

and also that he is entitled to be registered by the General Council of Medical Education and Registration of the United Kingdom (or that he holds the degree of of the University of Hong Kong, or that he holds a degree, diploma or licence in medicine and surgery of which is a medical school the degrees, diplomas and licences of which are recognised as entitling to registration by the General Council of Medical Education and Registration of the United Kingdom); that he is of good character; and that he is entitled to be registered in the register under the Medical Registration Ordinance, 1935.

Dated theday of, 19.....

By order,

C.D.
Secretary of the Medical Board.

Addition of a new section after section 19 of the principal Ordinance.

8. The following new section is added after section 19 of the principal Ordinance:—

"Power of Governor in Council to make regulations.

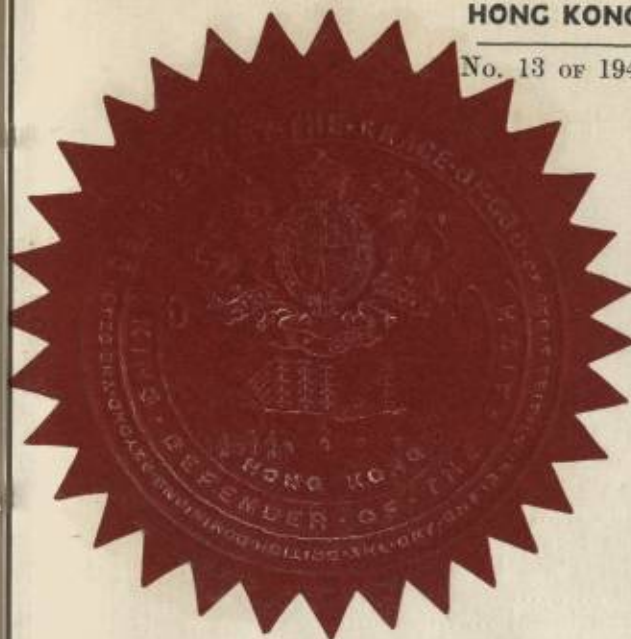
19A. The Governor in Council may make such regulations governing the issue of medical certificates of death as he may deem to be necessary or expedient."

Passed the Legislative Council of Hong Kong, this 30th day of March, 1949.

J. L. Howard
Deputy Clerk of Councils.

HONG KONG

No. 13 OF 1949.



I assent.

W. H. Murray
Governor.

1st April, 1949.

An Ordinance to apply a sum not exceeding one hundred and seventy-nine million nine hundred and twenty-four thousand three hundred and twelve dollars to the Public Service of the financial year ending 31st March, 1950.

WHEREAS the expenditure required for the service of this Colony for the financial year ending on the 31st March, 1950 has been estimated at the sum of one hundred and seventy-nine million nine hundred and twenty-four thousand three hundred and twelve dollars.

[1st April, 1949.]

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

1. This Ordinance may be cited as the Appropriation for 1949-1950 Ordinance, 1949. Short title.

2. A sum not exceeding one hundred and seventy-nine million nine hundred and twenty-four thousand three hundred and twelve dollars shall be and the same is hereby charged upon the revenue and other funds of the Colony for the service of the financial year commencing on the 1st of April, 1949 and ending on the 31st of March, 1950 and the said sum so charged may be expended in the manner expressed in the Schedule to this Ordinance:— Appropriation from general revenues.

SCHEDULE

Number of Vote	Title of Vote	Amount of Vote
		\$
1.	H.E. the Governor	231,297
2.	Agriculture Department	730,228
3.	Audit Department	243,807
4.	Civil Aviation Department	834,430
5.	Colonial Secretariat and Legislature	1,098,644
6.	Department of Commerce and Industry	1,288,179
7.	Co-operatives and Marketing:	
	A—Fish Marketing Organization	73,927
	B—Vegetable Marketing Organization	84,084
8.	District Office New Territories	365,990
9.	Education Department	5,085,335
10.	Fire Brigade	1,184,104
11.	Fisheries Department	121,593
12.	Forestry Department	429,896
13.	Gardens Department	349,381
14.	Hong Kong Defence Force:	
	A—Hong Kong Regiment	2,285,303
	B—Hong Kong Naval Force	209,282
	C—Hong Kong Air Force	135,930
15.	Inland Revenue Department	815,205
16.	Kowloon Canton Railway	5,443,695
17.	Labour Department	286,335
18.	Legal Department	372,874
19.	Magistracies:	
	A—Hong Kong Magistracy	130,099
	B—Kowloon Magistracy	112,782
20.	Marine Department	4,934,137
21.	Medical Department	12,749,022
22.	Miscellaneous Services	37,832,100
23.	Pensions	6,720,000
24.	Police Force	12,633,722
25.	Post Office, Broadcasting and Telecommunications:	
	A—Post Office	3,664,958
	B—Broadcasting	345,899
	C—Telecommunications	979,314
26.	Prisons Department	3,934,617
27.	Public Debt	5,486,841
28.	Public Relations Office	141,808
29.	Public Works Department	4,349,180
30.	Public Works Recurrent	12,632,000
31.	Public Works Extraordinary	19,618,000
32.	Rating and Valuation Department	196,901

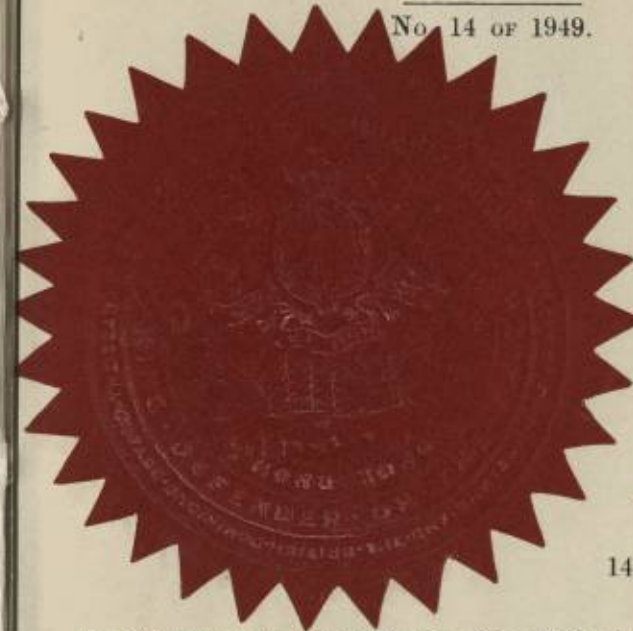
Number of Vote	Title of Vote	Amount of Vote
		\$
33.	Registrar General's Department	166,750
34.	Royal Observatory	404,588
35.	Sanitary Department and Urban Council	5,724,186
36.	Secretariat for Chinese Affairs:	
	A—Secretariat for Chinese Affairs	177,111
	B—Social Welfare Office	812,176
	C—District Watch Force	186,069
37.	Statistical Department	131,188
38.	Stores Department	6,591,432
39.	Subventions	13,245,721
40.	Department of Supplies and Distribution	792,486
41.	Supreme Court	422,381
42.	Treasury	780,245
43.	Custodian of Property	42,600
44.	Colonial Development and Welfare Schemes	2,316,480
	Total	\$179,924,312

Passed the Legislative Council of Hong Kong, this 31st day of March, 1949.

J. L. Howard
Deputy Clerk of Councils.

HONG KONG

No. 14 of 1949.



I assent.

[Handwritten signature]
Governor.

14th April, 1949.

An Ordinance to establish the office of Registrar General, to define the duties thereof and to make provision incidental thereto.

[14th April, 1949.]

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

1. This Ordinance may be cited as the Registrar General Short title. (Establishment) Ordinance, 1949.

2. There shall be a Registrar General who is hereby authorised ex officio to exercise all the powers, privileges and discretions from time to time vested in, and to discharge the duties from time to time required to be performed by, the offices specified in the Schedule hereto. Establishment powers and duties of Registrar General.

3. The Governor may appoint a Registrar General and may also appoint such number of Deputies under the style of Deputy Registrar General as may in his opinion from time to time be required to assist the Registrar General in the performance of his duties. Appointment of Registrar General and Deputies.

4. Any Deputy appointed under section 3 may subject to any instructions of the Governor and to the instructions of the Registrar General exercise all the powers, privileges and discretions vested in the Registrar General and shall subject to any such instructions discharge such part of the duties thereof as may be assigned to him. Powers and duties of Deputies.



