

HONGKONG.

ANNO VICESIMO SEXTO VICTORIÆ REGINÆ.

No. of 1863.

By His Excellency WILLIAM THOMAS MERCER, Esquire, Acting Governor and Commander-in-Chief of the Colony of Hongkong and its Dependencies, and Vice-Admiral of the same, with the Advice of the Legislative Council of Hongkong.

Title. *An Ordinance to repeal Ordinance No. 1 of 1853 and to provide Gaols and Debtors' Wards, and for the due control of Prisoners therein.*

[May, 1863.]

Preamble. Whereas the present Gaol is insufficient for the Prisoners now incarcerated therein and it is advisable to repeal the Ordinance No. 1 of 1853 and to provide further Prison accommodation and for due management and control of Prisoners: Be it therefore enacted by His Excellency the Acting Governor of Hongkong with the advice of the Legislative Council thereof as follows:—

Ordinance No. 1 of 1853 repealed. I. The Ordinance No. 1 of 1853 intituled "An Ordinance for the Regulation of the Gaol of Hongkong" is hereby repealed.

Governor authorized to set apart Parts of present Gaol for "The Victoria Gaol" and other Parts for Debtors' Ward. II. So much and such Parts of the present Gaol in Victoria as His Excellency the Governor shall from time to time by order in writing direct for the purpose shall be set apart and be used for a Gaol and shall be called the "Victoria Gaol," and so much and such parts of the said present Gaol as His Excellency the Governor shall from time to time by order in writing direct for the purpose shall be set apart and used for a Debtors' Ward or Prison and shall be called the Debtors Ward in the Victoria Gaol.

Governor authorized to set apart all or part of Stone Cutters' Island for a Gaol and Hulk to be treated as part of such Gaol. III. It shall be lawful for His Excellency the Governor by order in writing under his hand to appropriate and set apart the whole or so much and such parts of Stone Cutters' Island in the Harbour of Victoria as His Excellency shall from time to time direct for a Gaol, which shall be called the "New Gaol" and until the said "New Gaol" shall be finished and for such further time as His Excellency the Governor shall think fit a certain Hulk now in course of being fitted for the purpose of receiving Prisoners to be employed on the said Island shall be treated as forming part of the said lastmentioned Gaol.

Governor authorized to set apart any other sites for Gaol and Debtors' Ward. IV. It shall be lawful for His Excellency the Governor by order in writing under his hand from time to time hereafter to appropriate and set apart any other site or sites within the said Colony as and for a Gaol or Gaols and a Debtors' Ward or Debtors' Wards which sites respectively shall be called by such names respectively as shall in any such order be specified.

Governor authorized to determine the use of the said Gaol and Debtors' Wards. V. It shall be lawful for His Excellency the Governor from time to time by order in writing to determine the use of the said Gaol and Debtors' Ward and of such other Gaols and Debtors' Wards as shall have been formed as aforesaid or of or any or either of them for the purposes of a Gaol and Debtors' Ward respectively and to dedicate the same sites respectively for any other purposes.

Penalty on Persons other than those duly authorized for landing on or approaching Stone Cutters' Island. VI. From and after the passing of this Ordinance no Person shall land upon the said Island called Stone Cutters' Island except a Justice of Peace, an Officer of Police or such Persons as shall be duly authorized by an order signed by the Colonial Secretary, and no Vessel shall approach to within the distance of from the said Island except Police Boats, Commissariat Boats, Boats belonging to Her Majesty's Ships of War, and Boats in the service of this Government, and any Person who, contrary to this Ordinance, shall land on the said Island or shall being in any Vessel wilfully approach within the said distance from the said Island shall incur a penalty of not exceeding Dollars

How Superintendents and Staff for each Gaol to be appointed. VII. Each Gaol shall be under the care and control of an Officer to be styled the Superintendent of such Gaol, who shall be assisted by a Staff to be appointed from time to time by His Excellency the Governor, and such portion of any Gaol as shall be set apart for the confinement of Debtors shall be further subject to the supervision and authority of the Sheriff of the Colony.

