

Police, 26 in the Gaol, 17 in the Harbour Master's office, 27 under the Sanitary Board, 32 in the Public Works Department, 9 in the Colonial Secretary's Office, 10 in Queen's College, 24 in the Medical Department, etc.—and the amount that will be necessary to pay that increased exchange compensation during their service in the Colony would be about \$120,000 a year, as far as I can see. These are the facts—the only facts—I have and am able to place before you. My own view is that it would be very injurious to this Colony, if it were placed upon a basis of inferiority to the Straits Settlements and the Malay States, and further I may tell you that we have the greatest difficulty at the present moment with our present salaries in procuring men for the Gaol, the Police, the Water Police and those small appointments for which Europeans are required. The Colonial Secretary has placed in my hands a letter from the senior unofficial member, Mr. Chater. He states that he is sorry at being unable to be present and adds:—‘I am very strongly of opinion that our Civil Service here should not be placed in a worse position than in Singapore, and I feel sure that the community would be of the same opinion.’ That is all I have to say upon the subject, and I place it before you.”

Honourable Dr. HO KAI.—“I understand, Sir, the unofficial members are chiefly concerned in this matter and that the official members will neither discuss nor vote.”

His Excellency the GOVERNOR.—“No, they will not.”

Dr. HO KAI then addressed the Council, and moved the following resolution:—

“That the decision of the Right Honourable the Secretary of State for the Colonies regarding the further grant of exchange compensation to Civil servants of this Colony, subject to the approval of the Legislative Council, be approved by this Council.”

Mr. BELL-IRVING seconded.

Mr. WEI YUK supported the resolution.

Mr. WHITEHEAD expressed his sympathies with the Civil servants, but asked for a postponement of the motion until the next meeting of Council.

His Excellency the Governor replied.

Mr. THURBURN supported the resolution.

His Excellency the Governor addressed the Council.

Mr. WHITEHEAD withdrew his motion.

The resolution was put to the Council, and carried unanimously by the Unofficial Members. The Official Members did not vote.

BIRTHS AND DEATHS REGISTRATION AMENDMENT BILL.—This item was discharged from the Orders of the Day.

CHINESE EMIGRATION AMENDMENT BILL.—The Bill entitled An Ordinance to further amend the Chinese Emigration Consolidation Ordinance, 1889, was recommitted.

Council resumed, and Bill reported with amendments.

The Attorney General moved the third reading of the Bill.

The Colonial Secretary seconded.

Question—put and agreed to.

Bill read a third time.

Question put—that this Bill do pass.

Bill passed.

ADJOURNMENT.—The Council then adjourned *sine die*.

W. J. GASCOIGNE,
Officer Administering the Government.

Read and confirmed, this 27th day of February, 1902.

R. F. JOHNSTON,
Acting Clerk of Councils.

GOVERNMENT NOTIFICATION.—No. 107.

The following Bills, which were read a first time at a Meeting of the Legislative Council held yesterday, are published.

R. F. JOHNSTON,
Acting Clerk of Councils.

Council Chamber, Hongkong, 28th February, 1902.

A BILL

ENTITLED

An Ordinance to provide for the more effectual control of Chair and Jinricksha Coolies in private employ.

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 Private Coolie Ordinance, 1902. Short title.

2. In this Ordinance, the word "Coolie" means a Chinese employed as the bearer of a private chair or the puller of a private jinricksha. Interpretation.

3. In the absence of any contract to the contrary, the contract of service between a coolie and his employer shall be deemed to be a contract of service for one calendar month at least and, unless then determined, shall be deemed to be a contract of service determinable at one calendar month's notice. Contract of service presumed to be by the month.

4. In the absence of any contract to the contrary, every coolie shall, by his contract of service, be deemed to have contracted to perform such additional services as carrying notes, running errands, and performing such other light duties inside and outside the house as he may be called upon by his employer to perform. Undertaking to perform certain services implied in contract.

5. Every coolie who shall neglect his duty or absent himself from his duty without the leave of his employer without just cause (the onus of proof of which shall be upon such coolie), or shall leave his employer's service without giving one calendar month's notice to such employer, or shall disobey any lawful and reasonable order of his employer, or shall use any abusive or insulting language to his employer, or shall behave abusively or insultingly to his employer, or be guilty of riotous or disorderly conduct, shall, upon summary conviction before a Magistrate, be liable to a penalty not exceeding fifty dollars and, in default of payment, to imprisonment with or without hard labour for a period not exceeding three months. Misconduct and penalty.