5. Nothing herein contained shall derogate from the provisions of sections 3 and 15 of the New Territories Regulation Ordinance, 1910, as amended by the New Territories (Administration) Ordinance, 1948, or from the provisions of any enactment empowering the Governor or any other person or body to appoint a person to any of the offices specified in the Schedule hereto or to appoint Deputies and Assistants to the persons holding such offices.

Saving Ordinance No. 34 of 1910. Ordinance No. 62 of 1948.

6. Whenever in any enactment or instrument, whether made or issued before or after the commencement of this Ordinance, reference is made to any of the offices in the Schedule hereto the same shall be deemed to include a reference to the Registrar General.

Reference to offices in Schedule to be deemed to refer to Registrar General.

7. This Ordinance shall have effect as from the 1st of April, 1949, and any appointment as or to act as Registrar General or Deputy Registrar General made by the Governor prior to the publication of this Ordinance in the Gazette shall have effect as from the expiration of the 31st of March, 1949.

Commencement of Ordinance and appointments made prior to publication thereof.

8. All appointments previously made by the Governor to any of the offices specified in the Schedule including any appointment as Deputy or Assistant thereto shall be deemed to have ceased to have had effect as from the expiration of the 31st of March, 1949.

Certain appointments to cease to have effect.

SCHEDULE.

Land Officer.

Registrar of Companies.

Registrar of Trade Marks and Designs.

Registrar of Patents.

Registrar of Marriages.

Official Receiver in Bankruptcy.

Official Trustee.

Passed the Legislative Council of Hong Kong, this 13th day of April, 1949.

J. L. Howard
Deputy Clerk of Councils.

HONG KONG

No. 15 of 1949.



I assent.

M. H. H. H. H.
Governor.

28th April, 1949.

An Ordinance to amend and consolidate the law relating to the District Watch Force.

[29th April, 1949.]

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

PART I.

PRELIMINARY.

1. This Ordinance may be cited as the District Watch Force Short title. Ordinance, 1949.
2. All the provisions of this Ordinance shall apply to all persons who, at the commencement of this Ordinance, are serving in the District Watch Force established under any Ordinance repealed by this Ordinance and service under any such repealed Ordinance shall be deemed to be service under this Ordinance. Application.
3. In this Ordinance, unless the context otherwise requires—
“district watchman” includes any principal detective district watchman, any head district watchman, any assistant head district watchman and any detective district watchman; Interpretation.
“District Watch Force Regulations” means regulations made in exercise of the powers conferred by section 23 of this Ordinance and any regulations continued or continuing in force upon the enactment of this Ordinance.

Adminis-
tration of
District
Watch
Force by the
Secretary
for Chinese
Affairs.

4. The Secretary for Chinese Affairs, subject to the orders and control of the Governor, shall be charged with the supreme direction and administration of the District Watch Force and may from time to time make orders to be known as "District Watch Force Orders" as he may think expedient not inconsistent with this Ordinance and District Watch Force Regulations for the better control, management and regulation of the District Watch Force.

District
watchman to
have powers
and
privileges of
constable.

5. A district watchman shall, in relation to such duties as he may be required to perform, have all the powers and privileges of a constable of the Police Force.

Powers and
duties to be
exercised
subject to
regulations
and orders.

6. All powers granted to and duties imposed by law on any district watchman shall be exercised or performed in accordance with District Watch Force Regulations and District Watch Force Orders.

District
watchmen
liable for
service at
any place in
the Colony.

7. All district watchmen shall be bound to serve at any place in the Colony or on board any vessel in the service of the Government of the Colony.

Functions of
District
Watch
Force.

8. The functions of the District Watch Force shall be—
(a) to assist the Secretary for Chinese Affairs in the execution of the duties of his office;
(b) to perform such duties as it may be required to perform in assisting to—
(i) preserve the public peace;
(ii) prevent and detect crimes and offences.

PART II.

CONSTITUTION OF DISTRICT WATCH FORCE.

Constitu-
tion of
District
Watch
Force.

9. The District Watch Force shall consist of such district watchmen as shall by annual vote or otherwise be from time to time provided for by the Legislative Council.

Payment
of District
Watch
Force.

10. Provisions for the payment and maintenance of the District Watch Force under this Ordinance shall be by charges on the general revenues of the Colony, to such amounts and in such proportion as may from time to time by annual vote or otherwise be voted by the Legislative Council.

Appoint-
ment of
district
watchmen.

11. A district watchman may be appointed, advanced in salary or promoted by the Secretary for Chinese Affairs.

12. If in any case the Secretary for Chinese Affairs considers that the public interest requires that any district watchman should cease to exercise the powers and functions of his office instantly, he may interdict such district watchman from the exercise of such powers and functions provided that disciplinary or criminal proceedings are being instituted or are about to be instituted against such district watchman. A district watchman who has been interdicted under this section shall be allowed to receive such proportion of his pay, not being less than one-half, as the Secretary for Chinese Affairs shall, in every such case, direct. If the proceedings against any such district watchman do not result in his dismissal or other punishment he shall be entitled to the full amount of the pay which he would have received if he had not been interdicted.

Interdic-
tion.

13. A certificate of identity shall be issued to every district watchman, and shall be evidence of his appointment under this Ordinance.

Certificate
of identity.

14. Every district watchman shall for the purposes of this Ordinance be deemed to be always on duty when required to act as such and shall perform the duties and exercise the powers granted to him under this Ordinance or any other law at any and every place in the Colony where he may be doing duty.

District
watchman
to be
deemed
on duty.

15. Every district watchman shall be provided with such articles of uniform and equipment as may be necessary for the effectual discharge of his duties. Such articles shall be kept and used according to District Watch Force Orders.

Clothing.

16. Every district watchman shall, before entering on the duties of his office, take before a magistrate or justice of the peace an oath or declaration of office in the form specified in the First Schedule to this Ordinance.

Declara-
tion of
office.

17. (1) Every district watchman who by resignation, dismissal, discharge or otherwise leaves the District Watch Force, shall before leaving deliver up each and every article of uniform, clothing, arms, accoutrement and other Government property which may be in his possession.

Delivery of
Govern-
ment
property on
leaving the
Force.

(2) Any person neglecting so to deliver up such property shall be liable on summary conviction before a magistrate to a fine not exceeding one hundred dollars or imprisonment for a term not exceeding three months, and in addition thereto shall be liable to pay the value of the property not delivered up which value shall be ascertained by such magistrate in a summary way and shall be recoverable as a fine.

18. Any district watchman who deserts shall be liable on summary conviction to imprisonment for a term not exceeding twelve months and all arrears of pay due to him shall be forfeited.

Desertion.

PART III.

DISCIPLINE.

Punish-
ment
of district
watchmen.

19. Any district watchman who shall be guilty of any of the following offences—

- (a) absence from duty without leave or good cause;
- (b) sleeping on duty;
- (c) conduct to the prejudice of good order and discipline;
- (d) cowardice in the performance of duty;
- (e) disobedience of District Watch Force Regulations, or any District Watch Force Orders, whether written or verbal;
- (f) being unfit for duty through intoxication;
- (g) insubordination;
- (h) neglect of duty or orders;
- (i) malingering;
- (j) in the course of his duty making a statement which is false in a material particular;
- (k) excess of duty resulting in loss and injury to any other person;
- (l) wilful destruction or negligent loss of or injury to Government property;
- (m) conduct calculated to bring the public service into disrepute,

shall be liable on conviction before the Secretary for Chinese Affairs to any of the following punishments:—

- (i) reduction in rank or class;
- (ii) forfeiture of not more than one month's pay (except in the case of absence without good cause, when forfeiture of pay shall extend to the period of absence in addition to any other punishment inflicted).

In lieu of or in addition to either of the aforesaid punishments, any such district watchman may be dismissed from the District Watch Force by the Secretary for Chinese Affairs and in such case he may be ordered to resign forthwith in which case he shall not receive salary in lieu of notice.

District
watchman
not
exempted
from
ordinary
process
of law.

20. (1) Nothing in this Ordinance shall be construed to exempt any district watchman from being proceeded against by the ordinary course of law when accused of any offence punishable under any other Ordinance or law.

(2) No district watchman who has been acquitted by a magistrate or the Court of any crime or offence shall be tried departmentally on the same charge.

(3) No pay or allowance shall be payable to any district watchman following the date of the conviction of such district watchman by a magistrate or the Court for any crime or offence unless the approval of the Secretary for Chinese Affairs of such payment shall be given and, unless such conviction is reversed on appeal, such district watchman may be dismissed by the Secretary for Chinese Affairs, and in the event of dismissal any arrears of pay due to him may be forfeited by order of the Secretary for Chinese Affairs.

