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GOVERNMENT NOTIFICATION.—No. 140.

It is hereby notified that His Excellency the Governor has been pleased to appoint Inspector WILLIAM ROBERTSON to be an Inspector of Nuisances under section 9 of the Public Health Ordinance, No. 24 of 1887.

By Command,

J. H. STEWART LOCKHART,
Colonial Secretary.

Colonial Secretary's Office, Hongkong, 6th March, 1899.

GOVERNMENT NOTIFICATION.—No. 141.

With reference to Government Notification No. 459 of the 28th October, 1897, it is notified that WILLIAM WILSON, having returned to the Colony, has been re-appointed under section 2 (d) of Ordinance 9 of 1892, to be a Surveyor of Boilers of unlicensed Steamships under 60 tons burden, and that the temporary appointment of EDWARD CHARLES WILKS in that capacity is terminated accordingly.

- By Command,

J. H. STEWART LOCKHART,
Colonial Secretary.

Colonial Secretary's Office, Hongkong, 8th March, 1899.

GOVERNMENT NOTIFICATION.—No. 142.

His Excellency the Governor has been pleased to appoint CHARLES WILLIAM DUGGAN to be Secretary of the Sanitary Board under section 6 of Ordinance No. 24 of 1887 subject to the approval of the Secretary of State for the Colonies.

By Command,

J. H. STEWART LOCKHART,
Colonial Secretary.

Colonial Secretary's Office, Hongkong, 11th March, 1899.

GOVERNMENT NOTIFICATION.—No. 143.

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

Ordinance No. 7 of 1899.—An Ordinance to amend and consolidate the law relating to Prisons.

By Command,

J. H. STEWART LOCKHART,
Colonial Secretary.

Colonial Secretary's Office, Hongkong, 7th March, 1899.

No. 7 OF 1899.

An Ordinance to amend and consolidate the
law relating to Prisons.

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HENRY A. BLAKE,
Governor.

[7th March, 1899.]

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

Short title.

1. This Ordinance may be cited as The Prisons Ordinance, 1899.

Governor may make orders in certain matters. [Ord. 18 of 1885, s. 1, as amended by Ord. 4 of 1893.]

2. The Governor of Hongkong (who is hereafter in this Ordinance referred to as the Governor) may from time to time make, and when made alter, or revoke, orders for any of the following purposes, viz. :—

(a.) To set apart any available sites and buildings for the purpose of a prison.

(b.) To discontinue the use of any prison and appropriate the site and buildings thereof to any other lawful purpose.

(c.) To remove prisoners from one prison to another.

(d.) To appoint fit persons to be respectively superintendents of prisons, assistant superintendents, chaplains, surgeons, chief warders and such subordinate officers for the service of prisons as the Governor may think necessary, and to remove such persons from their offices, and to regulate the salaries to be paid to such persons.

Victoria Gaol deemed a prison. [Ord. 18 of 1885, s. 2.]

3. The site and buildings and prison known as Victoria Gaol at the time of the coming into operation of this Ordinance shall be deemed to be a prison duly set apart under section 2 of this Ordinance.

Present officers to be deemed appointed under this Ordinance. (*Ibid.*, s. 3.)

4. The Superintendent and Assistant Superintendent, chief warden and officers of Victoria Gaol at the time of the commencement of this Ordinance shall be deemed to be duly appointed under section 2 of this Ordinance. But such officers shall hold their offices by the same tenure, and upon like terms and conditions, as if this Ordinance had not passed.

Superintendents. (*Ibid.*, s. 4.)

5. Prisoners shall be under the control of superintendents, assistant superintendents of prisons and chief warders assisted by the prison officers.

Custody of prisoners. (*Ibid.*, s. 5.)

6. A prisoner shall be deemed to be in legal custody whenever he is being taken to or from, or whenever he is confined in, any prison in which he may be lawfully confined, or whenever he is working outside or is otherwise beyond the walls of any such prison in the custody or under the control of a prison officer belonging to such prison, and any constable or other officer acting under the order of any Judge or Justice of the Peace, or officer having power to commit a prisoner to prison, may convey a prisoner to or from any prison to or from which he may be legally committed or removed.

Separation of prisoners. (*Ibid.*, s. 6.)

7. The requisitions of this Ordinance with respect to the separation of prisoners are as follows :—

(1.) In every prison separate cells shall as far as possible be provided equal in number to the average of the greatest number of prisoners who have been confined in such prison at any time during each of the preceding five years.

