

LEGISLATIVE COUNCIL.

No. S. 257.—The following Bills were read a first time at a meeting of the Council held on the 24th September, 1925:—

C.S.O.

[No. 14:—27.8.25.—5.]

A BILL

INTITLED

An Ordinance to authorize the Appropriation of a Supplementary Sum of Two million seven hundred and two thousand seven hundred and ninety-four Dollars and sixteen Cents to defray the Charges of the year 1924.

WHEREAS it has become necessary to make further provision for the public service of the Colony for the year 1924, in addition to the charge upon the revenue of the Colony for the service of the said year already provided for:

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

A sum of two million seven hundred and two thousand seven hundred and ninety-four Dollars and sixteen Cents is hereby charged upon the revenue of the Colony for the service of the year 1924, the said sum so charged being expended as hereinafter specified; that is to say:—

Governor .....	\$ 7,767.47
Colonial Secretary's Department.	2,761.32
Treasury .....	3,029.66
Harbour Master's Department ...	314,299.92
Royal Observatory.....	3,496.49
Miscellaneous Services .....	313,338.10
Judicial and Legal Departments.	1,184.92
Police Department.....	119,671.69
Prison Department.....	22,823.70
Medical Department .....	26,276.89
Botanical and Forestry Department .....	4,126.80
Military Expenditure.....	12,460.64
Public Works Department .....	92,225.90
Public Works, Recurrent .....	658,468.69
Public Works, Extraordinary ...	1,115,685.49
Charitable Services .....	5,176.48
Total,.....	<u>\$2,702,794.16</u>

PRINTED AND  
PUBLISHED BY

A BILL

INTITLED

An Ordinance to amend the Code of Civil Procedure.

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 Code of Civil Procedure Amendment Ordinance, 1925.

2. Section 4 of the Code of Civil Procedure, (hereinafter called the Code) is amended by the substitution of the words "for the time being", for the words "on the 31st day of December, 1911" in the third line thereof.

Amendment of Ordinance No. 3 of 1901, s. 4.

3. Section 306 of the Code is repealed and the following section is substituted therefor:—

Substitution of new section 306 in Ordinance No. 3 of 1901.

Notes of evidence.

306. The Court shall take or cause to be taken a note of the *vis à voce* evidence and shall put down or cause to be put down the terms of any particular question or answer, if there appears to be any special reason for doing so.

4. The following heading and section is inserted in the Code after section 626 thereof:—

Addition of new section after Ordinance No. 3 of 1901, s. 626.

*Declarations on Originating Summons.*

Power to make declarations on originating summons.

626A (1).—Any person claiming to be interested in a deed, will or other written instrument, may apply by originating summons for the determination of any question of construction arising under the instrument, and for a declaration of the rights of the persons interested.

Service.

(2) The judge may direct such persons to be served with the summons as he may think fit.

Evidence.

(3) An application shall be supported by such evidence as the judge may require.

Discretion of Court.

(4) The judge shall not be bound to determine any such question of construction if in his opinion it ought not to be determined on originating summons.

5. The following Chapter shall be added immediately after Chapter XXX of the Code:—

New Chapter to Code.

CHAPTER XXXI.

DELEGATION TO AND REFERENCE BACK BY AND APPEAL FROM REGISTRAR.

Delegation of powers and duties to Registrar.

710. It shall be lawful for the Chief Justice, if he thinks fit, by rules of Court made under this Code, to direct that any of the powers and duties conferred and imposed on a judge in chambers by this Code shall be exercised and performed by the Registrar: Provided always that no such rules shall come into operation until the same shall have been approved by the Legislative Council and published in the Gazette.

Reference by registrar to a judge. 711. If any matter falling within the provisions of any rules made under section 710 appears to the registrar proper for the decision of a judge, the registrar may refer the same back to a judge, and the judge may either dispose of the matter or refer the same back to the registrar with such directions as he may think fit.

