

LEGISLATIVE COUNCIL.

Draft Bills.

No. S. 139.—The following bills, which will be introduced into the Legislative Council at an early date, are published for general information.

[No. 7 :—4.24.25.—4.]

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

A BILL

INTITLED

An Ordinance to amend the Rents Ordinances, 1922 and 1924.

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 Rents Amendment Ordinance, 1925.

2. Sections 4 (1) (a), 11, 14 and 29 of the principal Ordinance are amended by the substitution for the words "standard rent" of the words "the rent recoverable in accordance with the provisions of this Ordinance".

Amendment to sections 4, 11, 14 and 29 of Ordinance No. 14 of 1922.

3. The following new section is inserted after section 3 of the principal Ordinance, namely :—

New section of Ordinance No. 14 of 1922.

3A Notwithstanding anything contained in section 3 of this Ordinance, the rent recoverable in respect of any domestic tenement, the rental of which is restricted to a standard rent, may, as from the 30th day of June, 1925, in the case of a domestic tenement the rent of which is payable by the calendar month or as from the 20th day of July, 1925, in the case of a domestic tenement the rent of which is payable by the lunar month, be increased by an amount not exceeding fifteen per centum of the amount of the standard rent of such domestic tenement.

Increase on standard rent allowed.

4. The following new section is inserted in the principal Ordinance after section 29 :—

Insertion of new section in Ordinance No. 14 of 1922.

30 (1) Every lessor who, under threat of applying for or taking action upon a certificate for reconstruction of any domestic tenement, demands or receives more than the rent recoverable in accordance with the provisions of this Ordinance shall be liable upon summary conviction to a fine not exceeding one thousand dollars.

(2) Upon the hearing of any summons issued under the provisions of this section, it shall be lawful for a magistrate, in addition to imposing a fine, to order the defendant to pay to the tenant any sum recovered or obtained from the tenant by means of any such demand as aforesaid.

5. Section 10 of the principal Ordinance is amended by the substitution of the figures "1925" for the figures "1924" in the sixth line thereof.

Amendment of Ordinance No. 14 of 1922, s. 10.

Objects and Reasons.

1. Clause 2 of this bill makes certain necessary amendments in the principal Ordinance in place where the standard rent is referred to, so as to fit in with clause 3 of this Bill.

2. Clause 3 of this bill enacts by a new section 3A to the principal Ordinance the increase of fifteen per cent which is recommended in Resolution 1 in the Report of the committee of the Legislative Council on the Rents Ordinance, which resolution (it should be carefully noted) does not sanction any increase on the present rent being paid by a sub-tenant, provided that such present rent has already been raised to as much as fifteen per cent above the standard rent.

3. Clause 4 of this Bill is aimed against a practice, which unfortunately prevails to a certain extent, of threatening a tenant with reconstruction unless he will pay more rent. Sub-section (2) of clause 4 is based upon the provisions of section 19 of the principal Ordinance.

4. Clause 5 of this Bill carries out the first part of Resolution 1 in the Report of the Rents Committee, namely, "that the duration of the Rents Ordinance be extended for one year from the 30th June, 1925".

H. E. POLLOCK,
Attorney General.

6th April, 1925.

C.S.O. 2943/24.

[No. 2 :—25.25.—3.]

A BILL

INTITLED

An Ordinance to amend the Legal Practitioners Ordinance, 1871.

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 Legal Practitioners Amendment Ordinance, 1925.

2. Section 28 of the Legal Practitioners Ordinance, 1871, is amended by the substitution of the words and figures "section 30" for the words and figures "sections 29 and 30". Amendment of Ordinance No. 1 of 1871, s. 28.

3. Section 29 of the Legal Practitioners Ordinance, 1871, is repealed. Repeal of Ordinance No. 1 of 1871, s. 29.

Objects and Reasons.

1. The object of this bill is to repeal section 29 of the Legal Practitioners Ordinance, 1871.

2. The history of section 29 is shortly this. In 1873, Mr. Rowett, an unofficial member of the Legislative Council, brought forward a motion to the effect that it was desirable that barristers should be permitted to take business from clients direct in all cases except those in which litigation had been actually commenced. This motion did not go so far as the section goes, but the official view of the motion seems to have been that it practically amounted to a motion for amalgamation.

There is some doubt as to whether Mr. Rowett did intend amalgamation. He made it clear that his object was to reduce costs. The Attorney General proposed an amendment to the effect that it was expedient to modify to a certain extent the rules of the legal profession which restricted barristers from giving consultations and transacting other business, in certain cases, without the intervention of an attorney, but that such modifications should be expressly defined and limited so as to meet the public without effecting an amalgamation. The amendment was carried, and the resulting legislation was what now appears as section 29 of Ordinance No. 1 of 1871. The result was a curious one, but it seems clear that amalgamation was not intended. On the other hand, a one-sided and partial amalgamation was in fact effected.

3. This is one objection to the section in question, *i.e.*, that it effects a one-sided and partial amalgamation. There seems to be no good reason now for the peculiar provisions of the section in question. It may have been fully justified at the time when it was first introduced, but there seems to be nothing in modern conditions which calls for its retention.

4. Another objection to the section is that it is very doubtful what exactly it authorises. Opinions differ on this point. Where the law and etiquette of the legal profession are the same as in England it is always possible to get a decision from the Bar Council on any disputed matter of this kind, but the Bar Council would probably refuse to express any opinion as to the etiquette in Hongkong seeing that we have altered the etiquette in our local Ordinance. A decision could be obtained from the Supreme Court here but possibly only upon an application to strike a barrister off the roll, a proceeding which anybody would be very slow to institute where there was room for a genuine doubt.

5. Whatever the limits of section 29 may be the section undoubtedly enables a barrister to do a certain amount of work which is usually done by a solicitor, and on one view, though probably a strained one, it enables a barrister to do almost anything which can be done by a solicitor. An objection to this from the point of view of the public is that while a solicitor is liable to be sued for negligence a barrister is not so liable, and it is very doubtful whether the section would make him liable.

6. The present section 28 provides that the rules of the legal profession are to be modified to the extent mentioned in sections 29 and 30. Clause 2 of this bill substitutes "section 30" for "sections 29 and 30".

7. Clause 3 of the bill simply repeals the present section 29.

H. E. POLLOCK,
Attorney General.

30th April, 1925.