21. Nothing in this Ordinance contained shall be construed to limit the right of the Crown or the Government to dismiss or terminate the appointment of any district watchman and without compensation.

Saving of
the pre-
rogative
rights of the
Crown, etc.

PART IV.

PROCEDURE AND MISCELLANEOUS PROVISIONS.

22. In all matters in which by this Ordinance or by District Watch Force Regulations made hereunder jurisdiction is given to the Secretary for Chinese Affairs to inflict punishments, the powers of a magistrate may be exercised by the Secretary for Chinese Affairs in so far as is necessary to enable him to exercise such jurisdiction.

Powers of
magistrates
to be
exercised
by the
Secretary
for Chinese
Affairs.

23. (1) The Governor in Council may make such regulations to be called "District Watch Force Regulations" as he may think expedient not inconsistent with the provisions of this Ordinance. Such regulations may provide for—

District
Watch
Force Re-
gulations.

- (a) organisation and distribution;
- (b) appointments, pay, resignations, discharges, dismissals, reductions and reversions;
- (c) discipline and punishments;
- (d) leave of absence and fares and passages on such leave;
- (e) description of uniforms, arms and accoutrements to be provided;
- (f) such matters as may be necessary and expedient for preventing abuse or neglect of duty, and for rendering the District Watch Force efficient in the discharge of its duties, and for carrying out the objects of this Ordinance.

(2) Every regulation made under this section shall be published in the *Gazette*.

24. Every person taken into custody by a district watchman with or without a warrant, except a person detained for the mere purpose of taking his name and residence, shall be forthwith delivered into the custody of the officer in charge of the nearest police station or to a police officer authorised in that behalf by the Commissioner of Police.

Person
arrested
to be
delivered to
custody of
police officer
in charge of
police
station.

Protection of district watchman acting in execution of warrant.

25. In case any action is brought against any district watchman for any act done in obedience to the warrant of any magistrate, such district watchman shall not be responsible for any irregularity in the issuing of the warrant or for any want of jurisdiction in the magistrate issuing the same and he may plead the general issue and give such warrant in evidence; and on production of the warrant and proof that the signature thereto is the handwriting of a person reputed to be a magistrate and that the act was done in obedience to the warrant, the jury or Court shall find a verdict or give judgment for the defendant who shall also recover double his costs of suit.

Penalty on victualler, etc., harbouring district watchman while on duty.

26. Every keeper of any place for the entertainment of the public whether spirituous liquors are sold therein or not, who knowingly harbours or entertains any district watchman on duty, or permits him to remain in such place while on duty, shall upon summary conviction be liable to a fine not exceeding two hundred and fifty dollars.

Penalty on person assaulting, etc., district watchman in execution of duty, or misleading warrant by false information.

27. Every person who assaults or resists any district watchman acting in the execution of his duty, or aids or incites any person so to assault or resist, or refuses to assist any such district watchman in the execution of his duty when called upon to do so, or who, by the giving of false information with intent to defeat or delay the ends of justice, wilfully misleads or attempts to mislead any such district watchman, shall upon summary conviction be liable to a fine not exceeding two hundred and fifty dollars and to imprisonment for any term not exceeding six months.

Special duty and expenses thereof.

28. (1) On the application of any person the Secretary for Chinese Affairs may, if he thinks fit, detail any district watchman or district watchmen to do special duty in upon or about any premises or business or vessel specified by the applicant.

(2) The applicant shall pay to the Secretary for Chinese Affairs for the services of any such district watchman or district watchmen so detailed such fees as the Secretary for Chinese Affairs may think fit.

(3) All fees so received by the Secretary for Chinese Affairs shall be paid by him into the Treasury forthwith and be accounted for monthly; and every sum of money due for such services shall be deemed a debt due to the Crown and shall be recoverable by the Financial Secretary in like manner as other Crown debts in respect of fees and otherwise under the Crown Remedies Ordinance, 1875.

Ordinance No. 6 of 1875.

Pensions already earned to be paid out of general revenue.

29. The pensions set out in the Third Column of the Second Schedule shall be paid out of the general revenue of the Colony to the respective persons whose names appear in the Second Column of the said Schedule.

30. The investments and properties specified in the Third Schedule hereto and any interest or income thereon or thereof whether accrued or accruing are hereby vested in the Crown free from any charitable or other trusts affecting the same but subject in the case of the said properties to any valid and subsisting tenancy affecting the same not held directly from the Crown.

Vesting in the Crown of certain investments and properties.

PART V.

REPEAL.

31. The District Watch Force Ordinance, 1930, is hereby repealed.

Repeal. Ordinance No. 23 of 1930.

SCHEDULE

(Section 16)

OATH OF OFFICE.

I,

swear by Almighty God that I will obey, uphold and maintain the laws of the Colony of Hong Kong and that I will at all times execute the powers and duties of my office honestly faithfully and diligently without fear of or favour to any person and with malice or ill-will toward none.

AND I do further swear that I will at all times obey without question the lawful orders of those set in authority over me.

Sworn before me

thisday

of, 19.....

.....
Magistrate/Justice of the Peace.

DECLARATION OF OFFICE.

I,

do solemnly and sincerely declare that I will obey, uphold and maintain the laws of the Colony of Hong Kong and that I will at all times execute the powers and duties of my office honestly, faithfully and diligently without fear of or favour to any person and with malice or ill-will toward none.

AND I further declare that I will at all times obey without question the lawful orders of those set in authority over me.

Declared before me
thisday
of, 19.....

.....
Magistrate/Justice of the Peace.

SECOND SCHEDULE
(Section 29)

LIST OF PENSIONERS.

Office	Name	Amount of pension per annum
		\$
Head District Watchman	Chan Sham	360.00
Head District Watchman	Fung Fong	360.00
Assistant Head District Watchman	Lee Wah	225.00
Widow of District Watchman Kwok Chat	Mak Chiu Mei	60.00
Widow of District Watchman Hau Cheung	Hau Pun Shi	180.00
Widow of District Watchman Siu Tim	Siu Lam Shi	120.00

THIRD SCHEDULE
(Section 30)

LIST OF ASSETS.

A. *Investments.*

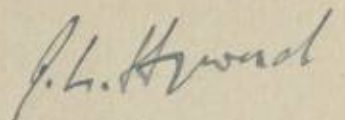
Hong Kong Government 4% Conversion Loan	\$38,000
3 Bonds Nos. A127/129 of \$1,000 each	
1 Bond No. B38 of \$5,000	
3 Bonds Nos. C12/14 of \$10,000 each	
Hong Kong Government 3½% Dollar Loan (1940 issue)	\$20,000
2 Bonds Nos. F99/100 of \$10,000 each.	

B. Property.

Name	Situation	Lot No.	Crown Rent	Remarks
(A) Taipingshan D.W. Qtrs.	No. 1, Kui Yin Fong	I.L. 1634	\$1 p.a.	Premises demolished during Japanese occupation.
(B) West Point D.W. Qtrs.	No. 103, Third Street	I.L. 1732	\$4 "	— do —
(C) Wanchai D.W. Qtrs.	No. 81A, Stone Nullah Lane	I.L. 1719	\$1 "	A 3-storied building constructed of brick and pinewood beams.
(D) Yaumai D.W. Qtrs.	Nos. 601, 603 & 605, Canton Road	K.I.L. 2051	\$1 "	Three 3 - storied houses constructed of cement-concrete.

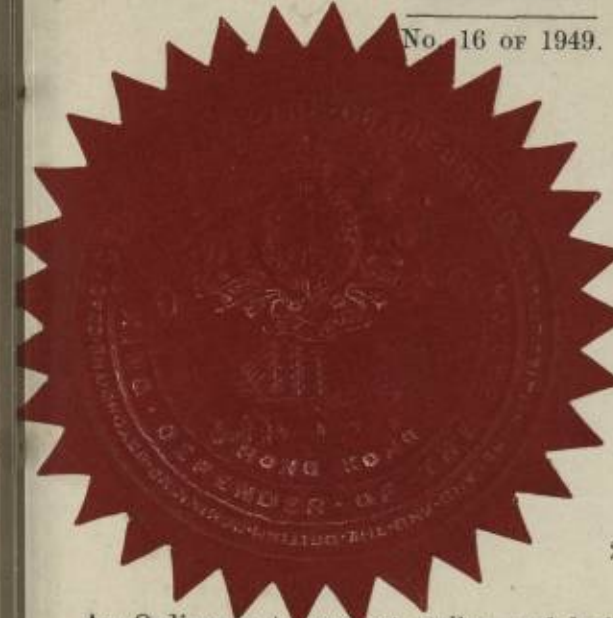
Being kept in the S. C. A. Strong Room the Crown Lease of these houses were lost during the occupation.

