many criticisms and suggestions were received in response to the invitation of the Government. They were all carefully considered, and probably some at least of them would have been adopted if the measure were a permanent one, but it has been thought best, as stated above, to make as little change as possible in what is only a temporary measure.

J. H. KEMP,
Attorney General.

25th May, 1922.

C.S.O. 646/22.

FORGERY ORDINANCE, 1922.

[ORDINANCE No. OF 1922]

ARRANGEMENT OF SECTIONS.

Section

1. Short title.
2. Interpretation.
3. Definition of forgery.
4. Forgery of certain documents with intent to defraud.
5. Forgery of certain documents with intent to defraud or deceive.
6. Forgery of other documents with intent to defraud or to deceive a misdemeanour.
7. Forgery of seals and dies.
8. Uttering.
9. Demanding property on forged documents, &c.
10. Possession of forged documents, seals, and dies.
11. Making or having in possession paper or implements for forgery.
12. Accessories and abettors.
13. Punishments.
14. Criminal possession.
15. Search warrants.
16. Form of indictment and proof of intent.
17. Savings.
18. Amendment of Ordinance No. 4 of 1865, s. 44.
19. Amendment of Ordinance No. 2 of 1889, s. 51 (2).
20. Repeals.

SCHEDULE.

C.S.O. 646/22

A BILL

INTITULED

An Ordinance to consolidate, simplify, and amend the law relating to forgery and kindred offences.

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 Forgery Ordinance, 1922. Short title.

2.—(1) In this Ordinance:—

Interpretation.
3 & 4 Geo. 5.
c. 27, s. 18.

- (a.) "Bank note" includes any note or bill of exchange of the Bank of England or Bank of Ireland, or of any other person, body corporate, or company carrying on the business of banking in any part of the world, and includes "bank bill," "bank post bill," "blank bank note," "blank bank bill of exchange," and "blank bank post bill":
- (b.) "Die" includes any plate, type, tool, chop, or implement whatsoever, and also any part of any die plate, type, tool, chop, or implement, and any stamp or impression thereof or any part of such stamp or impression: -
- (c.) "Document of title to goods" includes any bill of lading, India warrant, dock warrant, godown warrant, warehouse keepers certificate, warrant or order for the delivery or transfer of any goods or valuable thing, bought or sold note, or any other document used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise either by indorsement or by delivery the possessor of such document to transfer or receive any goods thereby represented or therein mentioned or referred to:
- (d.) "Document of title to lands" includes any deed, map, roll, register, or instrument in writing being or containing evidence of the title or any part of the title to any land or to any interest in or arising out of any land, or any authenticated copy thereof:
- (e.) "Revenue paper" means any paper provided by the public authority for the purpose of being used for stamps, licences, permits, Post Office money orders, or postal orders, or for any purpose whatever connected with the public revenue:
- (f.) "Seal" includes any stamp or impression of a seal or any stamp or impression made or apparently intended to resemble the stamp or impression of a seal, as well as the seal itself:
- (g.) "Stamp" includes a stamp impressed by means of a die as well as an adhesive stamp:
- (h.) "Valuable security" includes any writing entitling or evidencing the title of any person to any share or interest in any public stock, annuity, fund, or debt of any part of His Majesty's dominions or of any foreign state, or in any stock, annuity, fund, or debt of any body corporate, company, or society,

whether within or without His Majestys' dominions, or to any deposit in any bank, and also includes any scrip, debenture, bill, note, warrant, order, or other security for the payment of money, or any accountable receipt, release, or discharge, or any receipt or other instrument evidencing the payment of money, or the delivery of any chattel personal.

(2) References in this Ordinance to any Act in force in the United Kingdom at the commencement of this Ordinance shall be held to include a reference to that Act as amended, extended, or applied by any other Act.

Definition of forgery.
3 & 4 Geo. 5,
c. 27, s. 1.

3.—(1) For the purposes of this Ordinance forgery is the making of a false document in order that it may be used as genuine, and in the case of the seals and dies mentioned in this Ordinance the counterfeiting of a seal or die, and forgery with intent to defraud or deceive, as the case may be, is punishable as in this Ordinance provided.

(2) A document is false within the meaning of this Ordinance if the whole or any material part thereof purports to be made by or on behalf or on account of a person who did not make it nor authorise its making; or if, though made by or on behalf or on account of the person by whom or by whose authority it purports to have been made, the time or place of making, where either is material, or, in the case of a document identified by number or mark, the number or any distinguishing mark identifying the document, is falsely stated therein; and in particular a document is false:—

- (a) if any material alteration, whether by addition, insertion, obliteration, erasure, removal, or otherwise, has been made therein;
- (b) if the whole or some material part of it purports to be made by or on behalf of a fictitious or deceased person;
- (c) if, though made in the name of an existing person, it is made by him or by his authority with the intention that it should pass as having been made by some person, real or fictitious, other than the person who made or authorised it.

(3) For the purposes of this Ordinance:—

- (a.) It is immaterial in what language a document is expressed or in what place within or without His Majesty's dominions it is expressed to take effect;
- (b.) Forgery of a document may be complete even if the document when forged is incomplete, or is not or does not purport to be such a document as would be binding or sufficient in law;
- (c.) The crossing on any cheque, draft on a banker, post-office money order, postal order, coupon, or other document the crossing of which is authorised or recognised by law, shall be a material part of such cheque, draft, order, coupon, or document.