Objects and Reasons.

Private chair and jinricksha coolies have almost invariably in this Colony been hired by the month and the usual custom has been to provide them with free quarters on their employer's premises. Until recent times it was generally supposed that sub-section (3) of section 3 of Ordinance No. 14 of 1845, which dealt with misconduct on the part of domestic servants, applied to such private coolies. Doubts, however, arose as to whether they technically came within the term "domestic servants," and in consequence there has of late been no control whatever over them. There is no reason why such coolies, residing on the premises, should be exempted from the penalty for misconduct to which house boys, house coolies and cooks have been liable for considerably more than fifty years in this Colony. This Ordinance places them accordingly on an equality with ordinary Chinese domestic servants in that respect.

Section 4 makes it clear that an agreement to perform the additional services which it has always been the custom for chair and jinricksha coolies to perform, is implied in the contract of service unless expressly excluded.

The misconduct of many of the coolies of the class mentioned in this Ordinance has formed of late the subject of numerous complaints, and it is trusted that the provision of a penalty for such misconduct may conduce to some improvement in this respect.

W. MEIGH GOODMAN,
Attorney General.

A BILL

ENTITLED

An Ordinance to define the meaning of the word
“writers”, as used in Ordinance No. 3 of 1871.

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 Definition of
“Writers” Ordinance, 1902.
- Interpreta- 2. The word “writers” in section 5 of Ordinance No. 3
tion of the of 1871 shall be deemed to include “Law Agents” as
word defined in section 1 of the Act to amend the Law relating
“writers.” to Law Agents practising in Scotland (36 & 37 Vict. c. 63).
36 & 37 Vict.
c. 63.

Objects and Reasons.

This Ordinance is passed to prevent, in future, any
doubts as to the meaning of the word “writers” as used in
our local Ordinance relating to the admission of Barristers,
Solicitors, &c. This has become desirable in view of the
passing of the Colonial Solicitors Act, 1900, and the Order
of His Majesty in Council made thereunder and dated the
4th November, 1901.

W. MEIGH GOODMAN,
Attorney General.

A BILL

ENTITLED

An Ordinance to amend The New Territories
Land Court Ordinance, 1900, (No. 18 of 1900)
and The New Territories Land Court Amend-
ment Ordinance, 1901, (No. 27 of 1901).

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 New Territories
Land Court Amendment Ordinance, 1902.
- Repeal of 2. Section 4 (15 A) of Ordinance No. 27 of 1901 is
section 4 hereby repealed.
(15 A) of
Ordinance
No. 27 of
1901.
- New section 3. The following section, to be numbered 15A, is hereby
inserted in inserted in the New Territories Land Court Ordinance, 1900,
Ordinance 18 between section 15 and section 16 of that Ordinance:—
of 1900.

“15A. Whenever the Governor in Council shall decide
that any land in the New Territories the ownership
of which has not been determined by the Court
ought to be resumed for a public purpose within the
meaning of section 2 of the Crown Lands Resumption
Ordinance, 1900, it shall be lawful for the Governor
to proclaim by Notification in the Gazette that such
land is required by the Government, and such land
shall forthwith revert to the Crown and all rights of
every claimant his assigns or representatives and of
every other person in upon or over or in respect of
such land or any part thereof shall thenceforth
absolutely cease and determine.

Provided nevertheless that the Court shall proceed
in due course to bear and determine every claim in
relation to such land as if such land had not been
acquired under this section, and that such claim or
claims, if allowed, and their allowance shall be
reported to the Governor who shall thereupon refer
the matter back to the Court to decide and award
what compensation shall be paid to the claimant or
claimants and in what manner such compensation
shall be apportioned between the different claimants
if there is more than one, and the amount so awarded

by the Court as compensation, together with interest thereon at the rate of seven per cent. per annum from the date of the reverting of the land to the Crown, shall be paid by the Government to such person or persons as the Court may direct. The decision of the Court as to the amount of compensation shall be final.

Objects and Reasons.

The Secretary of State desired the following alterations to be made in Section 4 (15 A) of the New Territories Land Court Amendment Ordinance, 1901, viz.:—

1st.—The omission of the words “the acquisition of” in the second line.

2nd.—The substitution of the words “ought to be resumed for a public purpose within the meaning of Section 2 of the Crown Lands Resumption Ordinance, 1900,” for the words, “is required in the public interests”.