Passed the Legislative Council of Hong Kong, this 27th day of April, 1949.


 Deputy Clerk of Councils.

HONG KONG

No. 16 OF 1949.



I assent.

Altham
Governor.

28th April, 1949.

An Ordinance to prevent strikes and lock-outs having an object other than or in addition to the furtherance of a trade dispute within the trade or industry in which the disputants are engaged and being calculated to coerce the Government, and to prevent breaches of contract of service the consequence of which may be injurious to the public.

[29th April, 1949.]

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

1. This Ordinance may be cited as the Illegal Strikes and Short title. Lock-outs Ordinance, 1949.

2. In this Ordinance—

Interpreta-
tion.

“lock-out” means the closing of a place of employment or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him in consequence of a dispute, done with a view to compelling those persons, or to aid another employer in compelling persons employed by him to accept terms or conditions of or affecting employment;

17 & 18
Geo. 5,
c.22, s.8.

“strike” means the cessation of work by a body of persons employed acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been employed, to continue to work or to accept employment; and

Ordinance
No. 8 of
1948.

"trade union" and "trade dispute" shall have the meanings assigned to them in the Trade Unions and Trade Disputes Ordinance, 1948.

Illegal strikes
and lock-outs.
17 & 18
Geo. 5,
c.20, s.1,
s.8(2)(c).

3. (1) A strike shall be illegal if it has any object other than or in addition to the furtherance of a trade dispute within the trade or industry in which the strikers are engaged and is a strike designed or calculated to coerce the Government either directly or by inflicting hardship upon the community or any substantial portion of the community; and it shall be an offence to commence or to continue, or to apply any sums in furtherance or support of, any such illegal strike.

(2) A lock-out shall be illegal if it has any object other than or in addition to their furtherance of a trade dispute within the trade or industry in which the employers locking-out are engaged and is a lock-out designed or calculated to coerce the Government either directly or by inflicting hardship upon the community; and it shall be an offence to commence or to continue, or to apply any sums in furtherance or support of, any such illegal lock-out.

(3) For the purposes of this section a trade dispute shall not be deemed to be within a trade or industry unless it is a dispute between employers and workmen, or between workmen and workmen, in that trade or industry, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of persons in that trade or industry.

(4) Without prejudice to the generality of the expression "trade or industry", workmen shall be deemed to be within the same trade or industry if their wages or conditions of employment are determined in accordance with the conclusions of the same joint industrial council, conciliation board or other similar body or in accordance with agreements made with the same employer or group of employers.

(5) No person shall declare, instigate, incite others to take part in, or otherwise act in furtherance of, a strike or lock-out expressed by this Ordinance to be illegal: Provided that no person shall be deemed to have committed an offence under this section or at common law by reason only of his having ceased work or refused to continue work or to accept employment.

(6) For the purpose of this section a strike or lock-out shall not be deemed to be calculated to coerce the Government unless such coercion ought reasonably to be expected as a consequence thereof.

Protection of
persons
refusing to
take part in
illegal strikes,
or lock-outs.
17 & 18
Geo. 5,
c.22, s.2.

4. (1) No person refusing to take part or to continue to take part in any strike or lock-out which is by this Ordinance expressed to be illegal shall be, by reason of such refusal or by reason of any action taken by him under this section, subject to expulsion from any trade union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he would otherwise be entitled, or liable to be placed in any respect either directly

or indirectly under any disability or at any disadvantage as compared with other members of the trade union or society, anything to the contrary in the rules of the trade union or society notwithstanding.

(2) Nothing in the rules of a trade union or society requiring the reference of disputes to arbitration shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as the court thinks just.

5. (1) No person who is employed in the service of the Crown under the Government of Hong Kong or by any company firm or person engaged in supplying water, electric current or gas to the public, or engaged in maintaining any public tramway, bus service or public ferry, or engaged in maintaining any telephone or sanitary service, shall wilfully break a contract of service with the Crown such company, firm or person as aforesaid, if he knows or has reasonable cause to believe that the probable consequence of his so doing, either alone or in combination with others, would, failing the adoption of extraordinary measures, be to deprive the inhabitants of the Colony or a substantial number of them, wholly or to a great extent, of their supply of water, electric current or gas or of the ordinary facilities of transport or of the ordinary telephone or sanitary services.

Breach of
contract of
service to be
an offence in
certain cases.
38 & 39 Vict.
c.86, s.4.

(2) No person shall wilfully break any contract of service if he knows or has reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, would, failing the adoption of extraordinary measures, be to endanger human life or to cause serious bodily injury or to expose valuable property whether movable or immovable to destruction or serious injury.

38 & 39 Vict.
c.86, s.5.

(3) For the purpose of sub-section (1) and without prejudice to the interpretation of any express term of the agreement other than a term relating to notice, a person who is employed in the service of the Crown shall be deemed to break his agreement for service under the Crown if he absents himself from duty without leave and without having given to the head of his department one month's notice in writing terminating with the last day of a calendar month or if he wilfully refuses duty or if he wilfully omits to perform his duty: Provided that the provisions of this sub-section relating to notice shall not apply to any person who is engaged by the day or who is paid daily.

Ordinance
No. 10 of
1927:
s 6(2).

6. Every person who contravenes any of the provisions of this Ordinance shall upon summary conviction be liable to a fine not exceeding one thousand dollars and to imprisonment for any term not exceeding six months.

Penalties.

Sanction of
Attorney
General.

7. No prosecution for any offence under section 3 or 5 shall be commenced without the consent of the Attorney General.

Duration of
Ordinance.

8. This Ordinance shall continue in force until and including the 31st December, 1949: Provided that it shall be lawful for the Legislative Council from time to time by resolution to extend the duration of this Ordinance for such term, not exceeding one year at any one time, as may be specified in such resolution.

Passed the Legislative Council of Hong Kong, this 27th day of April, 1949.

J. L. Howard
Deputy Clerk of Councils.

HONG KONG

No. 17 OF 1949.



I assent.

M. H. H. H.
Governor.

28th April, 1949.

An Ordinance to amend the Stamp Ordinance, 1921.

[29th April, 1949.]

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

1. This Ordinance may be cited as the Stamp Amendment Ordinance, 1949, and shall be read as one with the Stamp Ordinance, 1921, hereinafter referred to as the principal Ordinance.

Short title.
Ordinance
No. 8 of
1921.

2. The Schedule to the principal Ordinance is hereby amended—

Amendment
to items 10
and 36 of the
Schedule of
the principal
Ordinance.

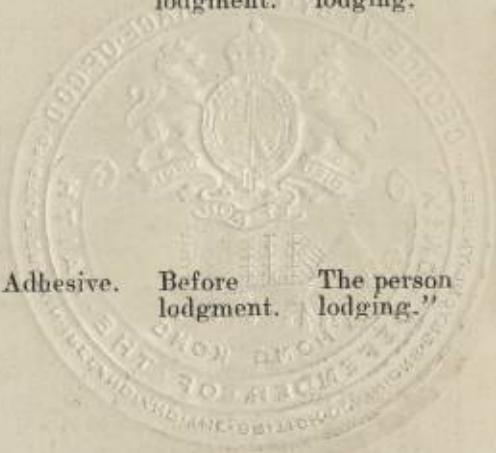
(a) by substituting the figures and words "15 cents" for the figures and words "10 cents" wherever the latter appear in the column headed "Duty" with reference to any sub-head of head 10 (Bill of Exchange);

(b) by substituting the figures and words "10 cents" for the figures and words "5 cents" where they appear in the column headed "Duty" opposite sub-head (7) of head 10 aforesaid;

(c) by substituting the figures and words "15 cents" for the figures and words "10 cents" where they appear in the column headed "Duty" opposite item 36 (Receipt); and

(d) by inserting two additional heads after head 44 thereof as follows:—

"45. Import Declaration for the purposes of the regulations under section 3 of the Registration of Imports and Exports Ordinance, 1922.	\$1.	Adhesive.	Before lodgment.	The person lodging.
46. Export Declaration for the purposes of the regulations under section 3 of the Registration of Imports and Exports Ordinance, 1922.	\$1.	Adhesive.	Before lodgment.	The person lodging."



Addition of new section 12A to the principal Ordinance.