VIII. All Persons within the said Gaol and Debtors' Ward or Wards respectively already constituted or hereafter to be constituted shall be subject to such general and special Rules and Regulations and to such penalties and punishments respectively as are hereinafter authorized or as shall be laid down and imposed by Rules and Regulations to be passed and authorized in manner hereinafter provided. Rules, &c., to be made.

IX. The Rules now in use for the Regulation of the Gaol of Victoria shall continue in force for the Government of all Gaols and Debtors' Wards in this Colony until the same shall be modified as hereinafter provided, and a copy of the said Rules shall be continually displayed within the said Gaols and Debtors' Wards respectively in some conspicuous place where they may be with facility seen and read by the Inmates of the said Gaols and Debtors' Wards, and a Copy shall also be appended to the Justices' Visiting Book in every Gaol. Gaol Rules now in use to continue until altered as after provided for.

X. Such Regulations shall be from time to time revised or added to as may be found necessary, and for this purpose it shall be competent for His Excellency The Governor in Executive Council to make such revisions or additions, or for any number of Justices of the Peace, not less than three, of whom the First Police Magistrate shall be one to meet, and frame such revisions or additions as may be considered expedient; provided that such amended Regulations shall not have effect until they shall have been approved by His Excellency The Governor, and it shall be the duty of The Police Magistrate to forward such amended Regulations to the Colonial Secretary. Provided also that no greater penalties shall be imposed for any breach of any Prison Rule than to the extent hereby provided. Alteration of Rules provided.

XI. It shall be lawful for the Superintendent of any Gaol to punish by Imprisonment in a Solitary Cell for not exceeding Three Days on Bread and Water or Rice and Water, or, if the Prisoner be under conviction of Felony, to punish by moderate corporal punishment not exceeding Twelve Strokes of a Rattan, any Prisoner whom he may find after due investigation to have been guilty of any of the following offences or of any breach of Prison Regulation or Discipline: Power of Superintendent alone to punish refractory Prisoners.

Assault and Battery.

Profane Cursing or Swearing or using indecent, violent or insulting Language.

Indecent, irreverent, or disorderly behaviour.

Idleness or Negligence in Work or wilful Damage to or mismanagement of it.

Wilful damage to any Cell, Ward or Room, or to any Gaol Furniture or Property whatsoever.

XII. No corporal punishment shall be inflicted until after the expiration of Twelve Hours after the Prisoner shall have been sentenced thereto under the preceding Section, and no Corporal Punishment shall be inflicted on any Prisoner confined for debt or on first class misdemeanants, or on any Officer of the Gaol. If punishment be flogging Twelve hours to expire before its infliction and exceptions to such punishment.

XIII. If a Prisoner be guilty of any of the above Offences or of a breach of Gaol Regulations or Discipline for the due punishment of which the Superintendent of any Gaol may deem the powers vested in him insufficient, it shall be lawful for such Superintendent in conjunction with any Justice of the Peace for the said Colony after inquiry to punish such Prisoner by close or Solitary Confinement on Bread and Water or Rice and Water for not exceeding Fourteen Days, or, if the Prisoner be under conviction for Felony or have within Three Months next previous been guilty of a similar Offence, by personal correction not exceeding Thirty-six Strokes. Powers of Superintendent and Justice of the Peace to punish when those of Superintendent insufficient.

XIV. Any Person who shall convey or cause to be conveyed into any Prison or in any manner to or within the reach of any Prisoner, whether within the Gaol walls or without, any Disguise Instrument or Arms to facilitate the escape of any Prisoner shall, on conviction before two Police Magistrates or one Police Magistrate and two other Justices of the Peace, be subject to Imprisonment with or without hard labour for a period not exceeding Six Months: Provided that nothing herein contained shall be deemed or taken to prevent such Person from being proceeded against by Indictment or Information if deemed proper. Penalty for assisting Prisoner to escape.