It has been deemed simpler to repeal the Section in question and to re-enact it with the above mentioned alterations. These amendments render the language less vague, and also introduce a definite reference to the Crown Lands Resumption Ordinance, 1900, which seems desirable.

W. MEIGH GOODMAN,
Attorney General.

A BILL

ENTITLED

An Ordinance to amend the Ordinance to provide for the Registration of Deeds, Wills, Judgments, and Conveyances affecting real or immoveable property in Hongkong (No. 3 of 1844).

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 Land Registry Office (Fees) Amendment Ordinance, 1902, and shall be read and construed together with Ordinance No. 3 of 1844, hereafter called the principal Ordinance. Short title.

2. Section 14 of the principal Ordinance and the List numbered 2 in the Schedule thereto, are hereby repealed. Repeal.

3. In lieu of the said section 14 the following section, to be numbered 14, is hereby substituted:— New section 14 substituted in Ordinance No. 3 of 1844.

“14. The fees mentioned in the List numbered 2 in the Schedule to this Ordinance shall be paid to the Land Officer for and in respect of the several matters and things therein stated. of 1844.”

Such fees shall be paid by means of stamps, which shall be duly cancelled by the Land Officer, who shall render to the Colonial Treasurer, for the public purposes of the Colony, an accurate account of all such fees.”

4. In lieu of the said repealed List, the following List, to be numbered 2, is hereby substituted in the Schedule to the principal Ordinance:— New List 2 substituted in the Schedule to Ordinance No. 3 of 1844.

SCHEDULE.

“List No. 2.

1. For registering (in accordance with the requirements of Ordinance No. 3 of 1844) every Deed, Assignment, Mortgage, or other Instrument in writing (except as hereinafter provided) where such Deed, Assignment, Mortgage, or other Instrument, relates only to one Lot or one section or portion of a Lot as registered or intended to be registered in the Land Office, \$5

2. For registering every other Deed, Assignment, Mortgage, or Instrument in writing, except as hereinafter provided,	\$10
3. For registering every Will, Probate, Letters of Administration, Judgment, Decree, Prohibitory Order, or other Order of Court, or receiving any verified Certificate, ..	\$1
4. For registering a Lis Pendens,	\$1
5. For entering a discharge of a Lis Pendens,	\$2
6. For a certificate of such Entry of discharge,	\$1
7. For receiving for safe custody any Deed, Will, or other Instrument,	\$5
8. For every Search,	\$1
9. For Certificate of receipt of any document, or certifying a copy thereof, and for every other Certificate, ..	\$5
10. For every uncertified copy of any Will, Deed, Memorial, or other Instrument, per folio of 72 words,	25 cents.
11. For registering Memorial of a Writ of Foreign Attachment,	\$1
12. For filing a Certificate that a Writ of Foreign Attachment is dissolved, or that the Judgment in the action is satisfied,	\$1
13. For the signature of the Governor to any Crown Lease or other document, including affixing the public Seal to such Lease or other document, where such Seal is necessary,	\$5
14. For parchment plans attached to a Crown Lease and Counterpart, or other document,	\$10 "

Fees hitherto charged legalized.

5. All fees hitherto charged and received by the said Land Officer under the authority of the Colonial Government and accounted for by him to the Colonial Treasurer for the public purposes of the Colony, shall be deemed to have been legally charged and received by the said Land Officer.

Objects and Reasons.

Since the Ordinance for the Registration of Deeds, etc., in the Land Office (Ordinance No. 3 of 1844) came into force, statutory provision has been made for the registration of a Lis Pendens (Ordinance No. 10 of 1856), and for the registration of its discharge, as well as for the issue by the Land Officer of a Certificate of entry of such discharge (Ordinance No. 2 of 1896).

Moreover, the Code of Civil Procedure, Ordinance No. 5 of 1901, requires a Writ of Foreign Attachment to be registered in the Land Office, and makes provision for the filing in such office of a Certificate that the Writ has been dissolved, or that the judgment in the action has been satisfied (see section 462). Fees to be paid for these matters were fixed by the said Code.

It became, therefore, in any case desirable to amend the original List of Fees specified in Ordinance No. 3 of 1844, and to bring it into line with the present practice of the Office.

Some few fees seem also to have been received and paid over to the Colonial Treasurer, without express Statutory authority, the Land Officer acting on instructions received from time to time by the Government, as for instance in the case of the reasonable charges for parchment plans and for affixing the Public Seal to Crown Leases.