- (2.) In every prison punishment cells shall be provided or appropriated for the confinement of prisoners for prison offences.
- (3.) In a prison, containing female prisoners as well as males, the women shall be imprisoned in separate buildings or separate parts of the same buildings, in such manner as to prevent their seeing, conversing, or holding any intercourse with the men.
- (4.) In a prison where debtors are confined, means shall be provided for separating them altogether from the criminal prisoners.
- (5.) In a prison where criminal prisoners are confined, such prisoners shall, as far as possible, be prevented from holding any communication with each other, either by every prisoner being kept in a separate cell by day and by night, except when he is at chapel or taking exercise, or by every prisoner being confined by night to his cell, and being subjected to such superintendence during the day as will, consistently with the provisions of this Ordinance, prevent his communicating with any other prisoner.
- (6.) In a prison where prisoners under the age of sixteen years are confined, they shall be kept separate from prisoners of or above that age.

8. No cell shall be used for the separate confinement of a prisoner unless it has been approved in writing by the Governor for the purpose, and the Governor shall not give his approval in respect of any cell unless he is satisfied that it is of such a size, and is lighted, ventilated, and fitted up in such a manner as may be requisite for health, and furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison; but a distinction may be made in respect of use of cells for the separate confinement of prisoners during long and short periods of imprisonment, and in respect of the use of cells in which the prisoner is intended to be employed during the whole day, or for a long or short part thereof; and the Governor's approval may be varied accordingly, so as to express the period of imprisonment for which each cell may be considered fit, and the number of hours in the day during which the prisoners may be employed therein.

Cells to be approved by the Governor. (*Ibid*, s. 7.)

No punishment cell shall be used unless it has been approved in writing by the Governor, and the Governor shall not give his approval in respect of any such cell unless he is satisfied that it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and that it can be used as a punishment cell without detriment to the prisoner's health, and the time for which it may be so used shall be stated in the approval.

Every approved cell shall be distinguished by a number or mark placed in a conspicuous position, and shall be referred to by its number or mark in the Governor's approval, and the number or mark of any approved cell shall not be changed without the Governor's approval.

Any approval given by the Governor in respect of a cell may be withdrawn on such alteration taking place in such cell as to render the approval, in his opinion, inapplicable thereto, and upon an approval in respect of a cell being withdrawn, that cell shall cease to be an approved cell for the purposes of this Ordinance.

9. Hard labour for the purposes of sentences of imprisonment with hard labour shall be of such classes, character and description as may be appointed by rules made by the Governor-in-Council under this Ordinance or under any Ordinances amending the same. Prisoners undergoing hard labour may, in the discretion of the Superintendent of the Victoria Gaol, be employed under the control of officers belonging to the prison, on such public works outside the walls of the prison as the Governor may from time to time approve.

Hard labour. (*Ibid*, s. 8 altered.)

10. In every prison, prisoners convicted of misdemeanour, and not sentenced to hard labour, shall be divided into at least two divisions, one of which shall be called the first division; and whenever any person convicted of misdemeanour is sentenced to imprisonment without hard labour, the Court or Judge before whom such person has been tried may order, if such Court or Judge thinks fit, that such person shall be treated as a misdemeanant of the first division, and a misdemeanant of the first division shall not be deem-

Misdemeanants of the 1st and 2nd divisions. (*Ibid*, s. 9.)

ed to be a criminal prisoner within the meaning of this Ordinance. Every person imprisoned under any rule, order, or attachment for contempt of Court shall be treated as a misdemeanant of the first division.

Escaping or attempting, or aiding, in escape.
(*Ibid.*, s. 10 enlarged.)

11. Every person who escapes or attempts to escape from any prison, or who aids any prisoner in escaping or attempting to escape from any prison, or who, with intent to facilitate the escape of any prisoner, conveys or causes to be conveyed into any prison any mask, dress, or other disguise, or any letter, or any other article or thing, shall be guilty of felony, and on conviction be sentenced to imprisonment with hard labour for a term not exceeding two years.

Introduction of prohibited articles into prison.
(*Ibid.*, s. 11 modified.)

12. Every person who, contrary to any prison rule or regulation, brings or attempts by any means whatever to introduce into any prison any spirituous or fermented liquor or tobacco or opium, and every officer of a prison who suffers any spirituous or fermented liquor or tobacco or opium to be sold or used therein, contrary to the prison regulations, shall be sentenced on conviction to imprisonment for a term not exceeding six months with or without hard labour, or to a penalty not exceeding two hundred dollars, or to both in the discretion of the Court, and any officer of a prison convicted under this section shall, in addition to any other punishment, forfeit his office.

Conveying documents or articles out of a prison.
(*Ibid.*, s. 12.)

13. Every person who, contrary to prison rules or regulations, conveys or attempts to convey any letter or other document, or any article whatever not allowed by such rules or regulations, into or out of any prison, shall on conviction incur a penalty not exceeding one hundred dollars, and, if an officer of the prison, shall forfeit his office, but this section shall not apply in cases where the offender is liable to a more severe punishment under any other provision of this Ordinance.