3. The principal Ordinance is hereby amended by the insertion of the following additional section after section 12 thereof:—

"Cheques drawn on forms supplied by banks authorized in that behalf need not bear a stamp.

12A. (1) The Colonial Secretary may, in his absolute discretion, by an order published in the *Gazette*, authorize any bank doing business in the Colony to compound for the payment of duty on unstamped cheques on the following conditions:—

(a) that the said cheques be drawn and issued on forms to be supplied or adopted by the said bank;

(b) that the said bank do levy upon or charge to the person to whom such cheques are issued the stamp duty mentioned in the Schedule;

(c) that the said bank do pay on the 1st January and 1st July in each year to the Collector the amount due and collected thereon as duties on such unstamped cheques.

(2) Cheques drawn and issued on forms supplied or adopted by such bank in accordance with this section shall be deemed to be duly stamped notwithstanding any provision of this Ordinance or of the regulation made hereunder relating to affixing and cancelling of stamps or the method of denoting the payment of stamp duty."

4. (1) This Ordinance shall come into operation on the 1st of May, 1949, and shall apply—

Commencement. Application and transitional provisions.

(a) as regards receipts to receipts issued on or after the 1st of May, 1949; and

(b) as regards instruments under head 10 aforesaid to all instruments drawn on or after the 1st of May, 1949, and all instruments drawn after the 1st of January, 1949, and prior to the 1st of May, 1949, which are presented for payment, indorsed, transferred, or in any manner negotiated, paid, or used after the 1st of May, 1949.

(2) In applying this Ordinance to instruments drawn after the 1st of January, 1949, and prior to the 1st of May, 1949, any such instrument shall be deemed to be duly stamped if stamped in accordance with the law in force immediately prior to the commencement of this Ordinance and if and so long as the provisions of sub-section (3) are complied with.

(3) Every person into whose hands an instrument, liable to stamp duty under head 10 in the Schedule and drawn subsequent to the 1st of January, 1949, and prior to the 1st of May, 1949, may after the commencement of this Ordinance come, shall, before he presents the same for payment or indorses, transfers or in any manner negotiates, pays or uses such instrument, affix thereto such adhesive stamps as will together with the stamps, if any, already affixed thereto be sufficient to discharge the stamp duty imposed on such instrument by the principal Ordinance as amended by this Ordinance: Provided that—

(a) if at the time when any such instrument comes into the hands of any *bona fide* holder there is affixed thereto an adhesive stamp effectually cancelled, the stamp shall, so far as relates to the holder, be deemed to be duly cancelled, although it may not appear to have been affixed or cancelled by the proper person;

(b) if at the time when any such instrument comes into the hands of any *bona fide* holder there is affixed thereto an adhesive stamp not duly cancelled, it shall be competent for the holder to cancel the stamp as if he were the person by whom it was affixed, and upon his so doing the instrument shall be deemed duly stamped and as valid and available as if the stamp had been cancelled by the person by whom it was affixed; and

(c) notwithstanding anything contained herein or in the principal Ordinance a person who takes or receives from another an instrument, which has not been duly stamped by reason of a failure to comply with this section, and who, prior to the 1st of July, 1949, affixes thereon such adhesive stamps as will together with the stamps if any, already affixed thereto suffice to discharge the duty imposed by the principal Ordinance as amended by this Ordinance and cancels the same, shall not be precluded from recovering on such instrument or making the same available.

(4) The *provisos* to sub-section (3) shall not operate to relieve any person from any fine or penalty incurred for not cancelling an adhesive stamp.

(5) The provisions of sub-section (3) shall apply notwithstanding that in the case of an instrument executed out of the Colony it shall have been stamped in accordance with the provisions of section 17 of the principal Ordinance.

(6) Any person who fails to comply with the provisions of sub-section (3) shall be liable on summary conviction to a fine not exceeding ten thousand dollars and to imprisonment for any term not exceeding one year.

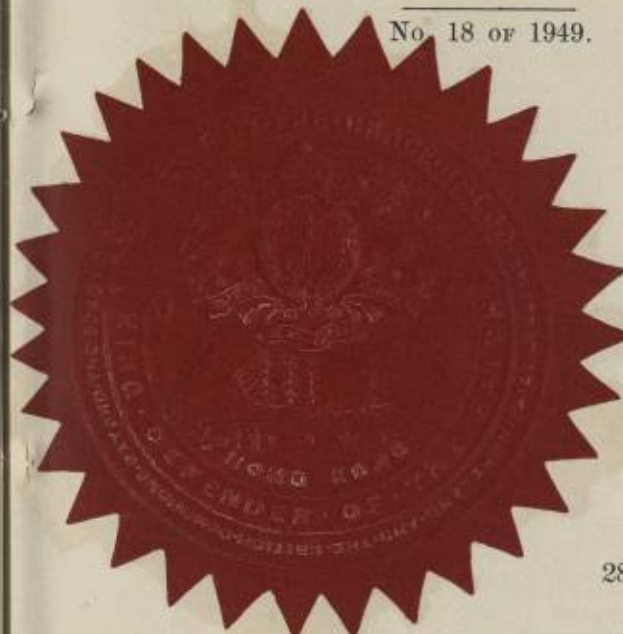
(7) A failure by a person to comply with the provisions of sub-section (3) shall not have the effect of rendering the drawer of the instrument affected, or any holder prior to the person so failing to comply, liable to any penalty or disability.

Passed the Legislative Council of Hong Kong, this 27th day of April, 1949.

J. L. Howard
Deputy Clerk of Councils.

HONG KONG

No. 18 of 1949.



I assent.

Alban Kuno
Governor.

28th April, 1949.

An Ordinance to provide for the incorporation of the President in Hong Kong of the China Peniel Missionary Society.

[29th April, 1949.]

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

1. This Ordinance may be cited as the China Peniel Short title. Missionary Society Incorporation Ordinance, 1949.
2. The President for the time being in Hong Kong of the ^{Incorporation.} China Peniel Missionary Society shall be a Corporation sole (hereinafter called "the Corporation") and shall have the name of "The President" in Hong Kong of the "China Peniel Missionary Society, Incorporated" and by that name shall and may sue and be sued in all courts in this Colony and shall and may have and use a common seal.
3. (1) Subject to the provisions of sub-section (2) the ^{Powers of} Corporation shall have power to acquire, accept leases of, purchase, ^{Corporation.} take, hold and enjoy any lands, buildings, messuages or tenements of what nature or kind soever and wheresoever situated, and also to invest monies upon mortgage of any lands, buildings, messuages or tenements, or upon the mortgages, debentures, stocks, funds, shares or securities of any government, municipality, corporation, or company and also to purchase, acquire, and possess goods and chattels of what nature and kind soever.



(2) Notwithstanding the provision of sub-section (1) the Corporation shall not acquire any immovable property in the Colony unless it has previously obtained the special consent of the Governor in Council in each case.

(3) The Corporation shall further have power by deed under its seal to grant, sell, convey, assign, surrender, exchange, partition, yield up, mortgage, demise, re-assign, transfer or otherwise dispose of any lands, buildings, messuages, tenements, mortgages, debentures, stocks, funds, shares or securities, or other goods and chattels whatsoever, which are for the time being vested in or belonging to the Corporation, upon such terms as to the Corporation may seem fit.

4. The legal estate in any property whatsoever, transferred to the Corporation in any manner whatsoever, shall in the event of death of the President for the time being in Hong Kong of the China Peniel Missionary Society, or in the event of his ceasing to hold office as such President, pass to his Successor in such office when appointed. Transfer of property.

5. All deeds and other instruments requiring the seal of the Corporation shall be sealed in the presence of the person who is for the time being President in Hong Kong of the China Peniel Missionary Society or of his attorney, duly authorised, and such deeds and instruments and writings requiring the signature of the Corporation shall be signed by such President or his attorney. Execution of deeds.

6. (1) Whenever any person is appointed to the office of President in Hong Kong of the China Peniel Missionary Society, that person shall within three weeks after his appointment or within such further time as may be allowed by the Governor, furnish to the Governor satisfactory evidence of his appointment. Appointment of President.

(2) A notification in the *Gazette* under the hand of the Colonial Secretary that such evidence has been furnished to the Governor by such person shall be conclusive evidence of such appointment.

(3) The appointment of a new President, in the event of death or for any other reason, shall be made by the majority vote of the four directors of the Corporation in Hong Kong.

7. Nothing in this Ordinance shall affect or be deemed to affect the rights of His Majesty the King, His Heirs and Successors, or the rights of any body politic or corporate or any other person except such as are mentioned in this Ordinance and those claiming by, from, or under them. Saving of rights of the Crown and of certain other rights.