Forgery of certain documents with intent to defraud.
3 & 4 Geo. 5,
c. 27, s. 2.

4.—(1) Forgery of the following documents, if committed with intent to defraud, shall be felony and punishable with imprisonment for life:—

- (a.) Any will, codicil, or other testamentary document, either of a dead or of a living person, or any probate or letters of administration, whether with or without the will annexed;
- (b.) Any deed or bond, or any assignment at law or in equity of any deed or bond, or any attestation of the execution of any deed or bond;

(c.) Any bank note, or any indorsement on or assignment of any bank note.

(2) Forgery of the following documents, if committed with intent to defraud, shall be felony and punishable with imprisonment for any term not exceeding fourteen years :—

- (a.) Any valuable security or assignment thereof or indorsement thereon, or, where the valuable security is a bill of exchange, any acceptance thereof ;
- (b.) Any document of title to lands or any assignment thereof or indorsement thereon ;
- (c.) Any document of title to goods or any assignment thereof or indorsement thereon ;
- (d.) Any power of attorney or other authority to transfer any share or interest in any stock, annuity, or public fund of the United Kingdom or any part of His Majesty's dominions or of any foreign state or country or to transfer any share or interest in the debt of any public body, company, or society, British or foreign, or in the capital stock of any such company or society, or to receive any dividend or money payable in respect of such share or interest or any attestation of any such power of attorney or other authority ;
- (e.) Any entry in any book or register which is evidence of the title of any person to any share or interest hereinbefore mentioned or to any dividend or interest payable in respect thereof ;
- (f.) Any policy of insurance or any assignment thereof or indorsement thereon ;
- (g.) Any charter-party or any assignment thereof ;
- (h.) Any declaration, warrant, order, affidavit, affirmation, certificate, or other document required or authorised to be made by or for the purposes of the Government Annuities Act, 1829, or the Government Annuities Act, 1832, or by the National Debt Commissioners acting under the authority of the said Acts ;
- (i.) Any certificate, certificate of valuation, sentence or decree of condemnation or restitution, or any copy of such sentence or decree, or any receipt required by the Slave Trade Acts.

10 Geo. 4. c. 24.
2 & 3 Will. 4. c. 59.

5.—(1) Forgery of the following documents, if committed with intent to defraud or deceive, shall be felony, and punishable with imprisonment for life :—

Forgery of certain documents with intent to defraud or deceive. 3 & 4 Geo. 5, c. 27, s. 3.

Any document whatsoever having thereupon or affixed thereto the stamp or impression of the Great Seal of the United Kingdom, His Majesty's Privy Seal, any privy signet of His Majesty, His Majesty's Royal Sign Manual, any of His Majesty's seals appointed by the Twenty-fourth Article of the Union between England and Scotland to be kept, used, and continued in Scotland, the Great Seal of Ireland, the Privy Seal of Ireland or the Public Seal of the Colony.

(2) Forgery of the following documents, if committed with intent to defraud or deceive, shall be felony, and punishable with imprisonment for any term not exceeding fourteen years :—

- (a.) Any register or record of births, baptisms, namings, dedications, marriages, deaths, burials, or cremations, which now is, or hereafter may be, by law authorised or required to be kept in the Colony, relating to any birth, baptism, naming, dedication, marriage, death, burial, or cremation, or any part of any such register, or any certified copy of any such register, or of any part thereof ;

- (b.) Any copy of any register of baptisms, marriages, burials, or cremations, directed or required by law to be transmitted to any registrar or other officer;
- (c.) Any register of the birth, baptism, death, burial, or cremation of any person to be appointed a nominee under the provisions of the Government Annuities Act, 1829, or any copy or certificate of any such register, or the name of any witness to any such certificate;
- (d.) Any wrapper or label provided by or under the authority of the Governor or the head of any department of the Government of the Colony.

(3) Forgery of the following documents, if committed with intent to defraud or deceive, shall be felony, and punishable with imprisonment for any term not exceeding seven years:—

- (a.) Any official document whatsoever of or belonging to any court of justice, or made or issued by any judge, magistrate, officer, or clerk of any such court;
- (b.) Any register or book kept under the provisions of any law in or under the authority of any court of justice;
- (c.) Any certificate, office copy, or certified copy of any such document, register, or book or of any part thereof.
- (d.) Any document which any magistrate is authorised or required by law to make or issue;
- (e.) Any document which any person authorised to administer an oath under the Commissioners for Oaths Act, 1889, is authorised or required by law to make or issue;
- (f.) Any document made or issued by an officer of state or law officer of the Crown, or any document upon which, by the law or usage at the time in force, any court of justice or any officer might act;
- (g.) Any document or copy of a document used or intended to be used in evidence in any court of record, or any document which is made evidence by law;
- (h.) Any certificate required by any enactment for the celebration of marriage;
- (i.) Any licence for the celebration of marriage which may be given by law;
- (j.) Any certificate, declaration, or order under any enactment relating to the registration of births or deaths;
- (k.) Any register book, builder's certificate, surveyor's certificate, certificate of registry, declaration, bill of sale, instrument of mortgage, or certificate of mortgage or sale under Part I. of the Merchant Shipping Act, 1894, or any entry or indorsement required by the said Part of the said Act to be made in or on any of those documents;
- (l.) Any permit, certificate, or similar document made or granted by or under the authority of the Governor or the head of any department of the Government of the Colony.

