



THE HONGKONG
Government Gazette.
報 門 轅 港 香

Published by Authority.

No. 30.

VICTORIA, SATURDAY, 6TH JULY, 1889.

VOL. XXXV.

號十三第

日九初月六年丑己

日六初月七年九十八百八千一

簿五十三第

GOVERNMENT NOTIFICATION.—No. 299.

His Excellency the Governor has given his assent, in the name and on behalf of the Queen, to the following Ordinances passed by the Legislative Council:—

Ordinance No. 24 of 1889.—*An Ordinance enacted by the Governor of Hongkong, by and with the advice and consent of the Legislative Council thereof, to amend The Merchant Shipping Consolidation Ordinance, 1879.*

Ordinance No. 25 of 1889.—*An Ordinance enacted by the Governor of Hongkong, by and with the advice and consent of the Legislative Council thereof, to amend The Chinese Emigration Consolidation Ordinance, 1889, and to make provision against certain emigration abuses.*

Ordinance No. 26 of 1889.—*An Ordinance enacted by the Governor of Hongkong, by and with the advice and consent of the Legislative Council thereof, to amend the law relating to the Extradition of Chinese Criminals.*

By Command,

FREDERICK STEWART,
Colonial Secretary.

Colonial Secretary's Office, Hongkong, 6th July, 1889.

No. 24 OF 1889.

An Ordinance enacted by the Governor of Hongkong, by and with the advice and consent of the Legislative Council thereof, to amend *The Merchant Shipping Consolidation Ordinance, 1879.*

LS G. WILLIAM DES VŒUX.

[2nd July, 1889.]

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

The words "plying for hire" in Section XXXIX Sub-section 1 (a) of *The Merchant Shipping Consolidation Ordinance, 1879*, are hereby repealed.

Amendment of
No. 8 of 1879,
s. 33.

Passed the Legislative Council of Hongkong, this 25th day of June, 1889.

ARATHOON SETH,
Clerk of Councils.

Assented to by His Excellency the Governor, the 2nd day of July, 1889.

FREDERICK STEWART,
Colonial Secretary.

No. 25 OF 1889.

An Ordinance enacted by the Governor of Hongkong, by and with the advice and consent of the Legislative Council thereof, to amend the Chinese Emigration Consolidation Ordinance, 1889, and to make provision against certain emigration abuses.

(LS) G. WILLIAM DES VŒUX.

[6th July, 1889.]

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

PART I.

Amendments.

Amendment of
No. 1 of 1889.

1. The Chinese Emigration Consolidation Ordinance is hereby amended as follows:—

- (i.) In section 3 by adding after the words *in this Colony*, the words *and every British Chinese Passenger ship clearing out and proceeding to sea from any port in this Colony.*
- (ii.) In section 5 by adding after the words *Passenger ship*, the words *proceeding on a voyage of more than seven days' duration.*
- (iii.) In section 6 by adding after the words *proceed to sea* the words *on a voyage of more than seven days' duration.*
- (iv.) In section 7 by adding after the words *all particulars* the words *according to the form in Schedule A hereto.*
- (v.) In section 16 by adding after the words *Passenger ship* the words *proceeding on a voyage of more than seven days' duration.*
- (vi.) In section 20 by substituting for the words *this Ordinance* the words *Special Licences hereinafter mentioned.*
- (vii.) In section 27 by adding after the words *Passenger ship* the words *proceeding on a voyage of more than seven days' duration.*
- (viii.) In section 54 by repealing the words (*in the Supreme Court*).
- (ix.) In section 67 by substituting for the words *this section* the word and figures *section 60*.
- (x.) In section 76 by omitting the brackets ().
- (xi.) In schedule *A* by substituting for the word and figure *section 8* the words and figures following *section 6 (or 8 as the case may be.)*
- (xii.) In schedule *K* by substituting for the figures *XVII* the figures *46*.
- (xiii.) In schedule *L* by repealing the words “[Whose steam power shall be sufficient without the aid of sails to propel them at the rate of five statute miles in the hour.]”

Limit of
application of
sections 27
to 38.

2. The provisions of sections 27 to 38 (inclusive) of the said Ordinance shall not apply where special licences have been granted under section 21 of the said Ordinance to the steamers mentioned in such section.

Effect of
amendment.

3. The amendments hereinbefore made shall take effect as from the 18th January, 1889, the date when the said Ordinance came into operation.

PART II.