Passed the Legislative Council of Hong Kong, this 27th day of April, 1949.

J. L. Howard
Deputy Clerk of Councils.

HONG KONG

No. 19 OF 1949.



I assent.

M. H. Matthews
Governor.

28th April, 1949.

An Ordinance to authorise the making of by-laws by the North Point Wharves, Limited.

[29th April, 1949.]

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

1. This Ordinance may be cited as the North Point Wharves Short title, Limited Ordinance, 1949.

2. (1) In this Ordinance and any by-laws made thereunder—
“the Company” means the North Point Wharves, Limited, their successors and assigns; Interpre-
tation.

“Official” includes only the persons acting in the following capacities in the employment of either the person, firm or company for the time being acting as General Managers and/or Agents, or of the Company namely Managing Director, General Manager, Manager, Marine Superintendent, Secretary, Shipping Manager, Assistant Shipping Manager, Chief Clerk, Accountant, Wharf Manager, Assistant Wharf Manager, Berthing Master, Engineer, Wharfinger, Cargo Superintendent, or Wharf Police Officer.

(2) For the purposes of this Ordinance, if the Colonial Secretary gives notice in the *Gazette* that any person, firm or company is acting as the General Managers and/or Agents of the Company, such person, firm or company shall be deemed to be so acting from the date of such notice so appearing until revocation by the Colonial Secretary of such notice is published in the *Gazette*.



3. (1) The Company shall have power, subject to the By-laws. approval of the Governor in Council, to make by-laws in connection with the conduct of its business and the maintenance of order and safety thereon, and such by-laws may prohibit, conditionally or otherwise, the usage by passengers or by the public of the godowns, buildings, wharves, roads and premises of the Company.

(2) A copy of the by-laws so made clearly printed in English and Chinese shall be posted in a conspicuous place on the premises.

4. Every person who commits a breach of any such by-laws Penalty. shall upon summary conviction be liable to a fine not exceeding five hundred dollars.

5. Nothing in this Ordinance shall affect or be deemed to affect the rights of His Majesty the King, His Heirs and Successors, or the rights of any body politic or corporate or of any other person, except such as are mentioned in this Ordinance and those claiming by, from or under them. Saving of rights of the Crown and of certain other rights.

Passed the Legislative Council of Hong Kong, this 27th day of April, 1949.

J. L. Howard
Deputy Clerk of Councils.

HONG KONG

No. 20 OF 1949.



I assent.

M. H. M. H. M.
Governor.

12th May, 1949.

An Ordinance to amend the Zetland Hall Trustees Incorporation Ordinance, 1922.

[13th May, 1949.]

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

1. This Ordinance may be cited as the Zetland Hall Trustees Incorporation (Amendment) Ordinance, 1949, and shall be read as one with the Zetland Hall Trustees Incorporation Ordinance, 1922 hereinafter referred to as the principal Ordinance.

Short title.
Ordinance
No. 23 of
1922.

2. Section 2 of the principal Ordinance is hereby amended by—

Amendment
of section 2
of the
principal
Ordinance.

(a) the substitution for sub-section (1) thereof of the following sub-section:—

“(1) The persons who have been certified by the Secretary of the Zetland Hall Trustees by Statutory Declaration made by him and filed with the Registrar of Companies on the 21st day of April, 1949, to be the elected representatives of the lodges specified in the Schedule hereto together with the persons who shall from time to time be certified in the same manner by the Secretary of the Zetland Hall Trustees as being the elected representatives of other lodges, the names of which shall

be from time to time added to those specified in the Schedule in manner provided by sub-section (2) hereof and their successors in office as hereinafter defined shall be a body corporate hereinafter called "the corporation" and shall have the name "The Zetland Hall Trustees" and by that name shall have perpetual succession and may sue and be sued in all Courts in the Colony and shall and may have and use a common seal."

(b) the renumbering of sub-sections (2) and (3) thereof as (3) and (4) respectively;

(c) the insertion of the following sub-section after sub-section (1):—

"(2) In addition to the lodges specified in the Schedule it shall be lawful for the trustees to invite any other lodge hereafter established in Hong Kong in accordance with the English, Scottish or Irish Constitutions to have its name added to those appearing in the Schedule and upon the acceptance of such invitation to nominate such lodge accordingly; any such nomination shall be made in writing under the hand of the chairman of the trustees and shall be filed with the Registrar of Companies. Notice of the addition of the name of any such lodge to the Schedule shall be given by the corporation in the Hong Kong Government Gazette within fourteen days of the making of the nomination which shall thereupon take effect as if the name of the lodge so nominated had been included in the Schedule originally."

3. Sub-section (1) of Section 3 of the principal Ordinance is hereby repealed and the following sub-section substituted therefor:—

"(1) If at any time any of the lodges specified in the Schedule or whose names shall have been added thereto in manner hereinbefore provided shall wish to appoint a new representative in succession to or in substitution for the representative specified in the Statutory Declaration referred to in section 2 it shall be lawful for the said lodge so to do and the said new representative shall be deemed to be a trustee in succession to or in substitution for the said former representative upon the filing with the Registrar of Companies of a certificate of the fact of such election specified under the hand of the secretary of the Zetland Hall Trustees."

4. Section 4 of the principal Ordinance is hereby repealed and the following section substituted therefor:—

"Vesting of property.
4. The piece or parcel of ground registered in the Land Office as Inland Lot No. 1875 and standing in the names of Charles Bernard Brown the Right Worshipful District Grand Master of the District Grand Lodge of Hong Kong and South China of the English Constitution and Edmund Maurice Raymond together with all easements rights and appurtenances belonging or appertaining thereto or therewith usually held occupied and enjoyed is hereby transferred to and

Substitution of sub-section (1) of section 3 of the principal Ordinance.

Substitution of section 4 of the principal Ordinance.

vested in the corporation subject to the payment of the rents and the performance of the covenants and conditions reserved by and contained in the Crown Lease of the same."

5. Section 5 of the principal Ordinance is hereby amended by the deletion of the words "specified in section 2, either on the ground specified in section 4 or elsewhere" and by the substitution therefor of the words "the names of which appear in the Schedule or which shall have been from time to time added thereto in accordance with the provisions of section 2".

Amendment of section 5 of the principal Ordinance.

6. Section 7 of the principal Ordinance is hereby repealed and the following section is substituted therefor:—

Substitution of section 7 of the principal Ordinance.

"Apportionment of surplus funds.

7. The corporation may from time to time give and pay over in equal shares to the lodges specified in the Schedule together with other lodges whose names have from time to time been added to the Schedule in manner provided in section 2 any funds not required for the purposes of the maintenance or development of the properties of the corporation."

7. Sub-section (2) of section 8 of the principal Ordinance is hereby repealed and sub-sections (3) and (4) of the same section are renumbered (2) and (3) respectively.

Repeal of sub-section (2) and re-numbering of sub-sections (3) and (4) of section 8 of the principal Ordinance.

8. Section 10 of the principal Ordinance is hereby re-numbered as section 11 and the following section is hereby inserted as section 10:—

Re-numbering of section 10 of the principal Ordinance and insertion of new section 10.

"Fees.

10. There shall be payable by the corporation to the Registrar of Companies a fee of three dollars on each and every Statutory Declaration nomination or certificate made and filed under the provisions of this Ordinance and a fee of one dollar shall be payable for every search of the file."

9. The principal Ordinance is hereby amended by the addition thereto of the following Schedule:—

Addition of a Schedule to the principal Ordinance.

SCHEDULE

Zetland Hall Trustees Incorporation Ordinance, 1922.

(Section 2.)

- Zetland Lodge No. 525 E.C.
- Victoria Lodge No. 1026 E.C.
- Perseverance Lodge No. 1165 E.C.
- United Service Lodge No. 1341 E.C.
- Corinthian Lodge of Amoy No. 1806 E.C.