52 Vict. c. 10.

57 & 58 Vict.
c. 60.

Forgery of
other docu-
ments with
intent to de-
fraud or to
deceive a
misdemean-
our.
3 & 4 Geo. 5,
c. 27, s. 4.

6.—(1) Forgery of any document, which is not made felony under this or any other enactment for the time being in force, if committed with intent to defraud, shall be a misdemeanour and punishable with imprisonment for any term not exceeding three years.

(2) Forgery of any public document which is not made felony under this or any other enactment for the time being in force, if committed with intent to defraud or deceive, shall be a misdemeanour and punishable with imprisonment for any term not exceeding three years.

7.—(1) Forgery of the following seals, if committed with intent to defraud or deceive, shall be felony and punishable with penal servitude for life :—

Forgery of seals and dies.
3 & 4 Geo. 5
c. 27. s. 5.

- (a.) The Great Seal of the United Kingdom, His Majesty's Privy Seal, any privy signet of His Majesty, His Majesty's Royal Sign Manual, any of His Majesty's seals appointed by the Twenty-fourth Article of the Union between England and Scotland to be kept, used, and continued in Scotland, the Great Seal of Ireland, the Privy Seal of Ireland, or the Public Seal of the Colony.
- (b.) The seal of any court of record.

(2) Forgery of the following seals, if committed with intent to defraud or deceive, shall be felony, and punishable with imprisonment for any term not exceeding fourteen years :—

- (a.) The seal of any register office relating to births, baptisms, marriages, or deaths ;
- (b.) The seal of or belonging to any office for the registry of deeds or titles to lands.

(3) Forgery of the following seal, if committed with intent to defraud or deceive, shall be felony and punishable with imprisonment for any term not exceeding seven years :—

The seal of any court of justice other than a court of record.

(4) Forgery of the following seals or dies, if committed with intent to defraud or deceive, shall be felony and punishable with imprisonment for any term not exceeding seven years :—

- (a.) Any seal or die provided, made, or used by or under the authority of the Governor or the head of any department of the Government of the Colony.
- (b.) Any seal or die provided, made or used by any person, firm or company for the purpose of the affairs of such person, firm or company.

8.—(1) Every person who utters any forged document, seal, or die shall be guilty of an offence of the like degree (whether felony or misdemeanour) and on conviction thereof shall be liable to the same punishment as if he himself had forged the document, seal, or die.

Uttering.
3 & 4 Geo. 5,
c. 27. s. 6.

(2) A person utters a forged document, seal, or die, who, knowing the same to be forged, and with either of the intents necessary to constitute the offence of forging the said document, seal, or die, uses, offers, publishes, delivers, disposes of, tenders in payment or in exchange, exposes for sale or exchange, exchanges, tenders in evidence, or puts off the said forged document, seal, or die.

(3) It is immaterial where the document, seal, or die, was forged.

9. Every person shall be guilty of felony and on conviction thereof shall be liable to imprisonment for any term not exceeding fourteen years, who, with intent to defraud, demands, receives, or obtains, or causes or procures to be delivered, paid or transferred to any person, or endeavours to receive or obtain or to cause or procure to be delivered, paid or transferred to any person any money, security for money or other property, real or personal :—

Demanding property on forged documents, &c.
3 & 4 Geo. 5,
c. 27. s. 7.

- (a) under, upon, or by virtue of any forged instrument whatsoever, knowing the same to be forged; or
- (b) under, upon, or by virtue of any probate or letters of administration, knowing the will, testament, codicil, or testamentary writing on which such probate or letters of administration shall have been obtained to have been forged, or knowing such probate or letters of administration to have been obtained by any false oath, affirmation, or affidavit.

Possession of forged documents, seals, and dies.
3 & 4 Geo. 5, c. 27, s. 8.

10.—(1) Every person shall be guilty of felony and on conviction thereof shall be liable to imprisonment for any term not exceeding fourteen years, who, without lawful authority or excuse, the proof whereof shall lie on the accused, purchases or receives from any person, or has in his custody or possession, a forged bank note, knowing the same to be forged.

(2) Every person shall be guilty of felony and on conviction thereof shall be liable to imprisonment for any term not exceeding seven years, who, without lawful authority or excuse, the proof whereof shall lie on the accused, and knowing the same to be forged, has in his custody or possession—

Any forged seal or die the forgery of which with intent to defraud or deceive is made punishable by section 7.

Making or having in possession paper or implements for forgery.
3 & 4 Geo. 5, c. 27, s. 9.