Emigration Abuses.

Unlawful
imprisonment
or detention

4. Any person who by force, intimidation or fraud, imprisons or detains any man or boy within the Colony, for the purpose of emigration or for any other purpose whatsoever, shall be guilty of a misdemeanor, and on conviction thereof, shall be liable to the punishment hereinafter provided.

5. Any person who by force, intimidation, or any fraudulent means brings, leads, takes, decoys, or entices any man or boy into or away from the Colony, for the purpose of emigration, or for any other purpose whatsoever, shall be guilty of a misdemeanor, and on conviction thereof, shall be liable to the punishments hereinafter provided.

Decoying persons into or away from the Colony.

6. Every person convicted of any offence against the provisions of sections 4 and 5 of this Ordinance shall be liable to be imprisoned for any term not exceeding two years with or without hard labour: Provided always that if the case is determined by a single Magistrate he shall not impose a heavier sentence than one year's imprisonment with or without hard labour, and that where there appears a necessity for a heavier sentence the case shall be determined by two Magistrates sitting together or in their discretion committed for trial at the Supreme Court.

Punishment for offences.

7. Whenever any person shall be convicted either summarily or before the Supreme Court of any offence against the provisions of section 4 or 5 of this Ordinance if it shall be proved that the offender has been previously convicted either summarily or before the Supreme Court, of an offence under either of the said sections or of an offence under sections 7 and 8 of Ordinance No. 2 of 1875 it shall be lawful for the Court, in its discretion, to direct that, in addition to the punishment hereinbefore prescribed, the offender, if a male, be once, twice, or thrice publicly or privately whipped, subject to the provisions contained in sections 3 and 4 of Ordinance No. 16 of 1887, and all the provisions of section XCIV. of Ordinance No. 7 of 1865 relating to the form of information for a subsequent offence and proceedings thereon, shall apply to offences punishable under this Ordinance.

Punishment of whipping on second and subsequent convictions.

Form of information and proceedings.

Passed the Legislative Council of Hongkong, this 25th day of June, 1889.

ARATHOON SETH,
Clerk of Councils.

Assented to by His Excellency the Governor, the 6th day of July, 1889.

FREDERICK STEWART,
Colonial Secretary.

No. 26 OF 1889.

An Ordinance enacted by the Governor of Hongkong, by and with the advice and consent of the Legislative Council thereof, to amend the law relating to the Extradition of Chinese Criminals.

Title.

LS G. WILLIAM DES VŒUX.

[3rd July, 1889.]

WHEREAS by Article XXI. of the Treaty between Her Majesty and the Emperor of China done at Tientsin on the 26th June, 1858, it was agreed and concluded that if criminals, subjects of China, shall take refuge in Hongkong, or on board the British ships there they shall, upon due requisition by the Chinese authorities, be searched for, and on proof of their guilt, be delivered up; and whereas it is expedient to amend the law for the more effective carrying out of the said treaty in relation to the surrender of criminals, subjects of China, who take refuge in Hongkong, or on board the British ships there: Be it enacted by the Governor of Hongkong by and with the advice and consent of the Legislative Council thereof, as follows:—

Preamble.

1. This Ordinance may be cited for all purposes as *The Chinese Extradition Ordinance, 1889.*

Short title.

Repeal.

2. Ordinances No. 2 of 1850 and No. 2 of 1871 are hereby repealed, but such repeal shall not affect anything done or suffered or any proceedings for the surrender of a criminal commenced under the said Ordinances or either of them before the coming into operation of this Ordinance and such proceedings may be completed and the criminal surrendered as if this Ordinance had not come into operation.

Interpretation.

3. In this Ordinance unless repugnant to or inconsistent with the context the term *Extradition Crime* shall mean a crime which if committed in the Colony would be one of the crimes mentioned in the First Schedule hereto and the term *Fugitive Criminal* shall mean any subject of China accused of an extradition crime committed within the jurisdiction of China or on board a Chinese ship on the High Seas, who is or is suspected of being in Hongkong or on board a British ship there.

All crimes *jure gentium*.

The crimes mentioned in the First Schedule to this Ordinance shall be construed according to the law in force in the Colony at the date of the alleged crime.

Application of Ordinance.

4. The provisions of this Ordinance shall apply to the surrender of criminals under any future arrangement that may be made by Her Majesty with the Emperor of China with respect to the surrender of fugitive criminals, as well as to their surrender under any Treaty in force at the coming into operation of this Ordinance.