Appeal from registrar. 712. Any person affected by any order or decision of the registrar may appeal therefrom to a judge at chambers. Such appeal shall be by notice in writing to attend before the judge without a fresh summons, within five days after the decision complained of, or such further time as may be allowed by the judge or the registrar. Unless otherwise ordered there shall be at least one clear day between service of the notice of appeal and the day of hearing. An appeal from the decision of the registrar shall be no stay of proceedings unless so ordered by a judge or registrar.

Repeal of Ordinance 8 of 1901, s. 685.

6. Section 685 of the Code is repealed.

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#### *Objects and Reasons.*

1. This bill effects various amendments in the Code of Civil Procedure (No. 3 of 1901).

2. By clause 2 of the bill the section 4 of the Code is amended so as to introduce here the English rules up to date, in cases which are not provided for by the Code, instead of leaving the present date of the 31st December, 1911. This restores the law as it was prior to the passing of Ordinance 26 of 1911. Although a slight difficulty may occur in ascertaining the English Rules of Practice right up to date, it is thought preferable to bring our Rules or Practice up to date rather than to continue to work on a date which is now over 13 years old.

3. Clause 3 of this bill empowers the presiding judge to order notes to be taken through the medium of a shorthand writer. This will tend towards saving time in the hearing of cases.

4. Clause 4 of this bill which is taken from the English order 54A rule 1, enlarges the power of the Court with reference to the making of declarations on originating summons.

5. Clause 710 which is enacted by clause 5 of this bill is intended to speed up procedure in the Supreme Court in interlocutory matters by conferring upon the Chief Justice power to delegate by rules of court to the Registrar the powers and duties of a judge in chambers. The wording of this clause is copied to a certain extent from section 32 (1) of Ordinance 3 of 1873.

6. Clause 711, which is enacted by clause 5 of this bill, copies the English order 54, rule 20.

7. Clause 712, which is enacted by clause 5 of this bill, is based upon the English order 54, rule 21, and gives an appeal from the registrar to a judge in chambers.

8. Clause 6 of this bill repeals section 685 of the Code because section 710 (enacted by clause 6) is a wider provision than section 685.

H. E. POLLOCK,  
*Attorney General.*

August, 1925.

C.S.O. 3596/22.

A BILL

INTITULED

An Ordinance to provide for the registration in Hongkong of letters patent granted in the United Kingdom.

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 Registration of United Kingdom Patents Ordinance, 1925. Short title.

2.—(1) It shall be lawful for the Governor to appoint a Registrar of Patents. Registrar of Patents.

(2) Until the Governor shall make an appointment under sub-section (1), the officer who immediately before the commencement of this Ordinance was discharging the duties of Registrar of Patents under the Patents Ordinance, 1892, shall be the Registrar of Patents for the purposes of this Ordinance. Ordinance No. 2 of 1892.

3. Any person being the grantee of a patent in the United Kingdom, or any person deriving his right from such grantee by assignment, transmission or other operation of law, may apply within three years from the date of issue of the patent to have such patent registered in Hongkong. Where any partial assignment or transmission has been made, all proper parties shall be joined in the application for registration. Application for registration in Hongkong of patent granted in the United Kingdom.

4. Every application under this Ordinance shall be accompanied by a certified copy of the specification or specifications (including drawings, if any) of the United Kingdom patent and a certificate of the Comptroller General of the United Kingdom Patent Office giving full particulars of the issue of the patent on such specification or specifications. Application to be accompanied by certain documents.

5. Upon such application being received, together with the documents mentioned in section 4, and upon payment of the prescribed fees and of the cost of any prescribed advertisement, the Registrar of Patents shall issue a certificate of registration. Issue of certificate of registration.

6. Such certificate of registration shall confer on the applicant privileges and rights, subject to all conditions established by the law of Hongkong, as though the patent had been issued in the United Kingdom with an extension to Hongkong. Nature of rights conferred by registration.