XV. If any Person shall introduce into any Prison or wilfully convey in any manner to or within the reach of any Prisoner, whether within or without the Gaol Walls, any intoxicating Drink, Tobacco, Opium, Letter or other articles whatsoever without the consent of the Superintendent, he shall pay a penalty not exceeding Twenty-five Dollars, and such articles shall be confiscated. Penalty for supplying Articles to Prisoners.

What labour incident to certain sentences and what Prisoners to be free from imposed labour.

XVI. When any Magistrate or Court shall sentence a Prisoner to hard labour, the same shall mean hard labour (in chains if necessary) within or without the Prison Walls in such mode as the Superintendent of such Gaol shall with the sanction of His Excellency the Governor appoint, and if a Prisoner be sentenced to hard labour within the Prison, the same shall mean similar labour imposed in a similar manner within or without the Prison Walls, and if a Prisoner be sentenced to Imprisonment, the same shall mean Imprisonment with labour of such light description within the Prison Walls as may be appointed by the Superintendent under the sanction of His Excellency the Governor, but Prisoners charged with Crime or Offence confined for want of Sureties or to take their trial shall not be under any obligation to labour beyond such labour as may be reasonably proper for the purpose of preparing their own food and keeping their Persons and Dress in a proper state, and keeping their Cells clean. If any Prisoners for Debt or on Civil process or under committal for trial shall request to be employed in labour, the Superintendent of the Gaol may with their consent respectively employ them in such Work as may seem to him suitable.

Indemnity clause to Officers of Gaol and Debtors' Wards.

XVII. No Action or Proceeding at Law shall or may be brought or sustained against any Sheriff, Superintendent or other Officer of any Gaol or Debtors' Ward for any act heretofore done or hereafter to be done by them respectively in accordance with the Rules and Regulations in force or hereafter to be in force as to any Gaol or Debtors' Ward, nor for the escape of any Debtor from Custody except in case of gross negligence by the Person sued.

Mode of recovering penalties.

XVIII. All penalties imposed hereby or by any Rules and Regulations to be in force under this Ordinance shall be sued for and recovered under Ordinance No. 10 of 1844.

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An Ordinance for the better assessing and collecting the Police and Lighting Rates within the Colony of Hongkong.

[May, 1863.]

Preamble.

Whereas the collection of Police and Lighting Rates assessed upon the Occupiers of Tenements in this Colony is difficult and frequently impracticable, and it is expedient to make better provision for the rating of such Tenements, and for the collection of such Rates: Be it therefore enacted by His Excellency the Acting Governor by and with the advice of the Legislative Council as follows:—

Ordinance No. 2 of 1845, Ordinance No. 3 of 1851, Section 1 of Ordinance No. 11 of 1856, and Ordinance No. 8 of 1857 repealed, except &c.

I. Ordinance No. 2 of 1845, Ordinance No. 3 of 1851, Section 1 of Ordinance No. 11 of 1856 and Ordinance No. 8 of 1857 shall be and the same hereby are respectively repealed, except as to any Operation already effected by, or Act done under any or either of such Ordinances, or as to any right, title, obligation or liability acquired or accrued thereunder.

Persons acting under said Ordinances to continue to discharge duties till otherwise directed.

II. All Persons heretofore appointed or acting under the said Ordinances shall, and they are hereby authorized and required, notwithstanding the passing of this Ordinance, to continue to discharge and execute their several duties and offices for the purpose of carrying this Ordinance into execution, without any further or other appointment thereto until the Governor shall otherwise direct.

Governor may appoint Persons to carry this Ordinance into execution, and allow them such remuneration as he may deem reasonable.

III. Upon the death, resignation or removal of such Persons it shall be lawful for the Governor from time to time to nominate and appoint other fit and proper Persons for the purpose of carrying this Ordinance into execution, and to allow them for the performance of their duties, on that behalf, such remuneration as the Governor with the advice of the Executive Council shall direct, and some one or more of the Persons so appointed as aforesaid shall at such times and in such manner as hereinafter provided make or cause to be made a Valuation of the Tenements in this Colony or such part thereof as the Governor with the advice of the Council aforesaid may at any time direct and appoint.

