

9. *Industrial and Reformatory Schools Bill*.—The Attorney General moved the Second reading of the Bill intituled “An Ordinance to provide for and regulate Industrial and Reformatory Schools.”

The Colonial Secretary seconded.

Question—put and agreed to.

Bill read a second time.

Council in Committee on the Bill.

On Council resuming, the Attorney General reported that the Bill had passed through Committee without amendment and moved that it be read a third time.

The Colonial Secretary seconded.

Question—put and agreed to.

Bill read a third time and passed.

ADJOURNMENT.

10. The Council then adjourned until Thursday, the 7th day of April, 1932, at 2.30 p.m.

W. PEEL,
Governor.

Confirmed this 7th day of April, 1932.

R. A. C. NORTH,
Deputy Clerk of Councils.

No. 209.—His Excellency the Governor has given his assent, in the name and on behalf of His Majesty the KING, to the following Ordinance passed by the Legislative Council :—

Ordinance No. 7 of 1932.—An Ordinance to amend and consolidate the law relating to opium.

HONG KONG.

No. 7 of 1932.

I assent.

L.S.

W. PEEL,
Governor.

8th April, 1932.

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

[8th April, 1932.]

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

PART I.

PRELIMINARY.

1. This Ordinance may be cited as the Opium Ordinance, Short title.
1932.

2.—(1) In this Ordinance,

(a) “Divan keeper” means the occupier or person having Interpreta-
tion.
the use temporarily of any opium divan, or any person Divan
keeper.
having or appearing to have the care or management of
such place, and also any person who acts in any manner
assisting in conducting the business of any such place or
keeping watch in or about the same.

(b) “To export” means to carry or otherwise despatch Exporta-
tion.
out of the Colony or to cause to be carried or despatched
out of the Colony and includes the conveyance of opium out
of the Colony by transit mail or any other mail and the
carriage out of the Colony of opium which was carried into
the Colony by water or by air and which is carried out of
the Colony on the same ship or aircraft on which it was
carried into the Colony with or without any landing or trans-
shipment.

(c) “Implement” means any vessel, utensil, instrument, Implement.
or other thing which has been used, or which is probably
intended to be used, for containing opium, or for preparing
or aiding in preparing any opium, or for smoking opium.

(d) “To import” means to carry or otherwise despatch Importation.
into the Colony or to cause to be carried or otherwise des-
patched into the Colony and includes the conveyance of
opium into the Colony by transit mail or any other mail and
the carriage by water or by air into the Colony of opium
which is intended to be carried out of the Colony on the
same ship or aircraft on which it was carried into the Colony
with or without any landing or transshipment.

- Opium. (e) "Opium" includes raw opium, prepared opium, and opium dross, and every substance in which raw opium, prepared opium or opium dross forms an ingredient.
- Opium divan. (f) "Opium divan" means any place opened, kept, or used—
 (i) for the sale of prepared opium to be smoked in such place; or
 (ii) for the smoking of prepared opium where a fee or its equivalent is charged for such smoking or where any benefit or advantage whatever, direct or indirect, is derived by the keeper of such place in consequence of the smoking of prepared opium in such place.
- Opium dross. (g) "Opium dross" means the residuum produced by smoking prepared opium.
- Possession. (h) Any opium, implement, or other thing shall, for the purposes of this Ordinance, be deemed to be in the possession of any person if he has such opium, implement, or thing in possession, custody or control, by himself or by any other person.
- Person. (i) "Person," except so far as relates to the imposition of the penalty of imprisonment, includes a body corporate and a firm.
- Prepared opium. (j) "Prepared opium" includes every preparation of opium, and every substance in which opium forms an ingredient which preparation or substance is used or intended to be used for smoking, or for use as a substitute for smoking opium.
- Preparing opium. (k) "Preparing opium" includes—
 (i) every act in the process or intended process of converting opium, or any substance or solution in which opium forms an ingredient, into prepared opium, and
 (ii) the subjecting of opium, or of any substance or solution in which opium forms an ingredient, to any degree of artificial heat, for any purpose whatsoever.
- Raw opium. (l) "Raw opium" means any kind of opium not prepared for smoking, chewing, swallowing or injecting and includes the leaves or wrappings in which raw opium has been wrapped, but does not include opium dross.
- Ship. (m) "Ship" includes every description of vessel used in navigation or for the carriage or storage of goods, and includes all aircraft.
- Superintendent. (n) "Superintendent" means the Superintendent of Imports and Exports.
- Wharf. (o) "Wharf" includes every place used as a landing place and every warehouse or place adjoining a landing place or used in connexion therewith.