7. The privileges and rights so granted shall date from the date of the patent in the United Kingdom and shall continue in force only so long as the patent remains in force in the United Kingdom: Provided that no action for infringement shall be entertained in respect of any manufacture, use or sale of the invention prior to the date of issue of the certificate of registration in Hongkong. Period of rights conferred by registration.

Power to declare exclusive privileges not acquired.

8. The Supreme Court shall have power, upon the application of any person who alleges that his interests have been prejudicially affected by the issue of a certificate of registration, to declare, on any of the grounds upon which the United Kingdom patent might be revoked under the law for the time being in force in the United Kingdom, that the exclusive privileges and rights conferred by such certificate of registration have not been acquired.

Amendment of specification or drawings.

9. Whenever the specification or drawings of a United Kingdom patent registered in Hongkong has or have been amended by way of disclaimer, correction or explanation, according to the law of the United Kingdom, a request, accompanied by a copy of the specification and drawings (if any) as amended, duly certified by the Comptroller General of the United Kingdom Patent Office, may be made to the Registrar to substitute a copy of the specification and drawings as amended for the specification and drawings originally filed.

Registration of assignment, etc.

10. Where a person becomes entitled by assignment, transmission, or other operation of law to the privileges and rights conferred by a certificate of registration or to any interest therein, he may make application in the prescribed manner to the Registrar of Patents for the entry on the Register of such assignment, transmission, or other instrument affecting the title, or giving an interest therein.

Power to make rules prescribing procedure, and fees.

11. The Registrar may make such rules and do such things as he may think expedient, subject to the provisions of this Ordinance, for prescribing the procedure under this Ordinance and the fees to be paid in respect of proceedings under this Ordinance: Provided always that no such rules shall come into operation until the same shall have been approved by the Legislative Council and published in the Gazette.

Provisional protection orders made under Ordinance No. 2 of 1892, s. 11.

12. User and publication in the Colony under any order of provisional protection granted under section 11 of the Patents Ordinance, 1892, shall not form any ground for any declaration under section 8 of this Ordinance.

Repeal of Ordinance No. 2 of 1892.

13. The Patents Ordinance, 1892, is repealed.

Commencement.

14. This Ordinance shall come into operation on the 1st day of January, 1926.

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*Objects and Reasons.*

1. This bill is introduced in order to carry out the recommendations of the British Empire Patent Conference, 1922, and of the Imperial Economic Conference, 1923. The bill has been adapted, with slight alterations, from a draft model Ordinance prepared by the Board of Trade. The Secretary of State lays great stress on the necessity for the simplest possible procedure and on the desirability of the greatest possible uniformity in the legislation required to give effect to the scheme.

2. The general intention of the scheme is to provide for a practically automatic registration in the various Crown Colonies and Protectorates, upon application, of patents granted in the United Kingdom. Broadly speaking, this is the intention of our present Patents Ordinance, but the procedure under the bill is somewhat simpler. It will also be cheaper. Section 11 of the present Ordinance, 1892, provides for a certain provisional protection in the Colony pending the grant of Letters Patent in the United Kingdom. This provision will disappear from our statute book, but it appears to have been of very little practical use.

3. The Secretary of State has emphasised the necessity for keeping the fee for registration to approximately £1. Rule 4 of the draft of the rules to be made by the Registrar under the Ordinance contains the table of fees. The fee on registration of a patent will be \$5, and as \$3 stamp duty will be payable on the statutory declaration which must accompany the application for registration, the cost of obtaining registration of a patent will be \$8. In addition the applicant will have to bear the cost of advertising in the Gazette the issue of the certificate of registration. The expense of this will depend on the length of the advertisement, the average cost being probably about \$7 to \$12. The cost of getting any assignment or transmission of interest entered on the register will be \$5 + \$3 = \$8. In this case no advertisement will be required, but of course in the case of an assignment stamp duty, *i.e.*, \$10, will have to be paid on the assignment. Searches and certified copies will cost the same as under the existing law.