IV. Such Valuation shall be made at any time between the ^{day} Valuation to be made between the ^{day} and the ^{day} of both inclusive in each year, unless the ^{of} and ^{of} Governor, with the advice of the Executive Council, shall deem it expedient to permit ^{day} of in each year, unless Governor notify that then existing Valuation is to stand ^{and} any existing Valuation to stand, in which case due notice shall, between the days aforesaid, be given in the *Government Gazette* that such lastmentioned Valuation is to stand ^{and} and to be adopted as and for the Valuation of the year then next succeeding, in which case such Valuation shall be considered to all intents and purposes as a new Valuation.

V. It shall be lawful for any Person continued or appointed under this Ordinance from time to time to enter into and upon any Tenement for the purpose of making any Valuation authorized by this Ordinance: Provided always that in every case in which it shall be necessary, for any such Person to enter any Tenement and when the Owner or Occupier thereof shall oppose or refuse to allow such entry, such Person shall give One Day's Notice to the Owner or Occupier of such Tenement requiring to be permitted to enter the same and at any reasonable time after the expiration of such Notice it shall be lawful to make such entry, such Person doing as little damage as may be in the execution of the powers hereby granted. ^{Valuators may enter any Tenement in Execution of this Ordinance.}

VI. In every Valuation to be made under the provisions of this Ordinance the Person so appointed to make such Valuation as aforesaid shall cause every Tenement to be separately valued and such Valuation shall be made upon an estimate of the net Annual Value thereof, that is to say, the rent for which, (One Year with another) the same might in its actual state be reasonably expected to let from Year to Year, but deducting therefrom the probable average annual costs of the Repairs, Insurance and other Expenses (if any) necessary to maintain it in a state to command such Rent. ^{Tenements to be valued separately upon an estimate of the net Annual Value.}

VII. In making out the Lists or Tables of Valuation hereinafter mentioned the Valuator shall distinguish all Religious Edifices, Hospitals, Cemeteries and Tenements or portions of the same of a public nature or used for Charitable purposes or for the purposes of Science, Literature or Fine Arts as specified in an Act of the Imperial Parliament made and passed in the Session thereof holden in the Sixth and Seventh Years of the Reign of Her present Majesty, Chapter Thirty-six, and the value of the same shall be deducted from the gross amount of the Valuation of the Tenements comprised in such Lists or Tables, and all such Edifices, Hospitals and Cemeteries and all such Tenements or portions of the same so distinguished and deducted shall for the purposes of this Ordinance be deemed exempt from all Assessment whatever so long as they shall continue to be exclusively of a Religious or public nature, or used exclusively for the purposes aforesaid. ^{Valuator to distinguish all Religious Edifices, Houses of a public nature or used for Charitable Purposes, &c., which shall be exempted from Assessment.}

VIII. At the time of the making of such Valuation or, as soon thereafter as conveniently may be, the Persons so appointed to make such Valuation shall leave or cause to be left with the Occupier of the Tenement so valued or with some Person resident therein a Notice in writing of such Valuation having been made and of the amount thereof. ^{At the time of the making of Valuation, &c., notice thereof in writing to be given to Occupier and of the amount thereof.}

IX. When and as soon as the Valuation of the Tenements so directed to be made as aforesaid shall be completed the Person so appointed to make such Valuation shall prepare and make out a List or Table of the several Tenements so valued and of their respective Valuations and shall lay the same before the Governor and shall at the foot of such List or Table make and subscribe in the presence of the Governor or Colonial Secretary a Declaration to the effect that the same contains a true account of all Valuations made by such Person and that the said List or Table is to the best of his knowledge and belief correct in all other particulars. ^{Lists of Valuation when completed to be laid before Governor at the foot of which is to be subscribed declaration that the same contains an account of all Valuations and is in other respects correct.}