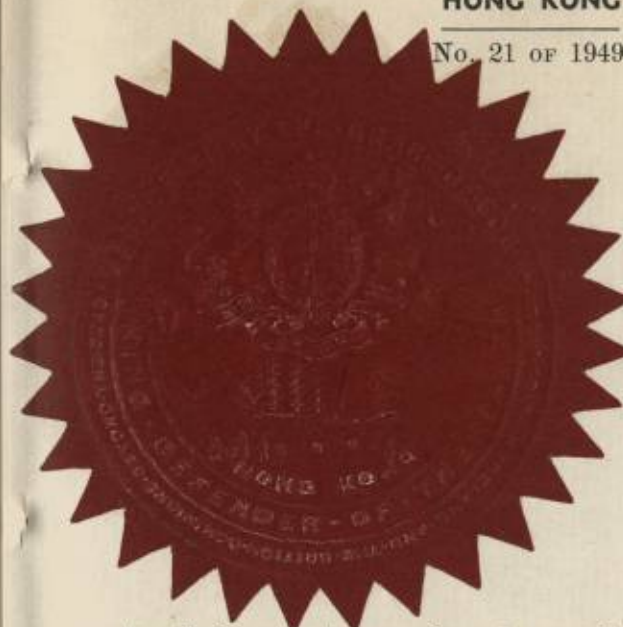
Lodge Star of Southern China No. 2013 E.C.
 University Lodge No. 3666 E.C.
 Swatow Lodge No. 3705 E.C.
 Cathay Lodge No. 4373 E.C.
 St. Johns Lodge No. 618 S.C.
 Naval and Military Lodge No. 848 S.C.
 Eastern Scotia Lodge No. 923 S.C.
 Shamrock Lodge No. 712 I.C."

Passed the Legislative Council of Hong Kong, this 11th day of May, 1949.

Alvin W. Todd
 Deputy Clerk of Councils.

HONG KONG

No. 21 of 1949.



I assent.

McHannan
 Governor.

19th May, 1949.

An Ordinance to amend and consolidate the law relating to exhibitions, publications and advertisements of an indecent, obscene, revolting or offensive nature.

[20th May, 1949.]

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

1. This Ordinance may be cited as the Indecent Exhibitions and Obscene Publications Consolidation Ordinance, 1949.

2. The Indecent Exhibitions Ordinance, 1918, is hereby amended by—
 (a) substituting in section 5 thereof the words "five thousand dollars or to imprisonment for any term not exceeding six months" for the words "two hundred and fifty dollars or imprisonment for any term not exceeding three months"; and

Amendment of sections 5 and 6(1) of Ordinance No. 3 of 1918.

(b) substituting in sub-section (1) of section 6 thereof the words "justice of the peace" for the word "magistrate".

3. The Obscene Publications Ordinance, 1914, is hereby repealed.

Repeal of Ordinance No. 15 of 1914.

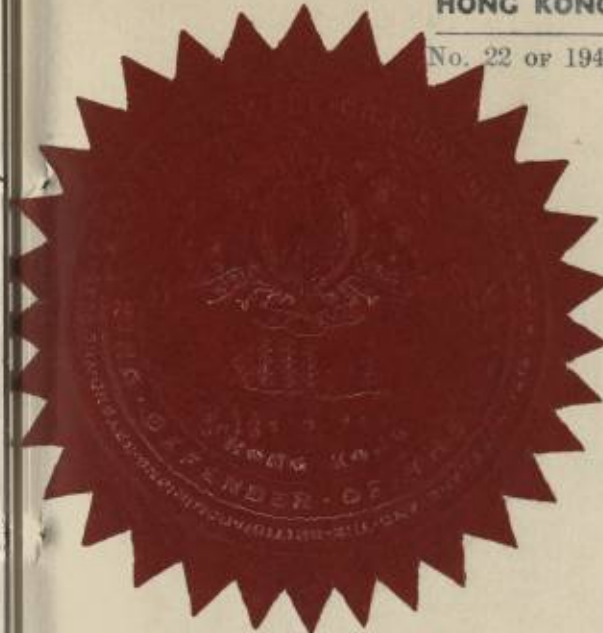
Passed the Legislative Council of Hong Kong, this 18th day of May, 1949.

Alvin W. Todd
 Deputy Clerk of Councils.



HONG KONG

No. 22 of 1949.



I assent.

John Murray

Governor.

19th May, 1949.

An Ordinance further to amend the Education Ordinance, 1913.

[20th May, 1949.]

Be it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof:

1. This Ordinance may be cited as the Education (Amendment) Ordinance, 1949, and shall be read as one with the Education Ordinance, 1913, hereinafter referred to as the principal Ordinance.

Short title.
Ordinance
No. 26 of
1913.

2. Section 10 of the principal Ordinance is hereby amended by the addition at the end thereof of the following:—

Amendment
of section 10
of the
principal
Ordinance.

“It shall be lawful for the Director in respect of any particular school to waive the fulfilment of or modify the requirements of any regulation made under this section, if he is satisfied that compliance therewith is impracticable or that modification is required in such school. Such waiver or modification shall be notified in writing under the hand of the Director.”

3. Section 7 of the principal Ordinance is hereby amended as follows:—

Amendment
of section
7 of the
principal
Ordinance.

(a) by the repeal of paragraph (a) of the said section and its replacement as follows:—

“(a) for any person to open, start, manage, teach in or maintain any school in the Colony unless and until a certificate of registration of such school has been issued in manner hereinafter provided;” and



(b) by the insertion in paragraph (c) of the said section of the words "not on the Register of Teachers" after the word "person" appearing in the second line thereof.

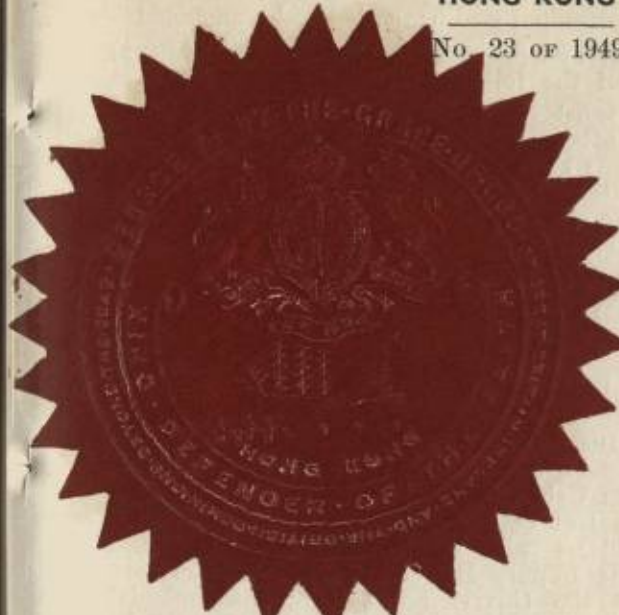
Passed the Legislative Council of Hong Kong, this 18th day of May, 1949.

Almuthi Bokal

Deputy Clerk of Councils.

HONG KONG

No. 23 OF 1949.



I assent.

M. H. H. H.
Governor.

19th May, 1949.

An Ordinance further to amend the Public Health (Sanitation) Ordinance, 1935.

[20th May, 1949.]

Be it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof:

1. This Ordinance may be cited as the Public Health (Sanitation) Amendment Ordinance, 1949, and shall be read as one with the Public Health (Sanitation) Ordinance, 1935, hereinafter referred to as the principal Ordinance.

Short title.

Ordinance No. 15 of 1935.

2. Section 3 of the principal Ordinance is hereby amended—

Amendment of section 3 of the principal Ordinance.

(a) by the repeal of the definition "Health Officer" and by the substitution therefor of the following definition:—

"Health Officer. 'Health Officer' includes the Deputy Director of Health Services, any medical officer appointed as a health officer by the Governor, any veterinary officer and any officer for the time being performing the duties of a health officer or veterinary officer.";

(b) by the insertion of the following definition immediately after the definition "Offensive trade":—

"Officer of the Sanitary Department. 'Officer of the Sanitary Department' includes any health officer, health inspector or overseer of the Sanitary Department working under the direction of a health officer or health inspector for the purposes of this Ordinance."

Amendment of section 4 of the principal Ordinance.

3. Section 4 of the principal Ordinance is hereby amended—
(a) by the repeal in sub-section (1), of paragraph (xx) and by the substitution of the following therefor:—

“(xx) the construction, licensing, regulation and proper sanitary maintenance of public baths, public and private swimming baths and swimming pools, laundries, dry-cleaning establishments and wash-houses;”;

(b) by the repeal of sub-section (2) and by the substitution of the following sub-section therefor:—

“(2) The Council may in any such by-laws prescribe fines for any breach thereof not exceeding five hundred dollars in each case.”

Repeal and replacement of section 6 of the principal Ordinance.

4. Section 6 of the principal Ordinance is repealed and the following section is substituted therefor:—

“Appointment and grouping of officers.

