

No. S. 61.—The following Bills were read a first time at a meeting of the Council held on the 26th February, 1925:—

C.S.O. 3181/14 Part H.

[No. 11:—16.1.25.—6.]

A BILL

INTITLED

An Ordinance to amend further the Stamp Ordinance, 1921.

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 Stamp Amendment Ordinance, 1925. Short title.

2. Paragraph (1) of section 34 of the Stamp Ordinance, 1921, is repealed and the following paragraph is substituted therefor:— Amendment of Ordinance No. 8 of 1921, s. 34 para. (1).

(1) All instruments made or executed by or on behalf of His Majesty, or by or on behalf of any officer of His Majesty's service in his official capacity, or whereby any property or interest is transferred to or any contract of any kind whatsoever is made with His Majesty, or with any person for or on behalf of His Majesty, or with any such officer in his official capacity as aforesaid, shall be wholly exempt from duty: Provided that this exemption shall not extend to any document executed by any such officer as Official Administrator, or as Official Receiver, or as Official Receiver of Companies, or as a liquidator, or as Official Trustee, or in pursuance of any order or writ of any court.

3. Section 35 of the Stamp Ordinance, 1921, is amended as follows:— Amendment of Ordinance No. 8 of 1921, s. 35.

- (a) the section is re-numbered as sub-section (1);
- (b) the words "or his assigns" are inserted between the word "mortgagor" and the word "as" in the third line thereof;
- (c) the word "immovable" is inserted between the word "any" and the word "property" in the third line thereof;
- (d) the following sub-section is added at the end thereof:—

Re-assignments and mortgages made for the sole purpose of surrender with a view to exchange. (2) Whenever the Land Officer shall certify that a re-assignment has been made for the sole purpose of enabling the mortgagor or his assigns as the owner of any immovable property held from the Crown to surrender the said property to the Crown as consideration or part consideration for an exchange, and that a new mortgage of the property granted in exchange similar so far as possible to the previous mortgage was made immediately upon the granting of such property granted in exchange, then such re-assignment and new mortgage shall be exempt from stamp duty, and the Collector

shall, on production to him of such certificate and of such re-assignment and new mortgage, endorse thereon a certificate to the effect that the same are under this section exempt from stamp duty.

4. Nothing which was contained in paragraph (1) of section 34 of the Stamp Ordinance, 1921, before the amendment of the said paragraph by section 2 of this Ordinance shall have the effect of making inadmissible in evidence any instrument executed before the commencement of this Ordinance which would have been admissible if executed after the commencement of this Ordinance.

Amendment of Ordinance, No. 8 of 1921, Sched., Heading No. 5. 5.—(1) Heading No. 5 in the Schedule to the Stamp Ordinance, 1921, is amended by the addition at the end thereof of the words, “, if such transfer is made by the same instrument as the appointment of the new trustee”.

(2) The following is inserted after heading No. 5 in the schedule to the Stamp Ordinance, 1921 :—

See Conveyance and Mortgage.

Insertion of new Heading in Ordinance No. 8 of 1921, Sched., and renumbering of Heading No. 15A. 6.—(1) The following heading is inserted immediately after heading No. 15 in the Schedule to the Stamp Ordinance, 1921 :—

15A	Conveyance made for the purpose of effectuating the appointment of a new trustee, if such conveyance is made by some instrument other than the instrument by which the new trustee is appointed.	\$5.	Over-embossed.	7 days after execution	All persons executing.
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(2) Heading No. 15A in the Schedule to the Stamp Ordinance, 1921, is renumbered as Heading No. 15B.