X. The Governor shall cause to be deposited with some Person such List or Table or an examined Copy thereof, and notice of the place where the same may be inspected shall be published in the *Government Gazette* and any Person in whose custody such List or Table or Copy thereof may be shall at any reasonable time within Days from the publication of such Notice permit every Owner or Occupier of a Tenement included therein to inspect the same and take any extracts therefrom without payment of any fee or reward on that behalf. ^{List or Copy to be deposited with liberty to Owner or Occupier of a Tenement to inspect such List or Table.}

XI. If any Person shall think himself aggrieved by such List or Table on the ground that such List or Table includes any Tenement for which he is not rateable under this Ordinance, or that it places his rateable Tenement beyond its full and fair annual value, or that any Person is omitted out of such List or Table, or that the Tenement of any Person is inserted therein below its full and fair annual value, the Person ^{Parties allowed to appeal against such List or Table to the Court of Summary Jurisdiction.}

so aggrieved may within Days after the publication of such List or Table appeal to the Court of Summary Jurisdiction, provided that the Person so intending to appeal shall give to the Valuers a notice in writing of such appeal and of the cause and matter thereof clear Days at the least before the holding of the Court at which such appeal is to be heard, and in case such Person shall appeal on the ground that any Person is omitted out of the said List or Table, or that the Tenement of any Person is inserted therein below its full and fair annual value, the Appellant shall not only give such Notice of appeal to the Valuers but shall also give a like Notice of appeal to the Person so interested in the event of such appeal as aforesaid and the Person so interested shall, if he shall desire it, be heard upon the appeal, and the Judge upon due proof of the Notice having been given shall hear and determine the matter of the appeal in a summary manner and shall make such order therein with or without costs to either Party as the said Judge shall think proper, and in case the said Judge shall think the Appellant entitled to relief he shall order the said List or Table to be amended in such manner as may be necessary for giving him relief, and in case he shall have appealed on the ground that the tenement of any Person is valued below its full and fair annual value the Judge may order the amount at which such Person is rated in the Valuation to be altered in such manner as he shall deem just, and the proper Officer of the Court shall in each of the cases aforesaid forthwith amend the said List or Table accordingly, but the said List or Table shall not be invalidated or altered with respect to any other Persons named therein and the determination of the said Court shall be final and conclusive.

Governor with advice of Executive Council to assess Owners or Occupiers for Police and Lighting rates.

XII. After the time so fixed for appeal shall have expired, it shall be lawful for the Governor by and with the advice of the Executive Council to assess all Owners or Occupiers of Tenements as hereinafter provided according to the said List or Table or amended List or Table in the sums necessary to be levied for the purposes of this Ordinance, and the rate of assessment so fixed shall be published in the *Government Gazette*: Provided always that such assessment shall be imposed as from the Day of in any one Year to the day of in the Year then next succeeding and shall not in any Year exceed a rate equal to the Expenses of the Police Establishment for such Year so far as relates to the Police Assessment, or a rate equal to One-and-a-half per cent upon the gross amount of the Valuation of the Tenements included in the Police Assessment for the current Year so far as relates to the Lighting Assessment, and such Assessments shall for the purposes of this Ordinance be respectively called "The Police Assessment" and "The Lighting Assessment."

Rates and Assessments how to be imposed and when to be payable.

XIII. The said Rates or Assessments may be imposed and levied Yearly, Half-yearly, or Quarterly or at such other times as the Governor with the advice of the Executive Council may think fit, and shall be payable at the Office of the Colonial Treasurer at such times as the Governor with the advice of the said Council may appoint, and at the meeting imposing the same the Governor with the advice aforesaid shall appoint the Days on which such Rates or Assessments shall be payable.

Occupiers to pay Police and Lighting Assessments.

XIV. The Assessments hereinbefore authorized to be imposed shall be levied upon the Occupiers of Tenements, but deduction shall be allowed for any period during which any Tenement shall not be let or occupied for Three Months or upwards in any Year, and Owners who shall let for rent or hire Tenements for less than a Year shall themselves as well as the Occupiers be responsible for the said Assessment applicable to any period less than a Year, and the same may be recovered from such Owner or from such Occupier as may be deemed expedient: Provided always that nothing herein contained shall prevent the said Assessment from being charged and chargeable on the Tenements in respect of which such Assessment shall have been made.