Restrictions on surrender.

5. The following restrictions shall be observed with respect to the surrender of fugitive criminals:—

- (1.) A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character or if he prove to the satisfaction of the Magistrate, or of a judge of the Supreme Court, if brought before the Court on a writ of *Habeas Corpus*, or of the Governor that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character or for an offence which is not an extradition crime.
- (2.) A fugitive criminal, who has been accused of an offence within British Jurisdiction not being an offence for which his surrender is demanded, or who is undergoing sentence under any conviction in the Colony, shall not be surrendered until after he has been discharged whether by acquittal or on expiration of his sentence or otherwise.
- (3.) A fugitive criminal shall not in any case be surrendered unless an engagement is given by the Chinese Government that he shall not until he has been restored or had an opportunity of returning to Her Majesty's Dominions be detained or tried in China for any offence committed before his surrender other than the extradition crime on which the surrender is demanded.

Liability to be surrendered.

6. Every fugitive criminal, who is in Hongkong, shall be liable to be apprehended and surrendered in manner provided by this Ordinance, whether the crime in respect of which the surrender is demanded was committed before or after the passing of this Ordinance, and whether there is or is not any concurrent jurisdiction in any Court in the Colony over that crime.

Requisition to the Governor may be followed by order to Magistrate for warrant of apprehension.

7. Whenever the requisition for the surrender of a fugitive criminal, who is in, or suspected of being in Hongkong, is made to the Governor by some officer of the Chinese Government, the Governor may, by order under his hand and seal, signify to a Magistrate that such requisition has been made, and require him to issue his warrant for the apprehension of the fugitive criminal.

Duties of a Magistrate upon receipt of such order.

8. A Magistrate, on receipt of the said order, shall issue his warrant for the apprehension of the fugitive criminal, or, if the fugitive criminal be already in custody shall issue his order to all necessary persons to bring the fugitive criminal before him to be dealt with according to this Ordinance.

9. A Magistrate may also issue his warrant for the apprehension of a fugitive criminal on such information or complaint as would, in his opinion, justify the issue of a warrant if the crime had been committed in the Colony.

Magistrate may also issue warrants in ordinary cases.

A fugitive criminal apprehended on a warrant so issued shall be discharged by the Magistrate, unless the Magistrate within such time as, with reference to the circumstances of the case, he shall think reasonable, receives from the Governor an order signifying that a requisition has been made for the surrender of such fugitive criminal.

10. When a fugitive criminal is brought before a Magistrate, he shall hear the case in the same manner, and have the same jurisdiction and powers, as nearly as may be, as if the prisoner were brought before him charged with an indictable offence committed in the Colony.

Hearing of the case and evidence of crime being political.

The Magistrate shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused, is an offence of a political character, or is not an extradition crime.

11. If at the hearing before a Magistrate such evidence is produced as would subject to the provisions of this Ordinance justify the committal of the fugitive criminal for trial at the Supreme Court if the crime of which he is accused had been committed in the Colony, the Magistrate shall commit him to Victoria Gaol to await the further order of the Governor but otherwise shall order him to be discharged.

Committal to Prison.

If the Magistrate commits the fugitive criminal to Victoria Gaol, he shall thereupon inform the fugitive criminal that he will not be surrendered until after the expiration of fifteen days from the date of such committal and that he has a right to apply to the Supreme Court for a writ of *Habeas Corpus*, and such Magistrate shall forthwith send to the Governor the depositions and other evidence in the case together with a report thereon and in particular in relation to

- (a.) The lapse of time since the commission of the extradition crime.
- (b.) The length of residence in the Colony of and the character of the fugitive criminal.
- (c.) Any circumstances throwing suspicion on the origin or nature of the charge made.

12. Before ordering a fugitive criminal to be discharged the Magistrate shall cause notice of his intention to make such order to be served on the Crown Solicitor.

Notice to Crown Solicitor before discharge.