4. Clause 14 of the bill postpones the commencement of the Ordinance until the 1st January, 1926.

H. E. POLLOCK,  
*Attorney General.*

*12th August, 1925.*

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C.S.O. / .

[No. 15 :—28.8.25.—1.]

## A BILL

INTITULED

An Ordinance to amend the Larceny Ordinance,  
1865.

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 Larceny Amendment Ordinance, 1925.

Addition of new section after Ordinance No. 5 of 1865, s. 17.

2. The following section is inserted immediately after section 17 of the Larceny Ordinance, 1865 :—

Stealing of dredging for oysters in oyster bed laying or fishery.  
24 & 25  
Vict. c. 96,  
s. 26.

17A.—(1) Every person who steals any oysters or oyster brood from any oyster bed, laying or fishery shall be guilty of felony, and shall be liable to be punished as in the case of simple larceny.

(2) Every person who, unlawfully and wilfully—

(a) uses any dredge, net, instrument or engine whatsoever, within the limits of any oyster bed, laying or fishery, being the property of any other person, for the purpose of taking oysters or oyster brood, although none shall actually be taken ; or

(b) drags with any net, instrument or engine upon the ground or soil of any such fishery,

shall be guilty of a misdemeanour and shall be liable to imprisonment for any term not exceeding three months.

Provided that nothing in this section contained shall prevent any person from catching or fishing for any floating fish within the limits of any oyster fishery with any net, instrument or engine adapted for taking floating fish only.

Amendment of Ordinance No. 5 of 1865, s. 25 (1).

3. Section 25 (1) of the Larceny Ordinance, 1865, is amended by the substitution of the words "one hundred dollars or to imprisonment for any term not exceeding three months" for the words "twenty-five dollars" in the seventh line thereof.

Amendment of Ordinance No. 5 of 1865, s. 26.

4. Section 26 of the Larceny Ordinance, 1865, is amended by the substitution of the words "two hundred and fifty dollars or to imprisonment for any term not exceeding three months" for the words "ten dollars" in the tenth line thereof.

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*Objects and Reasons.*

1. Clause 2 of this Bill embodies in modern wording the provisions of 24 and 25 Vict. ch. 96, s. 26, and its insertion into the laws of this Colony has been recommended by the District Officer, North, to cover cases of stealing oysters which have come within his knowledge.

2. Clauses 3 and 4 of this Bill have been introduced on the suggestion of the Superintendent of the Botanical and Forestry Department to make the penalties for offences under section 25 (1) and second 26 of the Larceny Ordinance, 1865, more severe, as experience has shown that the present penalties are not sufficiently deterrent.

H. E. POLLOCK,  
*Attorney General.*

12th August, 1925.

C.S.O. 2584/23.

A BILL

INTITLED

An Ordinance to amend the Companies Ordinance, 1911.

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 Companies Amendment Ordinance, 1925, and the Companies Ordinance, 1911, and this Ordinance, may be cited together as the Companies Ordinances, 1911 and 1925. Short title.

2. Section 1 (3) of the Companies Ordinance, 1911, is repealed and the following sub-section is substituted therefor :— Repeal of Ordinance No. 58 of 1911, s. 1 (3).

Application of China Orders in Council. (3) This Ordinance, in so far as it affects companies carrying on business within the limits of the China Orders in Council, shall be read with and subject to the provisions of the China Orders in Council.

3. Paragraph (i) of section 26 (1) of the Companies Ordinance, 1911, is amended by the repeal of the words "and addresses, and occupations, if any", on the sixth and seventh lines thereof. Amendment of Ordinance No. 58 of 1911, s. 26 (1) (i).

4. Section 27 (2) of the Companies Ordinance, 1911, is amended by the insertion of the word "the" between the word "in" and the word "case" in the third line thereof, and by the repeal of the words "and addresses, and occupations, if any," in the third and fourth lines thereof. Amendment of Ordinance No. 58 of 1911, s. 27 (2).