11. Every person shall be guilty of felony and on conviction thereof shall be liable to imprisonment for any term not exceeding seven years, who, without lawful authority or excuse, the proof whereof shall lie on the accused:—

- (a.) Makes, uses, or knowingly has in his custody or possession any paper intended to resemble and pass as—
 - (i) Special paper such as is provided and used for making any bank note;
 - (ii) Revenue paper;
- (b.) Makes, uses, or knowingly has in his custody or possession, any frame, mould, or instrument for making such paper, or for producing in or on such paper any words, figures, letters, marks, lines, or devices peculiar to and used in or on any such paper;
- (c.) Engraves or in anywise makes upon any plate, wood, stone, or other material, any words, figures, letters, marks, lines, or devices, the print whereof resembles in whole or in part any words, figures, letters, marks, lines, or devices peculiar to and used in or on any bank note, or in or on any document entitling or evidencing the title of any person to any share or interest in any public stock, annuity, fund, or debt of any part of His Majesty's Dominions or of any foreign state, or in any stock, annuity, fund, or debt of any body corporate, company, or society, whether within or without His Majesty's dominions;
- (d.) Uses or knowingly has in his custody or possession any plate, wood, stone, or other material, upon which any such words, figures, letters, marks, lines, or devices have been engraved or in anywise made as aforesaid;
- (e.) Uses or knowingly has in his custody or possession any paper upon which any such words, figures, letters, marks, lines, or devices have been printed or in anywise made as aforesaid.

12.—Any person who knowingly and wilfully aids, abets, counsels, causes, procures, or commands the commission of an offence punishable under this Ordinance shall be liable to be dealt with, indicted, tried, and punished as a principal offender.

Accessories
and abettors.
3 & 4 Geo. 5,
c. 27, s. 11.

13.—(1) On conviction of a misdemeanour punishable under this Ordinance the court or magistrate, instead of or in addition to any other punishment which may be lawfully imposed, may fine the offender.

Punishments.
3 & 4 Geo. 5,
c. 27, s. 12.

(2) On conviction of a felony punishable under this Ordinance, the court or magistrate, in addition to imposing a sentence of imprisonment, may require the offender to enter into his own recognizances, with or without sureties, for keeping the peace and being of good behaviour.

(3) On conviction of a misdemeanour punishable under this Ordinance, the court or magistrate, instead of or in addition to any other punishment which may lawfully be imposed for the offence, may require the offender to enter into his own recognizances, with or without sureties, for keeping the peace and being of good behaviour.

(4) No person shall be imprisoned under this section for more than one year for not finding sureties.

14.—Where the having any document, seal, or die in the custody or possession of any person is in this Ordinance expressed to be an offence, a person shall be deemed to have a document, seal or die in his custody or possession if he—

Criminal
possession.
3 & 4 Geo. 5,
c. 27, s. 15.

- (a) has it in his personal custody or possession ;
or
- (b) knowingly and wilfully has it in the actual custody or possession of any other person, or in any building, lodging, apartment, field, or other place, whether open or enclosed, and whether occupied by himself or not.

It is immaterial whether the document, matter, or thing is had in such custody, possession, or place for the use of such person or for the use or benefit of another person.

15.—(1) If it shall be made to appear by information on oath before a magistrate that there is reasonable cause to believe that any person has in his custody or possession without lawful authority or excuse—

Search
warrants.
3 & 4 Geo. 5,
c. 27, s. 16.

- (a) any bank note ; or
- (b) any implement for making paper or imitation of the paper used for bank notes ; or
- (c) any material having thereon any words forms, devices, or characters capable of producing or intended to produce the impression of a bank note ; or
- (d) any forged document, seal, or die ; or
- (e) any machinery, implement, utensil, or material used or intended to be used for the forgery of any document ;

the magistrate may grant a warrant to search for the same ; and if the same shall be found on search, it shall be lawful to seize it and carry it before a magistrate to be by him disposed of according to law.

(2) Every document, seal or die lawfully seized under such warrant shall be defaced and destroyed or otherwise disposed of—

- (a) by order of the court or magistrate before which the offender is tried ; or
- (b) if there be no trial, by order of a magistrate.

Form of indictment and proof of intent. 3 & 4 Geo. 5, c. 27, s. 17.

16.—(1) In an indictment or information for an offence against this Ordinance with reference to any document, seal, or die, it is sufficient to refer to the document, seal, or die by any name or designation by which it is usually known, or by its purport, without setting out any copy or facsimile of the whole or any part of the document, seal, or die.

(2) Where an intent to defraud or an intent to deceive is one of the constituent elements of an offence punishable under this Ordinance, or under any other enactment relating to forgery or any kindred offence for the time being in force, it shall not be necessary to prove an intent to defraud or deceive any particular person; and it shall be sufficient to prove that the defendant did the act charged with intent to defraud or to deceive, as the case may require.

(3) If any person who is a member of any co-partnership, or is one of two or more beneficial owners of any property, forges any document, matter, or thing with intent to defraud the co-partnership or the other beneficial owners, he is liable to be dealt with, indicted, tried, and punished as if he had not been or was not a member of the co-partnership, nor one of such beneficial owners.

Savings. 3 & 4 Geo. 5, c. 27, s. 19.

17.—(1) Where an offence against this Ordinance also by virtue of some other enactment subjects the offender to any forfeiture or disqualification, or to any penalty other than imprisonment or fine, the liability of the offender to punishment under this Ordinance shall be in addition to and not in substitution for his liability under such other enactment.

(2) Where an offence against this Ordinance is also an offence under the terms of any other Ordinance, whether passed before or after the commencement of this Ordinance, proceedings may be taken either under such other Ordinance or under this Ordinance.

Amendment of Ordinance No. 4 of 1865, s. 44. Ordinance No. 17 of 1919.