(2) "Corresponding law" in this Ordinance means any law stated in a certificate purporting to be issued by or on behalf of the government of any place outside the Colony to be a law providing for the control and regulation in that place of the manufacture, sale, use, export and import of opium in accordance with the provisions of the International Opium Convention signed at Geneva in 1925, and any statement in any such certificate as to the effect of the law mentioned in the certificate, or any statement in any such certificate that any facts constitute an offence against that

law, shall be conclusive. Any such certificate shall be admitted in evidence upon production by or on behalf of the Superintendent in any proceeding.

3.—(1) It shall be lawful for the Governor in Council Regulations. to make regulations for any of the following purposes:—

(a) to determine the prices at which prepared opium may be sold to the public;

(b) to regulate the management of places for the sale of prepared opium;

(c) to prescribe the fees, if any, to be payable for licences, permits and authorities issuable under this Ordinance;

(d) to alter or add to any of the forms in the Schedule; Schedule.

(e) generally, to prohibit or control the importation, exportation, manufacture, sale, possession, movement, distribution, and smoking of opium, and the dealing in opium.

(2) All regulations made under this Ordinance shall be laid on the table of the Legislative Council at the first meeting thereof held after the publication in the *Gazette* of the making of such regulations, and if a resolution is passed at the first meeting of the Legislative Council held after such regulations have been laid on the table of the said Council resolving that any such regulation shall be rescinded, or amended in any manner whatsoever, the said regulation shall, without prejudice to anything done thereunder, be deemed to be rescinded, or amended, as the case may be, as from the date of publication in the *Gazette* of the passing of such resolution.

PART II.

RAW OPIUM.

4.—(1) No person shall, whether on his own behalf or on behalf of any other person buy or sell, or supply or procure, or offer to supply or procure, or otherwise deal in or offer to deal in, any raw opium, whether such raw opium be in the Colony or elsewhere, and whether it be ascertained or appropriated or in existence or not, and, whether it be intended that it should be imported into the Colony or not, and no person shall import or export any raw opium or do any act preparatory to or for the purpose of importing or exporting any raw opium, or have any raw opium in his possession. Prohibition of, possession of, and dealing in raw opium.

(2) Subject to the obtaining of a licence granted by the Colonial Secretary before importation, any raw opium which is imported by water, from a place from which such raw opium may by the law of that place legally be exported, under a through bill of lading for any place into which such raw opium may by the law of that place legally be imported, may be imported into the Colony, and may be exported to such place, provided that the following conditions are complied with:—

(a) The ship on which the raw opium is imported shall proceed direct and forthwith to the harbour of Victoria and shall forthwith enter such harbour.

(b) Full particulars as to the description, weight, consignors, consignees and destination of the raw opium, and as to the marks and numbers of the cases in which it is contained, shall appear in the manifest of the said ship.

(c) The presence of the raw opium on board the said ship shall be reported in writing to the Superintendent by the master of the ship within four hours after the arrival of the ship in the harbour of Victoria: provided that if the office of the Superintendent be not open for the four hours immediately after the arrival of the ship in the harbour of Victoria the report required by this paragraph may be made to the inspector on duty at the Central Police Station.

(d) The raw opium shall not be—

- (i) removed from the ship on which it was imported, or
- (ii) in any way moved in the Colony after removal from such ship, or
- (iii) exported,

except under, and in accordance with, a removal or export permit issued by the Superintendent.

(e) The chest, box, case or package containing the raw opium shall be imported, and shall while in the Colony be maintained, unopened and unbroken, unless it be opened or broken during and for the purposes of some search authorised by this Ordinance.

Schedule
Form No. 1.

(f) A certificate in Form No. 1 in the Schedule or in some form which appears to the Superintendent to be equivalent shall accompany the raw opium on the said ship and shall be produced to the Superintendent at least four hours before the raw opium is exported.

(g) The raw opium shall be exported with all reasonable expedition.

(h) The ship on which the raw opium is exported shall, on leaving the harbour of Victoria, proceed direct and forthwith out of the waters of the Colony.

(i) The exportation of the raw opium shall be reported in writing to the Superintendent, by the owner, charterer or agent of the ship, within 48 hours after the departure out of the waters of the Colony of the ship on which the raw opium is exported.

Schedule
Form No. 1.

(3) No export permit shall be issued under paragraph (d) of sub-section (2) until there shall have been produced to the Superintendent a certificate in Form No. 1 in the Schedule or in some form which appears to the Superintendent to be equivalent, and no such export permit shall be issued until the Superintendent is satisfied that such certificate is genuine and relates to the opium sought to be exported and has not been obtained by any misrepresentation.