Ordinance No. 5 of 1888 authorizes the charge of \$5 for the official Signature of the Governor, and it has been the practice of the Land Office to charge this fee for affixing the Public Seal to a Crown Lease which is also signed by the Governor, such practice having been authorized for more than fifty years. It is provided by this Ordinance that one fee shall cover both the Seal and the Signature.

It seemed better that all such fees should receive proper Statutory authority and their receipt heretofore be validated and legalized.

The fees, in many instances, might, not unfairly, have been raised in view of the greatly diminished value of the dollar now, as compared with A.D. 1844; but this has only been done in one instance, namely, where deeds, etc., are registered relating to more than one Lot or section of a Lot. In some instances several Lots are included in one instrument and additional work is thereby thrown on the Land Officer. In such cases the registration fee is raised to ten dollars instead of five.

W. MEIGH GOODMAN,
Attorney General.

A BILL

ENTITLED

An Ordinance to further amend The Bankruptcy Ordinance, 1891.

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 Bankruptcy Amendment Ordinance, 1902. Short title.
2. This Ordinance shall be read and construed as one with the Bankruptcy Ordinance, 1891, (as amended by Ordinances No. 6 of 1892, No. 24 of 1895 and No. 2 of 1901) hereinafter called the principal Ordinance. Construction.
3. The word "debtor" in section 4 of the principal Ordinance shall be deemed to include:—
 - (a.) A person who is domiciled in the Colony.
 - (b.) A person who within a year before the date of the presentation of the petition has ordinarily resided or had a dwelling house or place of business in the Colony.
 - (c.) A person who, though not himself personally within the Colony, carries on business by an agent within the Colony and possesses assets therein.

Meaning of the word "debtor" in section 4 of Ordinance No. 20 of 1901.

In the case of a person who is not a British subject, the meaning of the word "debtor" is not confined to a person who is personally present in the Colony when he commits the act which, by the principal Ordinance, is made an act of bankruptcy.

Memorandum by the Attorney General, on the Bill entitled an Ordinance to further amend the Bankruptcy Ordinance, 1891.

The Bankruptcy Amendment Ordinance, 1901, (No. 2 of 1901) was sent by the Secretary of State for the consideration of the Board of Trade.

It was returned with a copy of an opinion by Mr. MUIR MACKENZIE, which dealt, not only with the Hongkong Ordinances, but with the wider question of the desirability of modifying the Bankruptcy law in England and the Colonies generally, so as to obviate the hardship to local creditors in such circumstances as those discussed by the House of Lords in the case of *Cooke v. The C. A. Vogeler Co.*, Law Reports (1901) Appeal Cases p. 102.

The main object of the Bankruptcy Amendment Ordinance, 1901, was, however, to remedy another kind of hardship, which still more urgently required legislative action in Hongkong, viz., the case of firms carrying on business there, some of the partners being neither British subjects nor domiciled in the Colony.

Referring, however, to the special Bankruptcy legislation of this Colony, Mr. MUIR MACKENZIE points out what he deems to be a singular defect in the Bankruptcy Amendment Ordinance, 1901, viz., that it does not deal with the case of a foreigner trading in his own name by an agent in the Colony. Cases of that kind occur seldom, if ever, among the Chinese in Hongkong, and the Ordinance in question was passed to meet the hardship disclosed by the local case of *Re Kung Hing ex parte Ah Wee* (July 9th, 1900). It was approved of both by the Chief Justice who tried the case in question and by the Chamber of Commerce.

Mr. MUIR MACKENZIE suggests the desirability of an enactment providing that "a debtor" in section 4 of the Bankruptcy Ordinance, 1891, should mean that which, in the Appellant's argument in *Cooke v. Vogeler* it was contended it did mean, namely, a person who fulfilled the requirements of sub-section 1 (d.) of section 6 of the English Act of 1883, and that the meaning of "a debtor" should not, in the case of a foreigner carrying on business in the Colony, be confined to a person who is personally present in the jurisdiction when he does the act which by the Statute is made "an act of bankruptcy."

Section 4 of Ordinance 2 of 1901 made the wording of section 6 (1.) (d.) of our local Bankruptcy Ordinance precisely similar to section 6 (1.) (d.) of the English Act.

Section 6 (1.) (d.) in both the English Act and the Hongkong Ordinance, therefore, now reads as follows :—

(d.) The debtor is domiciled in the Colony or, within a year before the date of the petition, has ordinarily resided or had a dwelling house or place of business in the Colony.