18. Section 44 of the Forgery Ordinance, 1865, as amended by section 8 of the Indictments Ordinance, 1919, is repealed and the following section is substituted therefor:—

Intent to defraud particular person need not be proved.

44. Where an intent to defraud is one of the constituent elements of an offence punishable under this Ordinance, it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the accused did the act charged with intent to defraud.

Amendment of Ordinance No. 2 of 1889, s. 51 (2).

19. Sub-section (2) of section 51 of the Evidence Ordinance, 1889, is hereby amended by the substitution of the word "forged" for the word "such" in the first line thereof.

Repeals.

20. The enactments specified in the Schedule are hereby repealed to the extent specified in the third column of that Schedule.

SCHEDULE.

ENACTMENTS REPEALED.

Number and year of Ordinance.	Short Title.	Extent of Repeal.
4 of 1865.	The Forgery Ordinance, 1865.	Sections two to four, both inclusive. Section six. Sections nine to twenty-nine, both inclusive. Section thirty, paragraphs (2) to (6), both inclusive. Sections thirty-one to thirty-four, both inclusive. Section thirty-six. Section thirty-seven, paragraphs (2) and (6); the words "or seal"; and the words "forged or altered" in both places where they occur. Section thirty-eight, paragraph (2). Sections thirty-nine to forty-one, both inclusive. Sections forty-five and forty-six.
2 of 1889.	The Evidence Ordinance, 1889.	Section fifty-one, sub-section (1).
10 of 1899.	The Merchant Shipping Ordinance, 1899.	Section forty-one, sub-section (10).
3 of 1890.	The Magistrates Ordinance, 1890.	Third schedule, paragraph 15.
7 of 1896.	The Births and Deaths Registration Ordinance, 1896.	Section twenty-five paragraphs (2) to (6) both inclusive.
8 of 1896.	The Sale of Food and Drugs Ordinance, 1896.	Section twenty-three, sub-section (1).
58 of 1911.	The Companies Ordinance, 1911.	Section thirty-nine, sub-section (1), paragraph (1), and sub-section (2).

Objects and Reasons.

1. As stated in the long title, the object of this bill is to consolidate, simplify and amend the law relating to forgery and kindred offences.

2. The bill proposes to repeal the greater part of the Forgery Ordinance, 1865. The portions of that Ordinance which are to be left unrepealed deal with matters which either would not properly come within the scope of this bill or could not conveniently be inserted in it. The sections which are to be left standing, wholly or in part, are sections 1, 5, 7, 8, 30, 35, 37, 38, 44 and 48 to 50.

3. As the bill follows closely the English Forgery Act, 1913, 3 and 4 Geo. 5, c. 27, and as the Forgery Ordinance, 1865, was based on the English Forgery Act, 1865, 24 and 25 Vict. c. 98, it has not been thought necessary to prepare a table of correspondence between the clauses of the bill and the sections of the existing Ordinance, such as is usual in the case of consolidating bills. The preparation of such a table in the present case would have been a matter of some difficulty, and the table would not have been of great use, owing to the considerable rearrangements of provisions which have been made.

4. The reasons for the proposed legislation are as follows.

5. In the first place, as our criminal law is based mainly on the English criminal law it is obviously desirable to bring our law up to date so as to make it conform with English criminal law legislation. In this way, also, we get the benefit of the latest English decisions. A further small point is that adopting such an Act as the Forgery Act, 1913, may be a convenience in the adoption of other English statutes. For example, the Forgery Act, 1913, repeals part of section in the Companies Consolidation Act, 1908, which deals with a question of forgery. If we were adopting the Companies Consolidation Act, 1908, it might very well be that this particular forgery provision, which would be necessary in our Ordinance, would be overlooked. This is merely an example, as of course we have already adopted the Companies Consolidation Act, 1908.

6. One advantage of the bill is that it contains in clause 3 a wide and careful definition of forgery. The present Ordinance contains no definition of forgery.

7. The arrangement of the bill is much simpler than that of the existing Ordinance. For example section after section of the Ordinance repeats the phrase, "forges or alters, or offers, utters, disposes of, or puts off", or some similar phrase. In the bill uttering is dealt with once for all in clause 8.

8. The language is also simplified. For example the phrases, "forges or counterfeits" and "forges or alters", run right through the Ordinance. The definition in clause 3 enables the single word "forge" to be used throughout.

9. Under the Ordinance it is often difficult to discover the proper section for any given set of facts, and in spite of the particularity of the Ordinance it is often necessary to lay a charge under the common law. The bill will avoid much of this difficulty, and it contains in clause 6 a general clause providing for any forgery of any document which is not specifically dealt with in the bill.

10. The bill is also more comprehensive in other ways. For example, a case occurred recently in which a person had a false chop cut, intending to use it for the purpose of concealing from his employer a certain fraud which he intended to commit on his employer. This appears to be no offence under the existing law, but it would fall under clause 7 (4) (b) of the bill.

11. Clause 16 of the bill deals with matters which are also dealt with under rules 5 and 7 of the rules contained in the First Schedule to the Indictments Ordinance, 1919, but the clause is of wider extent than those rules, and it is therefore included. It may be remarked that the same position exists in England with regard to the indictment in force there and the corresponding section in the English Forgery Act of 1913.

12. In the following cases it has been decided not to repeal or amend sections in the existing Ordinance dealing with forgery and allied offences.