Agreements between Landlord and Tenant not to be affected.

XV. Provided also that nothing herein contained shall be taken to affect any Contract made or to be made between any Owner and Occupier of any Tenement in respect of which it is or may be agreed that the Occupier shall pay and discharge all Rates, Dues, and Sums of money payable in respect of such Tenement or to affect any Contract whatsoever between Landlord and Tenant.

Recovery of Rates.

XVI. If any Person assessed under this Ordinance or by this Ordinance rendered liable to the payment of any Assessment shall refuse or neglect to pay the Assessment hereinbefore authorized to be levied or any part thereof within One Week after such Assessment is declared payable by Public Notice given in that behalf in the *Government Gazette*, it shall be lawful for the Colonial Treasurer or for some Person appointed by him for that purpose to make application to the Court of Summary Jurisdiction upon

an Affidavit setting forth that the said Person has failed to pay such Assessment or some part thereof notwithstanding a printed Notice of the time and place at which the same has become payable has been delivered to, or left for him at the Tenement in respect of which such Assessment is made, and the said Court shall thereupon grant a summary Warrant for the recovery of the said Assessment or the part thereof remaining unpaid with the legal interest thereon from the time when the same shall have been declared payable together with the costs in each case incident by law to the recovery thereof.

XVII. No misnomer or inaccurate Description of any Person, Place or Tenement in any Document required for the purposes of this Ordinance, nor any mistake or informality committed in any proceeding had hereunder shall invalidate or prejudice such Document or Proceeding or in anywise affect the execution of this Ordinance, provided only that such Person, Place or Tenement be designated in such Document or Proceeding to common intent and understanding, and that such mistake or informality be not of such a nature as to prevent the requirements of this Ordinance from being substantially and in effect complied with.

Misnomers, &c., not to affect the Execution of this Ordinance.

XVIII. The Word "Tenement" in this Ordinance shall be construed to include any House, Cottage, Shed, Apartment, Ground or Building, or House together with Land annexed thereto and ordinarily occupied therewith as Garden or Pleasure-ground, all Outbuildings, Stables, Warehouses, Yards and Offices belonging or contiguous to any House and occupied therewith by one and the same Person or his Servants as one entire concern or undivided tenancy or holding, or not so belonging contiguous or occupied; the Word "Owner" shall be construed to mean any Person receiving or claiming the Rent of any such Tenement for his own use, or receiving or claiming the same for the use of any Corporation aggregate or of any Public Company or of any Landlord or Lessor who shall be a minor, under coverture or insane, or for the use of any Person who shall not be usually resident within this Colony; and the Word "Person" shall be construed to include any Corporation or Public Company as well as any Individual unless there be something in the subject or context repugnant to such construction.

Interpretation clause. Tenement.

Owner.

Person.

XIX. This Ordinance may be cited for all purposes as "The Police and Lighting Rate Assessment Ordinance, 1863."

Short Title.

No. 53.

GOVERNMENT NOTIFICATION.

It is hereby notified, that *Saturday* the 23rd and *Monday* the 25th Instant will be kept as holidays in all the Government Offices; the former in celebration of the Marriage of His Royal Highness the Prince of Wales, and the latter in honor of Her Majesty's Birthday.

By Order,

W. H. ALEXANDER,
Acting Colonial Secretary.

Colonial Secretary's Office, Hongkong, 13th May, 1863.

No. 54.

GOVERNMENT NOTIFICATION.

The following Return of Notes in Circulation and Specie in Reserve at the Bank of the ORIENTAL BANK CORPORATION, in Hongkong, is published for general information.

By Order,

W. H. ALEXANDER,
Acting Colonial Secretary.

Colonial Secretary's Office, Hongkong, 13th May, 1863.