The object of the present Ordinance is to make the further amendment pointed out by Mr. MUIR MACKENZIE as desirable.

There can be little doubt that Ordinance No. 2 of 1901, as supplemented by this Ordinance, effects a considerable improvement in our local law, having regard to the special circumstances of Hongkong.

The Lord CHANCELLOR in *Cooke v. Vogeler* stated :—

“I am by no means prepared to say that it might not be a reasonable thing to apply the English law of bankruptcy to a trader who, though himself personally abroad, exercised a trade through the instrumentality of an agent, and possessed assets in this country capable of being reached by bankruptcy administration.”

It is satisfactory that, at present, the Bankruptcy Amendment Ordinance, 1901, has not been disallowed. It deals chiefly with Bankruptcy proceedings against firms, and Chinese firms in this Colony are very numerous and are constituted in a manner peculiar to China, and legislation applicable to the special requirements of this Colony, though perhaps not suited to the business conditions obtaining in England and most of the other Colonies, is necessary here.

Although, in England, a firm cannot be adjudicated Bankrupt there is no reason why this should be so in Hongkong. The chief practical effect here of such an adjudication is to render the joint and several property of all the partners, so far as it can be got at, available to pay debts, and for years previous to the local decision referred to (July, 1900) Chinese firms had been adjudicated Bankrupt without any special difficulty arising.

In practice, property in China, out of the jurisdiction, cannot be obtained by the trustee; and, as regards any alteration of status, a Chinaman out of the jurisdiction who does not come to Hongkong would probably care little for the adjudication and not be sensible of any change of status whatever.

The chief advantage is that the joint property of the firm in this Colony would be affected, and while it is often most difficult to ascertain who the partners really are and what property each may individually possess, it is much easier to ascertain whether certain property belongs to the firm (with its fancy name) or not.

W. MEIGH GOODMAN,
Attorney General.

A BILL

ENTITLED

An Ordinance to further amend the Supreme Court Summary Jurisdiction Ordinance, 1873.

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 for all purposes as the Supreme Court Summary Jurisdiction Amendment Ordinance, 1902. Short title.
2. Section 2 of Ordinance No. 14 of 1873 is hereby amended by substituting for the words and figures "13 of 1873" the words and figures "5 of 1901". Amendment of section 2 of Ordinance No. 14 of 1873.
3. The definition of "Principal Register" which occurs in section 2 of Ordinance No. 14 of 1873 is hereby repealed and the following definition is substituted therefor:— *Ibid.*

"Principal Register" shall mean the Cause Book kept under the Code of Civil Procedure, 1901.
4. Section 25 of Ordinance No. 14 of 1873 is hereby amended by substituting for the word "twelve" the words "twenty-four". Amendment of section 25 of Ordinance No. 14 of 1873.
5. Section 35 of Ordinance No. 14 of 1873 is hereby repealed. Repeal of section 35 of Ordinance No. 14 of 1873.
6. Section 50 of Ordinance No. 14 of 1873 is hereby amended by substituting for the words "at present" the words "from time to time". Amendment of section 50 of Ordinance No. 14 of 1873.

Objects and Reasons.

The Code of Civil Procedure, 1873, was repealed by Ordinance No. 6 of 1901, and the new Code of Civil Procedure (Ordinance No. 5 of 1901) has taken its place. As, however, in the Interpretation clause of Ordinance No. 14 of 1873, dealing with Summary Jurisdiction, the expression "Code of Civil Procedure" was defined to mean "the Code of Civil Procedure introduced by Ordinance No. 13 of 1873," some difficulty has arisen, and it has been thought desirable to leave no doubt that the provisions of the old Code of Civil Procedure no longer apply to the Supreme Court in its Summary Jurisdiction and to make the provisions of the new Code applicable. Section 2.

Under the new Code of Civil Procedure, no register of suits is established: its place is taken by a Cause Book. (See section 690 of the new Code.) Section 3.

The twelve hours' notice of special defence has been found in practice to be too short. Section 4.

Section 35 of Ordinance No. 14 of 1873 appears to be superfluous, now that the new Code is substituted for that of 1873. Section 5.

The alteration in section 50 is necessary to make the forms in use *at any time* in the Supreme Court applicable to the Summary Jurisdiction of that Court. Section 6.

W. MEIGH GOODMAN,
Attorney General.