Superintendent to notify penalties for breaches of the three preceding sections.
(*Ibid.*, s. 13.)

14. The Superintendent shall cause to be affixed in a conspicuous place outside the prison a notice in English and in Chinese setting forth the penalties that will be incurred by persons committing any offence in contravention of the three preceding sections.

Inquest to be held on a death in prison. Certain persons disqualified from serving as a Juror at such inquests.
(*Ibid.*, s. 14.)

15. It shall be the duty of the Coroner to hold an inquest on the body of every prisoner who may die within a prison, and in no case shall any officer of the prison, or any prisoner confined in the prison, or any person engaged in any sort of trade or dealing with the prison, be a juror on such inquest.

Protection of persons against acts done under this Ordinance.
(*Ibid.*, s. 15.)

16. If any suit or action is prosecuted against any person for any thing done in pursuance of this Ordinance, such person may plead that the same was done by authority of this Ordinance; and if a verdict passes for the defendant, or the plaintiff becomes non-suited, or discontinues his action after issue joined, or if, upon demurrer or otherwise, judgment be given against the plaintiff, the defendant shall recover costs as between solicitor and client and have the like remedy for the same as any defendant has by law in other cases; and though a verdict be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial takes place certifies his approbation of the action and the verdict obtained thereupon.

Misconduct of subordinate officers.
[Compare Ord. 13 of 1889 and section 2 of Ord. 15 of 1896.]

17. Every prison officer, who, after having duly engaged and bound himself to serve as such officer, absents himself from his duties, or who, upon being dismissed or permitted to resign from or ceasing to belong to the service of the prison, does not deliver up all arms, accoutrements, appointments, and things entrusted to him for the performance of his duty as such officer shall be liable to a fine not exceeding one hundred dollars, or to imprisonment, with or without hard labour, for any term not exceeding three months, and every such offender shall forfeit all pay during such imprisonment.

Governor-in-Council may make rules.
(*Ibid.*, s. 17 altered.)

18. The Governor-in-Council shall have power to make rules for the regulation and government of prisons, and for the duties and conduct of the officers and other persons employed in prisons, and for the punishment by fine, degradation to a lower rank or pay, discharge, or dismissal of such officers or other persons and for the duties of the

Visiting Justices, and for the conditions under which visitors may be allowed in prisons, and for the classification, diet, clothing, maintenance, employment, discipline, instruction, and correction of prisoners, and the remission of a portion of their sentences, and the granting of gratuities to them, and for all other matters relating to prisons, and may from time to time repeal, alter, or add to such rules: Provided that such rules shall not be inconsistent with anything contained in this Ordinance. The Governor-in-Council shall also have power by such rules to impose any punishment or penalty whatever which he may think fit for the breach of any such rules. All such rules shall be published in the Government Gazette, and shall from the date of such publication be binding on all persons in the same manner as if they had been contained in this Ordinance. But every such rule or repeal or alteration of a rule may be disallowed by Her Majesty, and shall thereupon cease to have effect from the date of the publication of such disallowance in the Government Gazette. Until rules shall have been made under this section the prison rules and regulations in force at the commencement of this Ordinance shall remain in force so far as they are not inconsistent with anything contained in this Ordinance.

19. The Governor shall from time to time appoint, with their consent, Justices of the Peace to be Visiting Justices for periods to be specified in such appointments.

Visiting Justices shall, during the period for which they are appointed, from time to time at frequent intervals visit all prisons, and hear any complaints which may be made to them by the prisoners, and shall report on any abuses within the prisons, or any repairs that may be required, and shall further take cognisance of any matters of pressing necessity and within the powers of their Commission as Justices, and do such acts and perform such duties in relation to prisons as they may be required to do or perform by the Governor, but subject to the rules with respect to the duties of Visiting Justices to be made by the Governor in Council under this Ordinance.

20. Where a person is committed to prison for non-payment of a sum adjudged to be paid by the conviction of any court of summary jurisdiction, then, on payment to the Superintendent of the prison within which he is confined or to such person as such Superintendent may authorize, or to the First Clerk at the Magistracy, of any sum in part satisfaction of the sum so adjudged to be paid, and of any charges for which the prisoner is liable, the term of imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which the prisoner is sentenced as the sum so paid bears to the sum for which he is so liable:

Provided nevertheless that the provisions of this section shall not apply to any sum of money which is ordered to be awarded to any person aggrieved by way of compensation or amends for any injury, damage, or loss to his person or property.

21. Ordinances 18 of 1885, 13 of 1889, 15 of 1896 and 4 of 1898 are hereby repealed.

Passed the Legislative Council of Hongkong, this 27th day of February, 1899.

J. G. T. BUCKLE,
Clerk of Councils.

Assented to by His Excellency the Governor, the 7th day of March, 1899.

J. H. STEWART LOCKHART,
Colonial Secretary.