(4) Sub-section (1) shall not apply to any raw opium imported by the Superintendent and in his possession or under his control.

Licence
under s. 4
(2), and
revocation
of licence,
discretion-
ary.

5. The granting of any licence under section 4 (2) and the revocation of any such licence, shall lie in the absolute discretion of the Colonial Secretary, who may impose any conditions that he may think fit upon the granting of any such licence.

6.—(1) No master of any ship shall allow any raw opium to be removed from his ship except on production of, and in accordance with, a removal or export permit issued by the Superintendent.

Restrictions on movement of raw opium.

(2) No person shall move any raw opium except under and in accordance with a removal or export permit issued by the Superintendent.

7.—(1) Removal and export permits may be in Forms Nos. 2 and 3 respectively in the Schedule.

Permits. Schedule. Forms Nos. 2 and 3.

(2) The issue of every removal and export permit shall be in the absolute discretion of the Superintendent, who may vary the forms of permit in the First Schedule and may impose any conditions that he may think fit.

8. The Superintendent shall furnish the master of every ship carrying raw opium for export with a memorandum containing the particulars set forth in Form No. 4 in the Schedule, and no ship carrying raw opium shall depart from the Colony without such memorandum.

Memorandum of raw opium exported to be furnished to master. Schedule. Form No. 4.

PART III.

PREPARED OPIUM.

9. The exclusive right of preparing opium and of selling prepared opium in the Colony is vested in the person for the time being lawfully performing the duties of Superintendent.

Exclusive right of preparing and selling prepared opium.

10. The Superintendent may, in his discretion, appoint suitable persons to sell prepared opium, subject to such conditions as he may think fit, and may cancel any such appointment.

Sale of prepared opium.

11. No person except the Superintendent shall prepare opium within the Colony or import any prepared opium or do any act preparatory to or for the purpose of importing any prepared opium.

Preparation of opium and importation of prepared opium prohibited.

12.—(1) No person except the Superintendent shall have in his possession any prepared opium other than Government prepared opium, or any opium dross exceeding one tael.

Possession of prepared opium other than that prepared by Government, or dross, prohibited.

(2) The onus of proof that any prepared opium is Government prepared opium shall rest upon the person alleging the same.

Onus.

13.—(1) No person except the Superintendent or a person appointed by him shall sell or offer or expose for sale any prepared opium, or any opium dross.

Sale and possession of prepared opium and dross.

(2) No person except the Superintendent or a person appointed by him under section 10 or a passenger holding a permit under section 20 shall have in his possession more than five taels of prepared opium.

14.—(1) No prepared opium or opium dross shall be sold to, or purchased, smoked or possessed by, any person under twenty-one years of age.

Provision as to minors.

(2) No person shall aid, abet, counsel or procure any such sale, purchase, smoking or possession.

Opium
divans and
smoking
therein
prohibited.

15.—(1) No person shall open or keep an opium divan.

(2) No person shall smoke opium in any opium divan.

Presump-
tions (1) as
to opium
divans, (2)
as to
smoking
opium in
an opium
divan.

16.—(1) Where two or more persons are found smoking opium in any place, such persons not being residents in the said place, it shall, until the contrary is proved, be presumed—

(a) that the said place is an opium divan; and

(b) that the tenant or occupier of the said place is keeping the said place as an opium divan, provided that such tenant or occupier or a servant of such tenant or occupier is present at the time of the finding of such persons.

(2) Every person found in any opium divan or found escaping therefrom on the occasion of its being entered under this Ordinance shall, until the contrary is proved, be presumed to be or to have been smoking opium therein.

Unlawful
possession
of Govern-
ment opium
labels and
wrappers.

17.—(1) No person shall, without lawful authority or excuse, have in his possession, except attached to a receptacle issued by the Superintendent and containing Government prepared opium, any label or wrapper of a kind used by the Superintendent for affixing to receptacles containing Government prepared opium, or any portion of any such label or wrapper.

(2) No person shall, without lawful authority or excuse, have in his possession, except attached to a receptacle issued by the Superintendent and containing the full quantity of Government prepared opium contained therein at the time of issue, any label or wrapper of a kind used by the Superintendent for affixing to receptacles containing Government prepared opium, unless such label or wrapper has been broken in such a way as to make it impracticable to use the label or wrapper again.

Possession
of labels,
etc.,
resembling
Government
opium labels,
and dies,
etc., for the
production of
such labels,
etc.

18.—(1) No person shall, without lawful authority or excuse, have in his possession any label, wrapper, or mark, so resembling any label, wrapper, or mark used by the Superintendent in connexion with Government prepared opium as to constitute a colourable imitation thereof, or have in his possession any die, block, or type apparently intended for the production of any such label, wrapper, or mark.