5. Section 63 (1) of the Companies Ordinance, 1911, is amended by the substitution of the words "China Orders in Council" for the words "China (Companies) Order in Council, 1915" in the fourth line thereof. Amendment of Ordinance No. 58 of 1911, s. 63 (1).

6. Section 64 (2) of the Companies Ordinance, 1911, is repealed and the following sub-section is substituted therefor :— Amendment of Ordinance No. 58 of 1911, s. 64 (2).

(2) Every limited company (other than a company licensed to be registered without the addition of the word "Limited" to its name)—

- (a) which exhibits outside or inside its registered office or outside or inside any office or place in which its business is carried on, or
- (b) which uses on its seal, or
- (c) which uses in any notice, advertisement or other official publication of the company, or in any contract, deed, bill of exchange, promissory note, indorsement, cheque, or order



for money or goods purporting to be signed by or on behalf of the company, or in any bill of parcels, invoice, receipt or letter of credit of the company, or in any trade catalogue, trade circular, show card or business letter,—

any name of or for the company in Chinese characters, whether such name be a transliteration or translation of its name in the memorandum or not, shall append to such name so used in Chinese characters the Chinese characters 有限公司 and, if a China company, shall also prefix thereto the Chinese characters 英商:

Provided that it shall be lawful for the Governor in the case of any company other than a China company, and for the Minister in the case of any China company, by licence to direct that such company shall be exempted, wholly or in part, from the requirements of this sub-section, and to revoke any such licence.

Amendment of Ordinance No. 58 of 1911, s. 90 (1) (a).

7. Paragraph (a) of section 90 (1) of the Companies Ordinance, 1911, is amended by the repeal of the words "addresses and descriptions" in the fourth and fifth lines thereof.

Amendment of Ordinance No. 58 of 1911, s. 113.

8. Section 113 of the Companies Ordinance, 1911, is amended by the addition of the following sub-section at the end thereof:—

(10) In this section "person" shall include a firm.

Amendment of Ordinance No. 58 of 1911, s. 261.

9. Section 261 of the Companies Ordinance, 1911, is amended as follows:—

(a) Paragraph (e) is repealed and the following paragraph is substituted therefor:—

(c) "China company" means a company limited by shares or by guarantee, which is incorporated under this Ordinance, and the operations of which are directed and controlled from a place within the limits of the China Orders in Council.

(b) The figures "1925" are substituted for the figures "1904" in the second line of paragraph (d).

(c) The words "China Orders in Council" are substituted for the words "China (Companies) Order in Council, 1915" in the third and fourth lines of paragraph (1) and in the second and third lines of paragraph (s).

Amendment of Ordinance No. 58 of 1911, s. 270.

10. Section 270 of the Companies Ordinance, 1911, is amended by the substitution of the words "China Orders in Council" for the words "China (Companies) Order in Council, 1915" in the first and second lines, and in the fourth and fifth lines, of sub-section (2) thereof.

Repeal of Ordinance No. 58 of 1911, s. 274.

11. Section 274 of the Companies Ordinance, 1911, is repealed.

*Objects and Reasons.*

1. Clauses 2, 5, and 10, and paragraphs (b) and (c) of Clause 9, of the bill are purely formal amendments which are made desirable by the new consolidating China Order in Council which came into operation on the 15th day of July, 1925.

2. Sections 26 and 27 of the Companies Ordinance, 1911, require that in the register and annual list of members the names, addresses, and occupations, of Chinese members must be given both in English and in Chinese characters. It seems unnecessary to require the addresses and occupations to be given in Chinese characters, and clauses 3 and 4 of the bill propose to amend the two sections in question so as to make the requirement of Chinese characters apply only in the case of the names of Chinese members. A similar amendment is made by clause 7 of the bill in the section (s. 90) of the Companies Ordinance, 1911, which relates to the return of allotments.