Amendment of Ordinance No. 8 of 1921, Sched., Heading No. 29. 7.—(1) Heading No. 29 in the Schedule to the Stamp Ordinance, 1921, is amended by the addition of the following sub-heading at the end thereof :—

	(10) Transfer of a mortgage made for the purpose of effectuating the appointment of a new trustee, if such transfer is made by some instrument other than the instrument by which the new trustee is appointed.	10 cents for every \$10 or part thereof of the principal sum secured up to a maximum of \$5.	Over-embossed.	7 days after execution.	All persons executing.
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(2) The exemption clause at the end of heading No. 29 in the Schedule to the Stamp Ordinance, 1921, is repealed and the following clause is substituted therefor :—

Re-assignment and mortgage made for the sole purpose of obtaining a new Crown lease, or for the sole purpose of surrender to the Crown with a view to an exchange: *See section 35.*

Amendment of Ordinance No. 8 of 1921, Sched., Heading No. 36. 8. Heading No. 36 of the Schedule to the Stamp Ordinance, 1921, is amended by the addition of the following to the list of exemptions therefrom :—

(g) Receipt given for or on account of any salary, pay or wages, or for or on account of any other like payment made to or for the account or benefit of any person, being the holder of an office or an employee, in respect of his office or

employment, or for or on account of money paid in respect of any pension, superannuation allowance, compassionate allowance or other like allowance.

Objects and Reasons.

1. Broadly speaking, the present law, enacted in 1921, is that instruments executed on behalf of the Government are exempt from stamp duty. The former law, which dates back to 1866, was that all instruments whereby any contract was made with the Government were exempt from stamp duty, whether the instrument was executed on behalf of the Government or not. Clause 2 of this bill proposes to go back to the old law on this subject. The chief reasons for this proposed change in the law are as follows:—

- (a) In some cases the intention of the transaction is to assist the other party on certain terms and not to make money, *e.g.*, a building loan.
- (b) In other cases the only object is to secure the performance of obligations already accepted.
- (c) In other cases the object is to secure Government servants, etc., and it is presumed that in such cases there is no desire to collect additional revenue by means of stamps.
- (d) Probably in every case the main object of the instrument is to secure the rights of the Government.

Clause 4 applies the new rule, *i.e.* the old rule restored to instruments executed before the commencement of the amending Ordinance.

2. Section 35 of the Stamp Ordinance, 1921, provides for exempting from stamp duty re-assignments and consequential new mortgages executed for the purpose of obtaining a Crown lease. It is now proposed to provide in the same way for exempting from stamp duty re-assignments and new mortgages executed for the purpose of effecting an exchange of land with the Crown. This is dealt with in clause 3 of the Bill, and clause 7 (2) contains a consequential amendment.

3. The stamp duty on the appointment of a new trustee is \$10, and this duty covers any transfer of property made for the purpose of effectuating the appointment, provided that such transfer is made in the instrument appointing the new trustee. It is often inconvenient and inadvisable to make such transfers in the instrument of appointment, but if such transfers are made by separate instruments the stamp duty at present is \$20 on each transfer. The maximum stamp duty in England in such a case is 10 shillings, and it is now proposed to make \$5 the fixed duty in the case of a conveyance and the maximum duty in the case of a transfer of a mortgage. The stamp duty in this case is being reduced because, unlike the usual cases in which substantial duty is charged, no consideration or beneficial interest passes. This point is dealt with in clauses 5, 6 and 7 (1) of the bill.

4. Clause 8 follows section 36 of the Finance Act, 1924, in exempting from stamp duty receipts given for salary, wages or pensions.

J. H. KEMP,
Attorney General.

1st December, 1924.

A BILL

INTITULED

An Ordinance to amend the Dangerous Goods Ordinance, 1873.

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 Dangerous Goods Amendment Ordinance, 1925.

Repeal of Ordinance No. 1 of 1873, ss. 11 and 12, and substitution of new sections. 2. Sections 11 and 12 of the Dangerous Goods Ordinance, 1873, are repealed, and the following sections are substituted therefor :—

Search. 11.—(1) It shall be lawful for any police officer authorised by the Captain Superintendent of Police in that behalf—

(a) to search any place in which such police officer may have reasonable ground for suspecting that there may be any thing which under paragraph (c) is liable to seizure ;

(b) to search, and, if necessary to stop and search, any ship (not being or having the status of a ship of war) in which such police officer may have reason to suspect that there may be any thing which under paragraph (c) is liable to seizure ;

(c) to seize, remove and detain—

(i) any thing with respect to which such public officer may have reasonable grounds for suspecting that any offence against this Ordinance has been committed ;

(ii) any other thing which may appear to such officer likely to be, or to contain, evidence of any such offence.