13. (1.) Upon the expiration of fifteen days from the date of the Magistrate's order of committal or if a writ of *Habeas Corpus* has been issued and if upon the return to the writ the Supreme Court has not discharged the fugitive criminal, immediately after the decision of the Court, or after such further period in either case as the Governor may allow the Governor may, by warrant under his hand and seal, order the fugitive criminal to be surrendered to such person as the Governor considers to be authorized to receive him on behalf of the Chinese authorities and the fugitive criminal shall be surrendered accordingly: Provided always that whenever the Governor shall from the Magistrate's Report or otherwise have reason to suppose, that any fugitive criminal, who has been committed to the Victoria Gaol to await the further order of the Governor, has been resident in the Colony for one year or upwards, the depositions and evidence taken before the Magistrate on the investigation of the case shall together with the Magistrate's Report thereon be considered by the Governor in Council, who shall be assisted in such consideration by the Chief Justice of the Colony and the Governor in Council shall decide whether such fugitive criminal shall be surrendered or not.

Warrant of surrender when to be signed.

(2.) If the fugitive criminal while in the Colony escapes out of any custody into which he has been delivered in pursuance of a Magistrate's warrant as aforesaid it shall be lawful for any police officer or constable to take him without warrant and to restore him to the custody from which he has escaped, and for the person from whose custody the fugitive criminal has escaped to retake him or receive him from such police officer or constable and to hold him at all times as upon the original warrant.

Discharge of
fugitive
criminal.

14. Except where any proceedings are actually pending upon a writ of *Habeas Corpus* before the Supreme Court and in such case with the concurrence in writing of the Judge having cognizance thereof, the Governor may at any time by order under his hand and seal discharge a fugitive criminal from custody.

Discharge if
not surren-
dered within
two months or
on application
after decision
upon *Habeas
Corpus* to
a judge
upon notice
to the Crown.

15. If a fugitive criminal who has been committed to prison under this Ordinance to await the order of the Governor is not surrendered and conveyed out of the Colony within two months after such committal, any Judge of the Supreme Court may upon application made to him by or on behalf of the fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the Crown Solicitor, order the fugitive criminal to be discharged out of custody unless sufficient cause is shewn to the contrary.

Aid and
abettors in
extradition
crimes.

16. Every person who is accused or convicted of having counselled procured commanded aided or abetted the commission of any extradition crime or of being accessory before the fact to any extradition crime shall be deemed for the purposes of this Ordinance to be accused or convicted of having committed such crime and shall be liable to be apprehended and surrendered accordingly.

Protection of
Magistrates
and others
acting under
warrant.

17. If any suit or action be brought against a Magistrate, Superintendent of the Victoria Gaol, Gaoler Police Officer, Constable or any other person for anything done under or in obedience to any warrant or order issued under the provisions of this Ordinance, the proof of such warrant or order shall be a sufficient answer to such suit or action, and the defendant on such proof as aforesaid shall be entitled to a verdict or judgment accordingly and shall also be entitled to all costs of suit.

Forms.

18. The forms in the second schedule hereto or forms to the like effect with such variations and additions as circumstances require may be used for the purposes therein indicated and according to the directions therein contained and instruments in these forms shall (as regards the form thereof) be valid and sufficient.

Enforcing
crimes.

19. This Ordinance shall not come into operation unless and until the Officer Administering the Government notifies by Proclamation that it is Her Majesty's pleasure not to disallow the same; and thereafter it shall come into operation on such day as the Officer Administering the Government shall notify by the same or any other proclamation.

Passed the Legislative Council of Hongkong, this 25th day of June, 1889.

ARATHOON SETH,
Clerk of Councils.

Assented to by His Excellency the Governor, the 3rd day of July, 1889.

FREDERICK STEWART,
Colonial Secretary.

FIRST SCHEDULE.

EXTRADITION CRIMES.

Murder and attempt to murder.

Manslaughter.

Malicious wounding.

Counterfeiting or altering money, uttering or bringing into circulation counterfeit or altered money.

Forgery, or counterfeiting or altering, or uttering what is forged, or counterfeited or altered, comprehending the crimes designated in the laws of Hongkong as counterfeiting or falsification of paper money, bank notes, or other securities, forgery, or other falsification of other public or private documents, likewise the uttering or bringing into circulation, or wilfully using such counterfeited, forged, or falsified papers.

Embezzlement or larceny.

Receiving stolen goods.

Obtaining money or goods by false pretences.

Crimes against bankruptcy law.

Fraud committed by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any Company, made criminal by any law for the time being in force.

Rape.

Abduction.

Child stealing.

Kidnapping.

False imprisonment.

Burglary, or house-breaking.

Arson.

Robbery with violence.

Threats by letter or otherwise with intent to extort.

Piracy whether by law of nations or by municipal law.

Sinking or destroying a vessel at sea, or attempting to do so.