3. The new sub-section to be enacted by clause 6 of the bill will specify clearly the cases in which the Chinese characters for "limited", and (in the case of China companies) "British company", must be used. Before the amendment made by section 2 of Ordinance No. 33 of 1923 the law on this subject was ambiguous and it may be that it was too wide and laid an unreasonable burden on companies using Chinese names. On the other hand, the new sub-section introduced in 1923 has proved on examination to be too narrow and to produce inconsistent results. The proviso will give power to exempt companies with old and well known hong names. In the case of companies of this kind there is no danger of misunderstanding as to the company's status and the requirements of the section are therefore unnecessary in such a case.

4. The object of clause 8 of the bill is to give the Registrar power to include the names of firms in the list of approved auditors and so to give legislative recognition to the common practice, which exists both here and in England, of appointing firms as auditors. The Registrar's discretion over the list is not affected, and in general it is not intended that he shall add any firm to the list unless all the partners in the firm are in his opinion themselves qualified for inclusion in the list. Further, it is also intended in general that a firm shall be removed from the list if at any time it contains a partner who would not be qualified for inclusion in the list or who ought to be removed from the list.

5. Paragraph (a) of clause 9 of the bill restores the old definition of the term "China company" which appeared in section 2 of Ordinance No. 31 of 1911, and which corresponds with the definition of that term in the new China Order in Council. The latter part of the definition as it appears in paragraph (c) of section 261 of the Companies Ordinance, 1911, in the recently issued edition of the Ordinances, contains the provisions which formerly appeared in section 26 of Ordinance No. 12 of 1921. These provisions are of a substantive nature and do not properly form part of a definition. Apart from this reason for the omission of those provisions from the definition of "China company" there is the additional reason that the portion of the definition now to be omitted is contained in article 190 of the new China Order in Council.

6. Section 274 of the Companies Ordinance, 1911, is reproduced in Article 194 (2), (3) and (4) of the new China Order in Council, whilst certain provisions of that Order in Council, namely, Articles 194 (1), 195, 196, and 199, which deal with cognate subject matter, have been omitted. This is a distinct "trap", because anyone reading Part XI of the Companies Ordinance, 1911, would imagine that section 274 contained all the requirements of the law with regard at least to the nationality and residence of the directorate of a China company, whereas it contains only part of those provisions. Two courses are open. One is to insert in the Companies Ordinance, 1911, the omitted provisions of the new China Order in Council, referred to above. It is however, unnecessary to reproduce any such provisions because section 1 (3) of the Companies Ordinance, 1911, provides that that Ordinance, "in so far as it affects companies carrying on business within the limits of the China Orders in Council, shall be read with and subject to" the China Orders in Council. It has therefore been decided to adopt the other course, which is to repeal section 274. It may be asked why section 270, 271 and 272 are not repealed at the same time. The answer is that there are special reasons for retaining those sections. Section 270 might perhaps have been omitted, but it is a convenient introduction to section 271. Section 271 contains a considerable amount of detail which does not appear in the China Order in Council, 1924. Section 272 deals with the jurisdiction of the Supreme Court of Hongkong, and it seems desirable that any question of jurisdiction of the Hongkong courts should appear expressly, and not merely by implication, in our Ordinances.

H. E. POLLOCK,  
*Attorney General.*

11th September, 1925.

NOTICES.

COLONIAL SECRETARY'S DEPARTMENT.

No. S. 258.—Statement of Sanitary Measures adopted by Hongkong.

Disease.	Port or Place.	Restrictions in Force.	Authority.
Cholera.	Shanghai.	Medical examination: quarantine at the discretion of the Health Officer.	Notification No. 462 of 18th August, 1925.
Do.	Japan.	Do.	Notification No. 513 of 16th September, 1925.

No. S. 259.—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.	—

CLAUD SEVERN,  
*Colonial Secretary.*

25th September, 1925.