(2) Such public officer may—

(a) break open any outer or inner door of or in any such place ;

(b) forcibly enter any such ship and every part thereof ;

(c) remove by force any material obstruction to, or any person obstructing, any arrest, detention, search, inspection, seizure, or removal, which he is empowered to make ;

(d) detain every person found in such place until such place or ship has been searched ; and

(e) detain every such ship, and every person on board such ship, and prevent every person from approaching or boarding such ship, until such ship has been searched.

(3) Every person who delays or obstructs any detention, arrest, search, inspection, seizure, or removal, which is authorised by this Ordinance, shall be liable to a fine not exceeding two hundred and fifty dollars.

(4) Any authority given by the Captain Superintendent of Police under this section may be given to an individual or to a class, and may be (1) general, so as to embrace all the powers referred to in this section, or (2) limited, so as to embrace only a portion of those powers, or (3) particular, for a particular occasion.

Forfeiture.

12. It shall be lawful for a magistrate to order to be forfeited to the Crown any thing in respect to which any offence against this Ordinance has been committed, whether any person shall have been charged with such an offence or not.

3. Section 15 of the Dangerous Goods Ordinance, 1873, is repealed.

Repeal of
Ordinance
No. 1 of 1873,
s. 15.

Objects and Reasons.

1. The only powers of search contained in the Dangerous Goods Ordinance, 1873, are those under sections 11 and 12. Section 11 requires the authority of the Governor, and section 12 requires a warrant from a magistrate. A magistrate's warrant involves delay and the expenditure of an appreciable amount of the time of various officers. The Dangerous Goods Inspector may in his tour of a district see a dozen places that he would like to search. It has been thought better, therefore, to follow the precedent of the Opium Ordinance, 1923, and to give the Captain Superintendent of Police power to authorise particular selected police officers to have powers of search for the purpose of detecting the breaches of the Dangerous Goods Ordinance. It has not been thought necessary to retain the slightly wider obligation imposed upon dealers by paragraph (1) of section 11 of the principal Ordinance.

2. Particular powers of forfeiture are contained in sections 9 (2), 10 (5), and 15 of the Dangerous Goods Ordinance, 1873. There is also a general power of forfeiture in section 12. This bill proposes to insert a new section 12 which will deal simply with the question of forfeiture and which will give a general power of forfeiture. Section 15 of the principal Ordinance is repealed by the bill as it deals only with forfeiture, but it has not been thought necessary to repeal the references to forfeiture in sections 9 (2) and 10 (5) of the principal Ordinance.

J. H. KEMP,
Attorney General.

29th November, 1924.

A BILL

INTITULED

An Ordinance to amend the Advertisements Regulation Ordinance, 1912.

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 Advertisements Regulation Amendment Ordinance, 1925.

Amendment of Ordinance No. 19 of 1912, s. 2. 2. Section 2 of the Advertisements Regulation Ordinance, 1912, is repealed and the following section is substituted therefor :—

Regulations. 2.—(1) It shall be lawful for the Governor in Council to make regulations for the control, prohibition and removal of advertisements of any kind whatsoever which are visible from any street, or from the waters of the Colony, or from any other place to which the public have access, or from any land or building not belonging to or in the possession of the owner or occupier of the land or building on or in which the advertisements are exhibited.

(2) 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 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.

Objects and Reasons.

The object of this bill is to give the Governor in Council a wider power of making regulations for the control of advertisements, and in particular to enlarge the existing power so as to enable the Governor in Council to prohibit occulting signs. Probably no general prohibition of occulting signs could be made under the regulations section as it stands at present.

J. H. KEMP,
Attorney General.

10th January, 1925.

A BILL

INTITULED

An Ordinance to provide for the incorporation of the Lord Bishop of Victoria in the Colony of Hongkong.

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 Bishop of Short title. Victoria Incorporation Ordinance, 1925.

2. The Right Reverend Charles Ridley Dupuy, Bishop of Victoria in the Colony of Hongkong, and his successors in the said office of Bishop, shall be a corporation sole, hereinafter called the corporation, and shall have the name of "The Bishop of Victoria, Hongkong", and in that name shall have perpetual succession, and shall and may sue and be sued in all courts in the Colony and shall and may have and use an official seal.