(2) For the purposes of this section, "label", "wrapper", "mark", "die", "block" and "type" shall be deemed respectively to include any portion of a label, wrapper, mark, die, block or type.

Counter-
feiting
Government
opium pre-
parations or
distinctive
marks
thereon.

19. No person shall mix anything with prepared opium with the intention of causing it to be believed that such prepared opium is Government prepared opium, or shall counterfeit any mark used by the Superintendent to denote that the prepared opium contained in any receptacle is Government prepared opium, or shall use as genuine any such mark.

20. No person shall export, or do any act preparatory to or for the purpose of exporting, any prepared opium or opium dross: Provided that this section shall not be construed as applying to the possession, under special permit from the Superintendent, by a passenger from the Colony to any place not within the Colony of a quantity of prepared opium, to be used for personal consumption on the voyage, not exceeding five mace for every day of duration of the voyage

Exportation
of prepared
opium
prohibited.

PART IV.

GENERAL.

Ships.

21.—(1) No person shall, without lawful authority or excuse, use any ship for the importation, landing, removal, carriage, conveyance, storage or exportation of any opium in contravention of this Ordinance.

Ships
prohibited
from being
used in
smuggling
opium.

(2) Where the amount of any such opium found on board any such ship exceeds—

(a) in the case of any ship of sixty tons net register tonnage and upwards, 500 taels in weight; or,

(b) in the case of any ship under sixty tons net register tonnage, 100 taels in weight;

want of knowledge of such user shall not be deemed an excuse under this section if the owner, agent, master or other person charged was in a position to take reasonable precautions to prevent such user and neglected to take such precautions.

22.—(1) No person shall bring or have in his possession on board any ship any opium, other than the prepared opium specified in the proviso to section 20, unless the same is entered on the manifest of the ship.

Opium not
on ship's
manifest.

(2) The master of any such ship may seize any such opium as aforesaid found on board his ship which is not entered on the manifest, and may retain the same in his possession until he can deliver it to a police officer.

Post Office.

23.—(1) No person shall send any opium by post.

Postal
provisions.

(2) It shall be lawful for the Postmaster General to detain and open any postal article which he may suspect to contain any opium or anything which would be liable to seizure under section 31 (1) (f).

(3) If any postal article contains any opium, or if any postal article contains anything which would be liable to seizure under section 31 (1) (f), it shall be lawful for the Postmaster General to detain such postal article and all its contents, and to deal with such article and its contents as the Governor may direct.

(4) Sub-sections (2) and (3) shall apply to all postal articles, whether posted in the Colony or not.

Appointment and duties of revenue and police officers.

Superintendent and Assistant Superintendents.

24.—(1) The Governor may appoint an officer to be called the Superintendent of Imports and Exports and such number of Assistant Superintendents as he may think fit.

(2) An Assistant Superintendent shall have all the powers conferred on the Superintendent by or under this Ordinance.

Revenue officers.

25.—(1) The Superintendent may appoint such persons as he may think fit as revenue officers under this Ordinance, and all revenue officers appointed under any other Ordinance shall have full powers under this Ordinance.

(2) The Superintendent shall have power to cancel at any time any appointment of a revenue officer.

(3) Every revenue officer shall be supplied with a suitable badge of office.

(4) Every revenue officer when acting against any person under this Ordinance shall on demand declare his office and produce his badge of office to the person against whom he is acting.

(5) Every revenue officer shall on demand return to the Superintendent his badge of office, and every person whose appointment as revenue officer has been cancelled shall forthwith return to the Superintendent his badge of office unless he shall have previously returned it to the Superintendent.

Police officers : badge.

26.—(1) Every police officer shall have the powers of a revenue officer under this Ordinance.

(2) Every police officer when acting against any person under this Ordinance shall, if not in uniform, on demand declare his office and produce to the person against whom he is acting such badge as the Inspector General of Police may direct police officers to carry when on special service.

Confirmation of certain appointments.

27. The Superintendent of Imports and Exports, the Assistant Superintendent of Imports and Exports, and all revenue officers, who were appointed under any other ordinance, and who continued to hold office up to the commencement of this Ordinance, are hereby confirmed in their respective offices, and shall have all the powers and privileges conferred by this Ordinance upon the holders of their respective offices.

Search, arrest and seizure.

Certain public officers may board and remain on ship.

28.—(1) It shall be lawful for any European revenue officer or European police officer, or for any other public officer authorised thereto in writing by the Superintendent, either generally or for a particular occasion, to board any ship (not being or having the status of a ship of war) and to remain on board so long as such ship remains in the Colony.

