

LEGISLATIVE COUNCIL.

No. S. 382.—The following Bills were read a first time at a meeting of the Council held on the 15th October, 1931 :—

[No. 28 :—15.9.31.—3.]

C.S.O. 2 in 4299/31.

A BILL

INTITLED

An Ordinance to amend the Code of Civil Procedure.

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

Short title.      1. This Ordinance may be cited as the Code of Civil Procedure Amendment Ordinance, 1931.

Amendment of Ordinance No. 3 of 1901, s. 439.      2. Section 439 of the Code of Civil Procedure is amended—

- (i) by the deletion of the word “subsistence” in the third line and by the substitution therefor of the words “support and maintenance”; and
- (ii) by the deletion of the words “twenty-five cents” in the fourth line and by the substitution therefor of the words “two dollars”.

*Objects and Reasons.*

Under section 439 of the principal Ordinance, when a judgment debtor is committed to prison in execution of a judgment, the Court fixes whatever monthly allowance it may think sufficient for his subsistence, not exceeding twenty-five cents *per diem*, which is to be paid by the person at whose instance the judgment has been executed to the Superintendent of Prisons by monthly payments in advance. This maximum was the rate fixed by section 79 of the Hong Kong Code of Civil Procedure (Ordinance No. 13 of 1873) which has been replaced by the present Code of Civil Procedure (Ordinance No. 3 of 1901). The maximum is insufficient to meet the cost of maintenance; the average cost per prisoner in 1930 having being in excess of \$1.25 *per diem*. In 1931 it is expected to cost more. This Ordinance raises the maximum to \$2.00 and substitutes the words “support and maintenance”, which in relation to prisoners have been held to include the salaries of officers and the expense of keeping up the prison as well as houseroom, food, clothing, bedding and fuel (*The Queen v. Gravesend Borough Council* 5 E. and B. 459), for the word “subsistence” which does not appear to have been the subject of judicial interpretation.

C. G. ALABASTER,  
*Attorney General.*

September, 1931.

C.S.O. 21 in 3084/31.

A BILL

INTITULED

An Ordinance to amend further the Arms and Ammunition Ordinance, 1900.

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

1. This Ordinance may be cited as the Arms and Ammunition Amendment Ordinance, 1931.

2. This Ordinance shall come into operation on the first day of January, 1932. Commencement.

3. Section 3 of the Arms and Ammunition Ordinance, 1900, as amended by section 7 of the Arms and Ammunition Amendment Ordinance, 1929, is amended by the addition of the following sub-section at the end thereof.— Amendment of Ordinance No. 2 of 1900, s. 3.  
Second Schedule. (3) The fee payable for such licence shall be that mentioned in the Second Schedule. Ordinance No. 32 of 1929.

4. Section 27 of the Arms and Ammunition Ordinance, 1900, is amended by the addition of the following words after the words "First Schedule" at the end thereof :— Amendment of Ordinance No. 2 of 1900, s. 27.  
"or the Table of Fees in the Second Schedule".

5. The Second Schedule to the Arms and Ammunition Ordinance, 1900, is amended Amendment of Ordinance No. 2 of 1900, Second Schedule.  
(i) by the deletion of the figure "S. 10" in the headline and by the substitution therefor of the figures "SS. 3 and 10".  
(ii) by the addition of the following paragraph at the end thereof :—

3. Fee payable for a licence to carry and/or possess arms and ammunition ..... } \$10 per annum payable in advance.

*Objects and Reasons.*

This Ordinance establishes a fee of \$10 for the issue of Arms licences under section 3 of the principal Ordinance from the beginning of 1932. It has not been the practice hitherto to charge any fee, even under the Official Signatures Fees Ordinance, 1888, for such licences. Section 27 of the principal Ordinance is amended so as to enable the Governor in Council to revoke, alter or add to the Table of Fees in the Second Schedule. The Governor in Council fixes fees in the case of many other Ordinances. Compare No. 1 of 1873, s. 5; No. 8 of 1887, s. 3; No. 7 of 1906, s. 5; No. 40 of 1912, s. 3; No. 22 of 1919, s. 6; No. 15 of 1922, s. 15; No. 30 of 1923, s. 3; No. 21 of 1927, s. 3; and No. 11 of 1930, s. 4.

C. G. ALABASTER,  
Attorney General.

September, 1931.

C.S.O. 4432/26.

A BILL

INTITULED

An Ordinance to amend the Suitors' Funds Ordinance, 1896.

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

- Short title. 1. This Ordinance may be cited as the Suitors' Funds Amendment Ordinance, 1931.
- Repeal of Ordinance No. 5 of 1896, ss. 2 and 3. 2. Sections 2 and 3 of the Suitors' Funds Ordinance, 1896, are repealed.
- Amendment of Ordinance No. 5 of 1896, s. 4. 3. Section 4 of the Suitors' Funds Ordinance, 1896, is amended:—
- (i) by the deletion of the words "carrying this Ordinance into effect and";
  - (ii) by the deletion of the word "Treasurer" wherever it occurs and by the substitution therefor in each case of the word "Registrar".

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*Objects and Reasons.*

The principal Ordinance was passed at the request of the Secretary of State, the Marquis of Ripon, in his despatch of the 10th August, 1894, somewhat on the lines of the Suitors' Funds Ordinance, 1891, of the Straits Settlements, under which Court moneys were placed on deposit with the Colonial Treasurer and the Government was made liable to make good all monies so placed on deposit together with interest at the rate of two per cent. per annum. The Straits Settlements procedure is now regulated by appropriate provisions of their Civil Procedure Code.

Sections 2 and 3 of the Suitors' Funds Ordinance, 1896, require that all moneys paid into court should be placed on deposit with the Treasurer and should be paid out by the Treasurer only on the requisition of the Registrar.

Under the existing practice moneys paid into court are paid by the Registrar into the account of the Government at such bank as the Treasurer may indicate and the Treasurer is informed daily of the amount paid in.

When payment out is required the Registrar issues to the intended payee a "Direction" (Form 4 prescribed by the Suitors' Funds Rules, 1928) requiring the Treasurer to pay to the person named therein a specified sum. The payee then takes the "Direction" to the Treasury where payment is made in accordance with the tenor thereof.

Individual ledger accounts for actions in connection with which payments are made into court are kept only by the Registrar, the Treasurer keeping merely an account dealing with the total amounts paid into and out of the bank as Suitors' Funds.

The keeping by the Treasurer of individual ledger accounts would, by reason of the multiplicity of items (largely small in amount), involve much labour and would be reduplication of work done in the Registry; but without the keeping of such accounts the present system affords no effective safeguard, as the Treasurer has no means of determining whether the sum which he is directed to pay is in fact payable to the person named in the "Direction".

The present system is cumbrous and involves labour in the Treasury and delay and inconvenience for litigants without affording any commensurate safeguard.

It is considered desirable that payments into court should be dealt with in the manner in which they now are, but that payments out of court should be made by the Registrar direct to the persons entitled thereto, the Treasurer being duly informed by the Registrar of all payments into and out of court. The Colonial Treasurer, the Auditor and the Registrar of the Supreme Court are desirous of making this change in this procedure, which is in accord with that which prevails in the Country Courts in England.

The Ordinance has been submitted to the Secretary of State, Lord Passfield, and is in the form approved by him in his despatch of the 1st August, 1931.

G. C. ALABASTER,  
*Attorney General.*

*September, 1931*