3.—(1) The corporation shall have power to acquire, accept leases of, purchase, take, hold and enjoy any lands, buildings, messuages or tenements of what nature or kind soever and wheresoever situated, and also to invest moneys upon mortgage of any lands, buildings, messuages, or tenements, or upon the mortgages, debentures, stocks, funds, shares or securities of any government, municipality, corporation or company, and also to purchase, acquire and possess vessels and other goods and chattels of what nature and kind soever.

Powers of corporation.

(2) The corporation shall further have power by deed under its seal to grant, sell, convey, assign, surrender, exchange, partition, yield up, mortgage, demise, re-assign, transfer or otherwise dispose of any lands, buildings, messuages, tenements, mortgages, debentures, stocks, funds, shares or securities, vessels, or other goods and chattels, which are for the time being vested in or belonging to the corporation upon such terms as to the corporation may seem fit.

4. The legal estate in any property whatsoever, transferred to the corporation in any manner whatsoever, shall, in the event of the death of the Bishop of Victoria for the time being, or in the event of his ceasing to hold office as such Bishop, pass to his successor in such office when appointed.

Property transferred to corporation to pass to successors.

5. All deeds and other instruments requiring the corporate seal of the corporation shall also be signed by the Bishop of Victoria for the time being.

Execution of documents.

6. Any instrument sealed with the corporate seal of the corporation shall not by reason only of the use of such seal be rendered liable to a higher stamp duty than if the corporation sole were a natural person.

Stamp duty.

7. The piece or parcel of ground registered in the Land Office as Inland Lot No. 76, now vested in the Most Honourable and Right Reverend Randall Thomas by Divine Providence Archbishop of Canterbury and Primate of all England, together with all rights, easements and appurtenances, together with all rights, easements and appurtenances, belonging to or appertaining thereto and therewith usually held, occupied and enjoyed, is hereby transferred to and vested in the corporation, for the unexpired residue of the term of years created by the Crown lease thereof, subject to the payment of the rent and the performance of

Vesting of certain property.

the covenants and conditions reserved by and contained in the Crown lease of the same, and subject to a declaration of trust given to His Excellency the Governor, dated the 1st day of September, 1923, and registered in the Land Office by Memorial No. 87518, freed and discharged as to the Archbishop from all liability under or by virtue of the said lease and declaration of trust or either of them.

Saving of the rights of the Crown and of certain other persons.

8. Nothing in this Ordinance shall affect or be deemed to affect the rights of His Majesty the King, his heirs or successors, or the rights of any body politic or corporate or of any other person except such as are mentioned in this Ordinance and those claiming by from or under them.

Objects and Reasons.

1. The object of this bill is to incorporate the Bishop of Victoria in order to enable him to hold immovable property in perpetual succession, and in particular to enable him to hold the site of St. Paul's College, which is being vested in him with the consent of His Grace the Archbishop of Canterbury, the present legal owner.

2. The Ordinance, in general, follows the usual form of incorporation Ordinances. Clause 4 is new. It appears that at common law a corporation sole cannot take a term in its corporate capacity, and therefore that a lease granted to a corporation sole passes to his personal representatives and not to his successors: see *Arundell's Case* (1615) 1 Roll. Abr. 515, cited in *Fulwood's Case* (1591) 4 Co. Rep. 65a, note A, 76 E.R. (K.B.) 1032, note A. The rule is given in Halsbury's Laws of England, Vol. 8, p. 371. It is possible that this clause is unnecessary in view of the terms of clause 3, but it has been thought safer to deal with the matter expressly.

3. Clause 6 of the bill was suggested by a similar provision in section 1 (2) of the Public Trustee Act, 1906, 6 Edw. 7, c. 55.

J. H. KEMP,
Attorney General.

20th June, 1924.

NOTICES.

COLONIAL SECRETARY'S DEPARTMENT.

No. S. 62.—Statement of Sanitary Measures adopted against Hongkong.

Place or Port.	Nature of Measures.	Date.	Reference to Government Notification.
Manila.	Inspections outside Manila harbour from 20th April. Third class passengers and new crew must comply with the vaccination requirements.	16th April, 1924.	...