(2) Any revenue officer authorised thereto in writing by the Superintendent, either generally or for a particular occasion, may search any such ship and may seize remove and detain any thing found in any such ship with respect

to which such revenue officer may have reasonable grounds for suspecting that any offence against this Ordinance has been committed.

29.—(1) Every person landing from any ship or entering the Colony by land shall—

Search of persons entering Colony and of their goods and baggage.

(a) on demand by any revenue officer or police officer either permit his person and his goods and baggage to be searched by such officer or, together with such goods and baggage, should he so request accompany such officer to a police station or to the office of the Superintendent and there permit his person and his goods and baggage to be searched by any revenue officer or police officer in the presence and under the supervision of a European officer;

(b) on demand by any European revenue officer or European police officer permit his person and his goods and baggage to be searched by such European revenue officer or European police officer or by any revenue or police officer in the presence and under the supervision of such European police officer or European revenue officer :

Provided always that the goods and baggage of any person who claims to be present when they are searched shall not be searched except in his presence.

(2) While revenue officers are conducting a search of persons landing or intending to land from a ship or a search of the goods and baggage of any such persons, no person shall board such ship unless with the permission of a European revenue officer.

(3) Any person who refuses to comply with any lawful demand under this section may be arrested by any public officer without any warrant.

30. Any box or other thing (not being passengers' baggage accompanied by the owner) which is being landed or has been recently landed from any ship, or which is in or upon any ship (not being or having the status of a ship of war), wharf or warehouse, or which is being removed from any such ship or other place, or which is being brought into or has recently been brought into the Colony by land—

Examination of things other than passengers' accompanied baggage.

(1) may be examined and searched by any revenue officer or police officer, and may be detained until any person in charge thereof shall have opened the same to admit of such examination and search, or may be removed by such officer to a police station or to the office of the Superintendent;

(2) may be broken open by the orders of any European officer to facilitate such examination and search: Provided that any person in charge or possession of such box, chest, package or other article shall be afforded every reasonable facility for being present at such breaking open, examination and search.

31.—(1) It shall be lawful for any public officer authorised by the Superintendent in that behalf—

Arrest and search on reasonable suspicion.

(a) to arrest and bring before a magistrate any person whom such public officer may have reason to suspect of having contravened any of the provisions of this Ordinance or of any regulation made thereunder;

[s. 31 *contd.*]

(b) to search the person and property and effects of any person whom it may be lawful for such public officer to arrest: Provided that no female person shall be searched except by a female, and provided that no person shall be searched in a public place if he objects to be so searched;

(c) to search any place in which such public officer may have reason to suspect that there may be any thing which under paragraph (f) is liable to seizure;

(d) to search, and, if necessary to stop and search, any ship (not being or having the status of a ship of war) in which such public officer may have reason to suspect that there may be any thing which under paragraph (f) is liable to seizure:

(e) to search any place which such public officer may have reason to suspect to be an opium divan;

(f) to seize, remove and detain—

(i) any thing with respect to which such public officer may have reasonable grounds for suspecting that any offence against this Ordinance has been committed;

(ii) any book or other document which such public officer may have reasonable grounds for suspecting to relate to, or to be connected directly or indirectly with, any transaction or dealing which was, or any intended transaction or dealing which would if carried out be, an offence against this Ordinance, or, in the case of a transaction or dealing carried out or intended to be carried out in any place outside the Colony, an offence against the provisions of any corresponding law in force in that place; or

(iii) any other thing which may appear to such officer likely to be, or to contain, evidence of any such offence, transaction or dealing.

(2) Such public officer may—

(a) break open any outer or inner door of or in any such place;

(b) forcibly enter any such ship and every part thereof;

(c) remove by force any personal or material obstruction to any arrest, detention, search, inspection, seizure, or removal, which he is empowered to make;

(d) detain every person found in such place until such place has been searched; and

(e) detain every such ship, and every person on board such ship, and prevent every person from approaching or boarding such ship, until such ship has been searched.

(3) No person shall delay or obstruct any detention, arrest, search, inspection, seizure, or removal, which is authorised by this Ordinance.

(4) Any authority given by the Superintendent under this section may be given to an individual or to a class, and may be—

(a) general, so as to embrace all the powers referred to in this section; or

(b) limited, so as to embrace only a portion of those powers; or

(c) particular, for a particular occasion.