13. Ordinance No. 1 of 1844, s. 24. This section deals with matters other than forgery, and it would be difficult to disentangle the forgery provisions. Besides, it provides a higher maximum penalty than the sub-clause in the bill under which the forgery of Land Office records would otherwise fall.

14. Ordinance No. 3 of 1888, ss. 46 and 47. The provisions relating to passes have long been obsolete, and in any case the amendment of this Ordinance is under consideration.

15. Ordinance No. 4 of 1890, s. 3. It seems desirable not to make the Ordinance incomplete by extracting one particular provision. Besides, forgery of a trade mark is specially defined in section 4 of the Ordinance, and that section provides for burden of proof in a particular case. The corresponding section in the English Act has not been amended by the Forgery Act, 1913.

16. Ordinance No. 3 of 1894, s. 6. This section deals with other offences relating to telegrams as well as to forgery of telegrams. The corresponding section in the English Act has not been repealed.

17. Ordinance No. 10 of 1899, ss. 4 (18). Similar remarks apply to this section.

18. Ordinance No. 40 of 1909, s. 59. The corresponding section of the English Act has not been repealed.

19. Ordinance No. 35 of 1911, sections 10, 11 and 12. The corresponding sections in the English Act have been repealed wholly or in part, but it is more difficult to disentangle the forgery provisions from section 10 of the above Ordinance than from the corresponding section in the English Act. Besides, leaving the section standing makes the Ordinance more complete. On the whole it has been decided not to touch these three sections.

20. Ordinance No. 30 of 1915, ss. 39 and 52. Section 39 deals with offences relating to passage tickets other than the forging of tickets. Paragraph (b) of section 52 might be repealed, but it makes the Ordinance more complete to leave these two sections untouched.

21. Ordinance No. 2 of 1916, s. 2. It seems better not to deal with the question of false passports.

22. Ordinance No. 27 of 1917, s. 2. This section is allowed to stand because it appears that the possession of the wrappers and labels would not be an offence under the bill, though possession of the dies would be an offence.

23. With reference to the cases in which an offence under the bill would also be an offence under terms of some other enactment, attention is directed to clause 17 (2), which provides that in such a case proceedings may be taken either under the bill when passed or under the other enactment.

J. H. KEMP,
Attorney General.

2nd February, 1922.

C.S.O. 3577/19.

A BILL

INTITLED

An Ordinance to provide for the registration of imports and exports.

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 Registration of Imports and Exports Ordinance, 1921.

Interpretation. 2. In this Ordinance "Superintendent" means Superintendent of Imports and Exports and includes any Assistant Superintendent.

Regulations. 3.—(1.) It shall be lawful for the Governor in Council to make regulations for the following purposes :—

- (a) prescribing the conditions under which goods may be imported into the Colony ;
- (b) prescribing the conditions under which goods may be exported out of the Colony ;
- (c) imposing upon importers, exporters, ship-owners and others the duty of furnishing such particulars as may be prescribed for the compilation of trade returns and statistics.

(2.) The regulations in the Schedule shall be in force until altered or amended by regulations made under this Ordinance.

(3.) All regulations made under this Ordinance shall be laid on the table of the Legislative Council at the first meeting thereof held after the publication in the Gazette of the making of such regulations, and if a resolution be passed at the first meeting of the Legislative Council held after such regulations have been laid on the table of the said Council resolving that any such regulation shall be rescinded, or amended in any manner whatsoever, the said regulation shall, without prejudice to anything done thereunder, be deemed to be rescinded, or amended as the case may be, as from the date of publication in the Gazette of the passing of such resolution.

Penalties. 4. Every person who contravenes or fails to comply with any of the provisions of this Ordinance or of any regulation made thereunder shall be liable upon summary conviction to a fine not exceeding two hundred and fifty dollars and to imprisonment for any term not exceeding six months.

Search. 5. (1.)—It shall be lawful for any public officer authorised thereto in writing by the Superintendent of Imports and Exports, either generally or for a particular occasion, to enter any place and to board any ship (not being or having the status of a ship of war) and to open any cargo either on land or on board ship and to search and take samples of the contents.

(2.) No person shall obstruct any entry, search, or taking of samples authorised by this section.

6. It shall be lawful for the Superintendent to call on any person to produce for inspection any books or other documents that may seem to the Superintendent necessary for the verification of any particulars which are required to be furnished under this Ordinance, and such person shall thereupon be bound to produce such documents forthwith at the office of the Superintendent.

Production of documents.

7. This Ordinance shall come into force on the 1st day of July, 1922.

Commencement.

SCHEDULE.

REGULATIONS.

1. In these regulations :—

- (1.) "Person" includes a body corporate and a firm.
- (2.) "Public godown keeper" means any person who carries on the business of storing goods for payment.
- (3.) "Ship" includes every description of vessel used in navigation.
- (4.) "Shipowner" or "owner of a ship" includes the agents and charterers of a ship.
- (5.) "Transshipment cargo" means cargo which remains, during all the time that it is in the Colony, under the control of the shipowner in his capacity as such, whether on a through bill of lading or otherwise.
- (6.) "Transit cargo" means cargo passing through the waters of the Colony without transshipment.

Interpretation.