Assaults on board a ship on the high seas, with intent to destroy life, or to do grievous bodily harm.

Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the master.

Perjury or subornation of perjury.

Malicious injury to property, if the offence be indictable.

Any indictable offence under Ordinance No. 7 of 1865 entitled "An Ordinance to consolidate and amend the Enactments in force in this Colony relating to Larceny and other similar offences" or any Ordinance amending or substituted for the same which is not included in the foregoing list.

Any indictable offence under Ordinance No. 6 of 1865 entitled "An Ordinance to consolidate and amend the Enactments in force in this Colony relating to indictable offences by forgery" or any Ordinance amending or substituted for the same which is not included in the foregoing list.

Any indictable offence under Ordinance No. 10 of 1865 entitled "An Ordinance to consolidate and amend the Enactments in force in this Colony against offences relating to the Coin" or any Ordinance amending or substituted for the same which are not included in the foregoing list.

Any indictable offence under the Ordinance No. 4 of 1865 entitled "An Ordinance to consolidate and amend the Enactments in force in this Colony relating to offences against the person" or any Ordinance amending or substituted for the same which are not included in the foregoing list.

SECOND SCHEDULE.

FORMS.

Form of Order by the Governor to a Magistrate to issue his warrant.

By His Excellency
Governor and Commander-in-Chief of the Colony of Hongkong
and its Dependencies.

To

} Police Magistrates.

Whereas requisition has been made to me by
for the surrender of late of
accused of the commission of the crime of within the
jurisdiction of China: now I hereby, by this order under my
hand and seal, signify to you that such requisition has been made,
and require you to issue your warrant for the apprehension of
such fugitive.

Given under my hand and seal at Victoria, Hongkong, this
day of 18

Governor.

By Command,

Colonial Secretary.

Form of Warrant of apprehension by order of the Governor.

IN THE POLICE COURT AT VICTORIA IN THE COLONY
OF HONGKONG.

To all and each of the Constables of the Hongkong Police Force.

Whereas His Excellency the Governor by order under his hand and seal, hath signified to me that requisition hath been duly made to him for the surrender of late of _____ accused of the commission of the crime of _____ within the jurisdiction of China. This is therefore to command you in Her Majesty's name forthwith to apprehend the said _____ wherever he may be found in the Colony and bring him before me or some other Magistrate sitting in this Court, to show cause why he should not be surrendered in pursuance of the "Chinese Extradition Ordinance, 1889," for which this shall be your warrant.

Dated this _____ day of _____ 18 _____

(Signed), _____,
A Magistrate.

[Seal.]

Form of Order to bring before a Magistrate a criminal already in custody.

IN THE POLICE COURT AT VICTORIA IN THE COLONY
OF HONGKONG.

To the Superintendent of Victoria Gaol and to all and each of the Constables of the Colony.

Whereas His Excellency the Governor, by order under his hand and seal, hath signified to me that requisition hath been duly made to him for the surrender of late of _____ accused of the commission of the crime of _____ within the jurisdiction of China. This is therefore to command you in Her Majesty's name forthwith to bring the said _____ before me or some other Magistrate sitting in this Court, to be dealt with according to the provision of the "Chinese Extradition Ordinance, 1889," for which this shall be your warrant.

Dated the _____ day of _____ 18 _____

(Signed), _____,
A Magistrate.

[Seal.]

Form of Warrant of apprehension without order of the Governor.

IN THE POLICE COURT AT VICTORIA IN THE COLONY
OF HONGKONG.

To all and each of the Constables of the Colony.

Whereas it has been shown to the undersigned, a Magistrate in and for the Colony of Hongkong, that late of _____ is accused of the commission of the crime of _____ within the jurisdiction of China.

This is therefore to command you in Her Majesty's name forthwith to apprehend the said _____ and to bring him before me or some other Magistrate sitting at this Court to be further dealt with according to law, for which this shall be your warrant.

Dated the _____ day of _____ 18 _____

(Signed), _____,
A Magistrate.

[Seal.]

Form of Warrant of Committal.

IN THE POLICE COURT AT VICTORIA IN THE COLONY
OF HONGKONG.

To _____ one of the Constables of the Colony, and to the Superintendent of Victoria Gaol.

On this _____ day of _____ 188 _____ late of _____ is brought before me a Magistrate of the Colony of Hongkong, to show cause why he should not be surrendered in pursuance of _____