32. If any search made under this Ordinance is unsuccessful and there is no reason to suppose that any opium liable to forfeiture under this Ordinance has been thrown away or otherwise disposed of in order to avoid detection, the Superintendent shall make good any damage caused thereby. No action shall be maintainable in respect of any such damage. In the event of any dispute as to the fact or amount of any damage, the dispute shall in every case be decided by the Superintendent or by some person nominated by him for that purpose.

Compensation for unsuccessful search to be paid by Superintendent.

Miscellaneous.

33. In any proceedings before a magistrate or on appeal to the Supreme Court relating to the seizure of any opium, implements, or other articles, the seizure whereof is authorised by any of the provisions of this Ordinance, it shall be lawful for such magistrate and for the judges, and they are hereby respectively required, to proceed in such cases on the merits only, without reference to matters of form and without inquiring into the manner or form of making any seizure, excepting in so far as the manner and form of seizure may be evidence on such merits.

Manner of seizure not to be inquired into.

34.—(1) Except as hereinafter mentioned, no information laid under this Ordinance shall be admitted in evidence in any civil or criminal proceeding, and no witness shall be obliged to disclose the name or address of any informer or to state any matter which might lead to his discovery, and if any books, documents or papers which are in evidence or liable to inspection in any civil or criminal proceeding contain any entry in which any such informer is named or described or which might lead to his discovery, the court or magistrate shall cause all such passages to be concealed from view or to be obliterated so far as may be necessary to protect the informer from discovery, but no further.

Rules as to secrecy of information and protection of informers.

(2) But if, in any proceedings before a magistrate for any offence against any provision of this Ordinance, the magistrate, after full inquiry into the case, believes that the informer wilfully made in his information a material statement which he knew or believed to be false or did not believe to be true, or if, in any other proceeding, the court or magistrate is of opinion that justice cannot be fully done between the parties thereto without the discovery of the informer, it shall be lawful for the court or magistrate to require the production of the original information, and to permit inquiry and require full disclosure concerning the informer.

35.—(1) Whenever two or more persons are charged with any offence against this Ordinance, the magistrate may permit any of them to give evidence for the prosecution.

Magistrate may permit accused persons to give evidence for prosecution in certain cases.

(2) Every person so permitted to give evidence, who shall in the opinion of the magistrate make true and full discovery of all things as to which he is lawfully examined, shall be entitled to receive a certificate of indemnity under the hand of the magistrate stating that he has made a true and full

Accused persons thus assisting prosecution to obtain indemnity from prosecution.

discovery of all things as to which he was examined, and such certificate shall be a bar to all legal proceedings against him in respect of all such things as aforesaid.

Presump-
tions.

36.—(1) Every person who is proved to have had in his possession or under his control any thing whatsoever containing opium, or the keys of any box, drawer or other receptacle whatsoever containing any opium, shall, until the contrary is proved, be deemed to have been knowingly in possession of, and to have known the kind of, the opium therein contained.

(2) Every person who is proved to have had in his possession or under his control or subject to his order any document of title, including any baggage receipt or any document or thing intended to serve the purpose of a baggage receipt, relating to any thing whatsoever containing any opium, shall, until the contrary is proved, be deemed to have been knowingly in possession of, and to have known the kind of, the opium therein contained.

(3) The presumptions provided for in this section shall not be deemed to have been rebutted by proof that the accused never had physical possession of the opium in question.

Superin-
tendent's
certificate
Schedule.
Form No. 5.

37.—(1) A certificate in the form of the Superintendent's Certificate set out in the Schedule, signed by the Superintendent, or by an Assistant Superintendent, if it purports to relate to any opium, shall in any proceeding be conclusive evidence as to the facts stated therein.

(2) Any such certificate purporting to be signed by the Superintendent, or by an Assistant Superintendent, shall, until the contrary is proved, be deemed to have been signed by the Superintendent, or by an Assistant Superintendent as the case may be.

Offences and penalties.

Offences.

38.—(1) Every person who—

(a) acts in contravention of, or fails to comply with, any provision of this Ordinance or of any regulation made thereunder; or

(b) acts in contravention of, or fails to comply with, the conditions of any licence or permit issued or authority granted under or in pursuance of this Ordinance; or

(c) for the purpose of obtaining, whether for himself or for any other person, the issue, grant or renewal of any such licence or permit or authority as aforesaid, makes any declaration or statement which is false in any particular, or knowingly utters, produces or makes use of any such declaration or statement or any document containing the same; or

(d) in the Colony aids, abets, counsels or procures the commission in any place outside the Colony of any offence punishable under the provisions of any corresponding law in force in that place, or does any act preparatory to, or in furtherance of, any act (wherever to be committed) which if committed in the Colony would constitute an offence against this Ordinance,

shall be guilty of an offence against this Ordinance.