2. Nothing in these rules shall apply to the following :—

- (a.) Transit cargo.
- (b.) Articles imported or exported by the Colonial Government or the Naval or Military Authorities.
- (c.) Ship's stores.
- (d.) Personal baggage, within the limits of weight carried free under passage ticket and comprising only articles and goods for personal use or consumption.
- (e.) Fresh foodstuffs, ice, and live animals.
- (f.) Ships and aircraft except when exported or imported as articles of merchandise.
- (g.) Articles imported or exported by means of the Post Office.
- (h.) Travellers' samples, if not for sale.
- (i.) Articles imported from or exported to such particular place or places as shall be notified from time to time by the Superintendent.

Exceptions.

3.—(1.) Every person who imports any article by sea or by rail shall within seven days after the arrival of the ship or train on which such article is imported and before taking delivery of such article furnish to the Superintendent an accurate and complete import declaration relating to such article in form No. 1 in the Appendix.

Importation.

(2.) Together with every such import declaration, such importer shall produce at the office of the Superintendent either a bill of lading, or a delivery order, or a railway invoice, or a duplicate import declaration, in respect of the said imported article, and the Superintendent shall then, if he is satisfied that the import declaration has been correctly filled in and that the importation does not infringe any restriction or prohibition imposed by law on the importation of any class of article, stamp or sign such bill of lading, delivery order, railway consignment note or duplicate import declaration in such manner as he may think fit, and return it to the importer.

Form No. 1.

(3.) In every case where the importer is unable to furnish all the particulars required at the time of importation, he may enter under any of the columns in form No. 1 the words "not yet known", and the procedure in paragraph (2) of this regulation shall be followed as though all the particulars had been furnished; but in every such case the importer shall so soon as he has the necessary information furnish to the Superintendent such particulars as have been omitted.

(4.) No imported article shall be delivered by any shipowner or public godown keeper, or by any Railway official, without the production by the importer of the bill of lading, delivery order, consignment note or duplicate import declaration, as the case may be, duly stamped or signed by the Superintendent; provided that an imported article may be moved from any ship or from Kowloon railway station to any public godown without the production of such document so stamped or signed as aforesaid.

(5.) When any article is short-landed, the person who signed the import declaration relating to such article shall within 10 days after the arrival of the ship notify the Superintendent of such short-landing.

Exportation. 4.—(1.) Every person who intends to export any article by sea or rail shall before exportation furnish to the Superintendent an accurate and complete export declaration relating to such article in form No. 2 in the Appendix.

Form No. 2.

(2.) With every such export declaration, such exporter shall produce either a shipping order or a railway consignment note or a duplicate export declaration in respect of the said article, and the Superintendent shall then, if he is satisfied that the export declaration has been correctly filled in and that the exportation does not infringe any restriction or prohibition imposed by law on the exportation of any article or class of article, stamp or sign such shipping order, railway consignment note, or duplicate export declaration in such manner as he may think fit, and return it to the exporter.

(3.) No person shall accept for exportation any article unless the exporter shall have produced the shipping order, railway consignment note, duplicate export declaration or duplicate transshipment declaration duly stamped or signed by the Superintendent.

(4.) When any article is short-shipped the exporter shall within 48 hours of the departure of the ship notify the Superintendent of such short shipping.

5.—(1.) Regulations 3 and 4 shall not apply to transshipment cargo.

(2.) In the case of importation or exportation otherwise than by sea or rail, special arrangements shall be made by the importer or the exporter, as the case may be, with the Superintendent, before any article is imported or exported, as the case may be.

Transshipment Cargo. 6.—(1.) The shipowner who has control of any transshipment cargo shall, within 7 days after the arrival of such cargo in the Colony and before re-exporting it, furnish to the Superintendent an accurate and complete transshipment declaration relating to such cargo in form No. 3 in the Appendix.

Form No. 3.

(2.) Every such shipowner shall, together with the transshipment declaration required by sub-paragraph (1) of this regulation, produce to the Superintendent either a shipping order or a duplicate transshipment declaration, and the Superintendent shall then, if he is satisfied that the transshipment declaration has been correctly filled in, stamp or sign such shipping order or duplicate transshipment declaration in such manner as he may think fit and return it to the shipowner.

7. The owner and master of every ship which arrives within the waters of the Colony shall within 48 hours of the arrival of the ship furnish to the Superintendent an accurate and complete import manifest containing a statement of all articles imported by such ship with the following particulars of each article :—

- (a.) Number and description of packages.
- (b.) Distinguishing marks or numbers.
- (c.) Description of goods.
- (d.) Consignor.
- (e.) Consignee.
- (f.) Port of destination (if transshipment cargo).

8. The owner of every ship which leaves the waters of the Colony shall within 48 hours after the departure of the ship furnish to the Superintendent an accurate and complete export manifest containing a statement of all articles exported by such ship with the following particulars of each article :—

- (a.) Number and description of packages.
- (b.) Distinguishing marks or numbers.
- (c.) Description of goods.
- (d.) Consignor.
- (e.) Consignee.
- (f.) Port of destination.

APPENDIX.

FORM NO. 1.

IMPORT DECLARATION.

S.S.