(2) Every person who attempts to commit an offence against this Ordinance, or solicits or incites another person to commit such an offence, shall, without prejudice to any other liability, be liable upon summary conviction to the same punishment and forfeiture as if he had committed an offence under this Ordinance. [s. 38 *contd.*]

(3) Where a person convicted of an offence under this Ordinance is a company, the chairman and every director and every officer concerned in the management of the company shall, unless he proves that the act or omission constituting the offence took place without his knowledge and consent, be guilty of the like offence, and shall, notwithstanding the provisions of section 2 (1) (i), be liable to all the penalties and consequences to which a natural person would be liable upon conviction of the said offence.

(4) Where the person convicted of an offence under the Ordinance is a firm, every partner in the firm and every person concerned in the management of the firm shall, unless he proves that the act or omission constituting the offence occurred without his knowledge and consent, be guilty of the like offence, and shall, notwithstanding the provisions of section 2 (1) (i), be liable to all the penalties and consequences to which a natural person would be liable upon conviction of the said offence.

(5) Notwithstanding the provisions of any enactment which prescribes the time within which proceedings for an offence punishable upon summary conviction may be commenced, any summary proceedings for an offence under this Ordinance, or for attempting to commit such an offence, or for soliciting or inciting another person to commit such an offence, may be commenced either within the time so prescribed or within six months from the date on which evidence sufficient in the opinion of the Superintendent to justify a prosecution comes to his knowledge, whichever time is the longer, and, for the purposes of this sub-section, a certificate purporting to be signed by the Superintendent as to the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence thereof.

(6) For the purposes of sub-section (5), the issue of a summons or warrant shall be deemed to be the commencement of proceedings, whether such summons or warrant is executed or not.

(7) For the purpose of removing doubts, it is hereby declared—

(a) that in any proceedings against any person under this Ordinance it is not necessary to negative by evidence any licence, authority or other matter of exception or defence, and that the burden of proving any such matter lies on the person seeking to avail himself thereof; and

(b) that, notwithstanding anything in any other enactment, any term of imprisonment imposed under this Ordinance on any person by a magistrate in respect of the non-payment of a fine imposed under this Ordinance may be ordered to commence at the expiration of any term of imprisonment imposed on that person for the same offence in addition to the fine.

[s. 38 contd.]

(8) Whenever any person to whom any licence or permit or authority has been issued or granted under this Ordinance would be liable under the provisions of this Ordinance or of any regulations made thereunder to any punishment, penalty or forfeiture for any act, omission, neglect or default, he shall be liable to the same punishment, penalty or forfeiture for every similar act, omission, neglect, or default of any agent or servant employed by him in the course of his business, and every agent or servant employed by him in the course of his business shall also be liable to every punishment, penalty, or forfeiture prescribed for such acts, omissions, neglects or defaults contrary to the provisions of this Ordinance as fully and effectually as if such agent or servant had been the person to whom the licence or permit or authority had been issued or granted.

(9) Every person who prepares, makes, delivers or supplies any requisition, particulars, return, accounts or other written statement required by or under this Ordinance, shall, if such requisition, particulars, return, accounts or written statement are false or incorrect either in whole or in part to the knowledge of the person so preparing, making, delivering or supplying the same, whether the same be signed by him or not, be guilty of an offence against this Ordinance.

Penalties.

39.—(1) Every person who contravenes any of the provisions of any of the enactments specified in the first column of the following table shall upon summary conviction be liable to the penalty specified in the corresponding entries in the second and third columns of the said table:—

Enactment.	Maximum fine.	Maximum term of imprisonment.
s. 8	\$2,000	—
s. 14	\$1,000	Six months.
s. 15 (1)	\$ 500	—
s. 15 (2)	\$ 25	—
s. 17	\$5,000	One year.
s. 18	\$5,000	One year.
s. 19	\$5,000	One year.
s. 25 (4)	\$ 250	—
s. 25 (5)	\$ 250	Six months.
s. 26	\$ 250	—
any regulation made under this Ordinance	\$ 250	Three months.

Provided that any person who contravenes any of the provisions of sections 17, 18 or 19 shall be liable, on conviction on indictment, to a fine not exceeding ten thousand dollars and to imprisonment for any term not exceeding ten years.

(2) Where a term of imprisonment is specified in the third column of the above table, such imprisonment may be with or without hard labour and may be imposed in addition to any fine or without any fine being imposed.

(3) Every person who commits an offence against this Ordinance for which no penalty is otherwise prescribed shall upon summary conviction be liable to a fine not exceeding two thousand dollars, or not exceeding ten times the market

value of the opium (if any) in respect of which the offence was committed, whichever maximum fine is the greater, and to imprisonment for any term not exceeding one year: Provided that no such fine shall exceed five thousand dollars.