Date of arrival

$\frac{I}{We}$ hereby declare that $\frac{I\ am}{we\ are}$ the importer(s) of the following articles by the above-mentioned ship, and that their country of origin * is

NUMBER.	MARKS AND NUMBERS.	DESCRIPTION OF GOODS. †	WEIGHT, &C.	VALUE. ¶

Date.....

.....
Signature of Importer.

.....
Address.

* In case of manufactured articles, this means origin in present condition, not origin of raw material. Where the country of origin is unknown, the country of shipment should be given.

† This should be given so far as possible in accordance with the published "List of Articles".

¶ C.I.F. at rate of day.

FORM No. 2.

EXPORT DECLARATION.

S.S.
 Date of sailing

$\frac{I}{We}$ hereby declare that $\frac{I \text{ am}}{we \text{ are}}$ the exporter(s) of the following articles by the above-mentioned ship, and that their ultimate destination is

NUMBER.	MARKS AND NUMBERS.	DESCRIPTION OF GOODS. *	WEIGHT, &C.	VALUE. †

Date.....

.....
Signature of Exporter.

.....
Address.

* This should be given so far as possible in accordance with the published "List of Articles".

† F.O.B. at rate of day.

FORM No. 3.

TRANSHIPMENT DECLARATION.

Arrived by S.S.
 Date of Arrival

Forwarded by S.S.
 Date of Sailing

$\frac{I}{We}$ hereby declare that $\frac{I}{we}$ wish to tranship the following articles from the first mentioned ship above to the second mentioned ship above; that the said articles have been continuously

in ^{my}/_{our} custody as ship's agent(s); and that the countries of origin

and ultimate destination are:—

(Origin)..... (Destination).....

NUMBER.	MARKS AND NUMBERS.	DESCRIPTION OF GOODS.

Date.....

.....
Signature of Transhipper.

.....
Address.

Objects and Reasons.

1. The object of this bill is to simplify the collection of trade statistics, and at the same time to remove some of the formalities that now inconvenience the import and export trade.

2. It is believed that the community derives much benefit from the publication of these statistics, which have up to the present been compiled by the Imports and Exports Office with the help of the Importation and Exportation Ordinance, 1915, Ordinance No. 32 of 1915.

3. It is not however proposed to repeal Ordinance No. 32 of 1915, since that Ordinance supplies a simple method of enforcing restrictions on imports and exports should occasion arise, and will further be of use for the present in restricting the movements of such articles as coin, arms, etc., the export of which it is still desirable to prohibit. An Order in Council under Ordinance No. 32 of 1915, a draft of which appeared in the Supplement to the *Gazette* of the 5th May, 1922, will be issued simultaneously with the passing of the Ordinance, to effect the repeal of all existing rules and orders under the Ordinance to prohibit the export of these particular articles, except with the express permission of the Superintendent of Imports and Exports.

4. The new bill avoids the present cumbersome system of duplicate permits for imports and exports by providing that the actual bill of lading or other document may be stamped by the Imports and Exports Office, and the forms to be used are considerably simplified. The main function of the Imports and Exports Office will be the collection of trade statistics and the Superintendent of Imports and Exports will no longer possess the power to grant or refuse permits in his discretion except as regards articles prohibited under the Order in Council.

J. H. KEMP,
Attorney General.

30th April, 1922.

A BILL

INTITLED

An Ordinance to amend the Misdemeanours Punishment Ordinance, 1898.

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 Misdemeanours Punishment Amendment Ordinance, 1922, and shall be read and construed as one with the Misdemeanours Punishment Ordinance, 1898, hereinafter called the principal Ordinance, and the said Ordinance and this Ordinance may be cited as the Misdemeanours Punishment Ordinances, 1898 and 1922.
Ordinance No. 1 of 1898.	

Repeal of Ordinance No. 1 of 1898, ss. 5 and 6 and substitution of new section.	2. Sections 5 and 6 of the principal Ordinance are repealed and the following section is substituted therefor:—
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Punishment of misdemeanour where punishment not otherwise specified.	5. Where any person is convicted of a common law misdemeanour, or of any offence declared by any enactment to be a misdemeanour, and no punishment is provided by any enactment for such misdemeanour, such person shall be liable to imprisonment for any term not exceeding three years and to a fine not exceeding one thousand dollars.
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Objects and Reasons.

1. Ordinance No. 1 of 1898 provides that the maximum penalty for certain conspiracies shall be three years imprisonment and a fine of \$500. It also provides that the maximum penalty for all other misdemeanours, unless otherwise specified in some Act or Ordinance, shall be one year's imprisonment and a fine of \$500. This maximum penalty seems too low for some misdemeanours. For example, it does not seem to be enough for forgery, yet the effect of the section is to make one year the maximum imprisonment for all common law forgeries. Again, by virtue of this provision, if the police surprise a gang of armed men on their way to commit a robbery, and one of the gang incite another to fire at the police in order to prevent the arrest of any of the gang, the maximum term of imprisonment is only one year. The bill, therefore, proposes to raise the maximum for all misdemeanours to three years imprisonment and a fine of \$1,000, unless of course some other maximum penalty is provided by some other enactment.

2. In England, except where the maximum penalty for any particular misdemeanour has been laid down by statute, there is no limit to the penalty which may be imposed for a misdemeanour, except the provisions of Magna Charta and the Bill of Rights against excessive fines.

J. H. KEMP,
Attorney General.

23rd May, 1922.