40. It shall be lawful for the court or a magistrate to order to be forfeited to the Crown— Forfeiture.

(1) any opium with respect to which any offence against this Ordinance has been committed whether any person shall have been charged with or shall have been convicted of such offence or not;

(2) any ship of less than fifteen tons net register tonnage in which any such opium may have been;

(3) any implements which have been seized in any search, unless such implements have been used only in connexion with Government opium;

(4) any unclaimed opium or implements.

41. All fines under this Ordinance, and any bail in respect of any charge under this Ordinance which may be estreated by a magistrate, shall be paid into a special account and may be disposed of as the Governor may direct. Disposal of fines and estreated bail.

42. The Opium Ordinance, 1923, the Opium Amendment Ordinance, 1924, and the Opium Amendment Ordinance, 1930, are repealed. Repeal of Ordinances No. 30 of 1923. No. 7 of 1924. No. 3 of 1930.

Passed the Legislative Council of Hong Kong, this 7th day of April, 1932.

R. A. C. NORTH,
Deputy Clerk of Councils.

SCHEDULE.

FORM No. 1. [ss. 3, 4, 7, 8 and 37.]

IMPORT CERTIFICATE.

Opium Ordinance, 1932.

INTERNATIONAL OPIUM CONVENTION, 1925.

CERTIFICATE OF OFFICIAL APPROVAL OF IMPORT.

I hereby certify that the Ministry or Department of
being the Ministry or Department charged with the administration of
the law relating to opium, has approved the importation by (a).....

(a) Name,
address and
business of
importer.

.....
.....

[Schedule contd.] of (b)

(b) Exact description and amount of opium to be imported from (c)

(c) Name and address of firm in exporting country from which the opium is to be obtained.

(d) State any special conditions to be observed. subject to the following conditions (d)
 and is satisfied that the consignment proposed to be imported is required for the purpose of smoking under Government restriction pending complete suppression, and that it will not be exported (or, as the case may be, that it is required solely for medicinal or scientific purposes.)

Signed on behalf of the Ministry or Department of

Signature

Official Rank

Date

.....
Superintendent.

FORM No. 2.

[s. 7.]

REMOVAL PERMIT.

Opium Ordinance, 1932.

Permission is hereby granted to
subject to the conditions set out below, to move the raw opium described hereunder.

from

to

Importing ship.	Date of arrival.	Number of packages.	Marks & numbers.	Kind of opium.	Weight of opium.	Remarks.

Conditions.

[Schedule
contd.]

1. This permit may be used only between a.m. and p.m. on the, 19
2. If this permit is not used within the hours and on the day specified, it must be returned to the Superintendent forthwith.
3. The opium must not be moved unless a revenue officer is present.
4. The permit must be produced whenever demanded by a revenue officer or police officer.
5.

Date

.....
Superintendent.

NOTE :—The conditions may be varied or added to by the Superintendent.

FORM No. 3.

[s. 7.]

EXPORT PERMIT.

Opium Ordinance, 1932.

Permission is hereby granted to
..... subject to the conditions set out below, to export the
raw opium described hereunder to
by the S.S.

Importing ship	Date of arrival.	Number of packages.	Marks & numbers.	Kind of opium.	Weight of opium.	Remarks.

Conditions.

1. This permit may be used only between a.m. and p.m. on the, 19
2. If this permit is not used within the hours and on the day specified, it must be returned to the Superintendent forthwith.
3. The opium must not be moved unless a revenue officer is present.
4. The permit must be produced whenever demanded by a revenue officer or police officer.
5.

Date

.....
Superintendent.

NOTE :—The conditions may be varied or added to by the Superintendent.

FORM No. 4.

[s. 7.]

EXPORT MEMORANDUM.

Opium Ordinance, 1932.

Memorandum of raw opium for export per S.S.
..... on

Permit No.	Marks	Govt. No.	No. of packages	Kind of opium.	Weight of opium.	Exporter.	Destination.

.....
Superintendent.

FORM No. 5.

[s. 37.]

SUPERINTENDENTS CERTIFICATE.

Opium Ordinance, 1932.

I, (Assistant) Superintendent of Imports and Exports,
 hereby certify that on
 I received personally from a
 marked, which I found to contain

 the value of
 which is dollars
 (\$) and that
 on I personally handed the
 said
 to
 in a sealed with my seal and marked with the
 serial number, nature and amount of contents as stated above.

Date

.....
(Assistant) Superintendent of Imports & Exports.