6. The Inspectors and such other subordinate officers as may be appointed by the Governor under section 9 of the Urban Council Ordinance, 1935, shall, for the purposes of this Ordinance, be grouped under the health officers who will be under the general direction of the Deputy Director of Health Services: Provided that the Governor may appoint malarial inspectors or inspectors for other special purposes, who shall have the powers of officers of the Sanitary Department under this Ordinance but shall be grouped under the Malariologist, or such other officer as the Governor may direct, under the general direction of the Deputy Director of Health Services.”

Amendment of section 7 of the principal Ordinance.

5. Section 7 of the principal Ordinance is hereby amended by the substitution of the words “Deputy Director of Health Services” for the words “Director of Medical Services” in the second line thereof.

Amendment of penalties in those sections of the principal Ordinance which are specified in the Schedule to this Ordinance.

6. Wherever in any of the sections of the principal Ordinance specified in Column 1 of the Schedule to this Ordinance, the penalty specified in Column 2 to the Schedule is mentioned, there shall be substituted for such penalty the corresponding penalty mentioned in Column 3 of the Schedule.

SCHEDULE.

[section 6.]

	Column 1	Column 2 (old penalty)	Column 3 (new penalty)
Section 19	In Sec. 19 line 3	twenty-five dollars	one thousand dollars
Section 22	In Sec. 22 s.s. (2) line 6	fifty dollars	five hundred dollars
Section 25	In Sec. 25 s.s. (2) line 2	fifty dollars	five hundred dollars

	Column 1	Column 2 (old penalty)	Column 3 (new penalty)
Section 27	In Sec. 27 s.s. (1) line 6	ten dollars	fifty dollars
	In Sec. 27 s.s. (1) line 9	twenty-five dollars	one hundred dollars
	In Sec. 27 s.s. (2) line 3	fifty dollars	five hundred dollars
Section 31	In Sec. 31 s.s. (2) line 5	five dollars	fifty dollars
Section 47	In Sec. 47 s.s. (2) line 4	twenty-five dollars	two hundred and fifty dollars
Section 47	In Sec. 47 s.s. (3) line 4	ten dollars	one hundred dollars
	In Sec. 47 s.s. (3) lines 6 and 7	twenty-five dollars	two hundred and fifty dollars
Section 71	In Sec. 71 line 6	fifty dollars	five hundred dollars
Section 74	In Sec. 74 lines 8 and 9	one hundred dollars	one thousand dollars
Section 75	In Sec. 75 s.s. (1) line 10	two hundred dollars	one thousand dollars
	In Sec. 75 s.s. (6) lines 4 and 5	two hundred dollars	one thousand dollars
Section 79	In Sec. 79 lines 6 and 7	two hundred dollars	one thousand dollars
	In Sec. 79 lines 7 and 8	twenty dollars	fifty dollars
Section 80	In Sec. 80 line 10	two hundred dollars	one thousand dollars
Section 81	In Sec. 81 line 5	one hundred dollars	five hundred dollars

Passed the Legislative Council of Hong Kong, this 18th day of May, 1949.

Alvin T. Toth
Deputy Clerk of Councils.

HONG KONG

No. 24 OF 1949.



I assent.

[Handwritten signature]
Governor.

19th May, 1949.

An Ordinance to amend the Magistrates Ordinance, 1932.

[20th May, 1949.]

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

1. This Ordinance may be cited as the Magistrates (Amendment) Ordinance, 1949, and shall be read as one with the Magistrates Ordinance, 1932, hereinafter referred to as the principal Ordinance.

Short title.
Ordinance
No. 41 of
1932.

2. The following interpretation shall be substituted for the interpretation given to the term "magistrate" in the principal Ordinance:—
" 'Magistrate' includes a permanent magistrate and a special magistrate."

Amendment
of section 2
of the
principal
Ordinance.

3. The following section is hereby substituted for section 5 of the principal Ordinance:—

Substitution
of new section
for section 5
of the
principal
Ordinance.

"Governor may by warrant appoint permanent and special magistrates.

5. (1) The Governor may by warrant under his hand from time to time appoint such number of permanent and special magistrates as are in his opinion required for the efficient administration of justice in the Colony and may in the case of special magistrates by such warrant limit the jurisdiction and powers to be exercised by the person so appointed. Such appointments shall be notified in the Gazette.

(2) A permanent magistrate shall exercise all the jurisdiction and powers conferred on a magistrate or a police magistrate by any enactment in force in the Colony and also such jurisdiction and powers as may from time to time be conferred on a permanent magistrate.

(3) A special magistrate shall, subject to the provisions of his warrant of appointment, exercise all the jurisdiction conferred on a magistrate or a police magistrate by any enactment in force in the Colony, but his powers of imposing imprisonment and fine shall, in the case of any enactment in force at the commencement of the Magistrates (Amendment) Ordinance, 1949, be subject to the limitations as to the maximum term or terms of imprisonment and the maximum fine which such magistrate may lawfully impose under this Ordinance as amended from time to time and in the case of any enactment coming into force after the commencement of the Magistrates (Amendment) Ordinance, 1949, be so subject unless such enactment expressly provides to the contrary.

(4) Any magistrate appointed under this section shall be a justice of the peace by virtue of his office.

(5) So long as any warrant of appointment of a magistrate issued under this section is in force and unrevoked, it shall continue to have effect notwithstanding his subsequent appointment to some other office."

Amendment of section 6 of the principal Ordinance.

4. Section 6 of the principal Ordinance is hereby amended—

(a) by the substitution of the words "The Director of Marine, and the Assistant Director of Marine" for the words "The Harbour Master, the Deputy Harbour Master and the Assistant Harbour Master", in the first two lines thereof; and

(b) by the insertion of the word "special" before the word "magistrate" in the fifth line thereof.

Amendment of section 7 of the principal Ordinance.

5. Section 7 of the principal Ordinance is hereby amended—

(a) by the substitution of the following sub-section for sub-section (2) thereof:—

"(2) Any two justices of the peace to whom this sub-section applies shall when sitting together have all the powers and jurisdiction conferred upon a special magistrate by this Ordinance: Provided that such justices shall exercise their powers and discharge their duties in conformity with any direction given by the Chief Justice and under his general control and supervision."

(b) by the addition of the following sub-section after sub-section (2):—

"(3) Sub-section (2) shall apply to any justice of the peace who is willing to act and who in the opinion of the Governor may suitably in conjunction with another such justice exercise the powers and jurisdiction conferred by sub-section (2). A list of such justices to be published in the *Gazette* as soon as conveniently may be after the 1st day of January in each year."

Substitution for sub-section (2) of section 10 of the principal Ordinance.

6. The following sub-section is hereby substituted for sub-section (2) of section 10 of the principal Ordinance:—

"(2) For every distinct offence of which any person is accused there shall be a separate complaint or information, and every such complaint or information shall be tried separately except in the following cases:—

(a) when a person is accused of more offences than one of the same or a similar character he may, subject to the provisions of section 20, be charged with and tried at the same time with any number of them not exceeding three, whether they are offences committed with respect to the same person or not: Provided that if the Magistrate is of opinion that a person accused will be prejudiced or embarrassed in his defence, he may order a separate trial of any such charge or charges;

(b) if in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with and tried at the same time for every such offence; and

(c) if a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused person may be charged with having committed all or any of such offences and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences."

7. Section 11 of the principal Ordinance is hereby amended by deleting the symbols and number "(1)" in sub-section (1) thereof and by deleting sub-section (2).

Amendment of section 11 of the principal Ordinance.

8. The following sections shall be inserted immediately after section 11:—

Addition of new sections 11A—11F.

"Prosecution of offences to be under control of Attorney General.

11A. The Attorney General is hereby entrusted with the duty and discretion of conducting the prosecution of all offences cognizable by a magistrate: Provided that it shall be lawful for any member of the Hong Kong Police Force and such other public servant as the Attorney General may from time to time by any general or special direction authorise to lay before a magistrate an information in respect of an offence and that any such information shall be deemed to have been laid on behalf of the Attorney General and provided that in any such case he shall be deemed to be a party to the proceedings and such member or public servant shall not be so deemed.

Appointment of public prosecutors by Attorney General.

11B. The Attorney General may appoint any public officer or class of public officers to act as public prosecutor or prosecutors and to conduct generally on his behalf any prosecution before a magistrate or any specified classes of prosecutions or any particular case. Any public prosecutor so appointed may without any written authority appear and plead before a magistrate any case of which he has charge which is being inquired into, tried or reviewed.

Private prosecution and intervention by the Attorney General.

11C. (1) A complainant or informant who is not acting or deemed to act on behalf of the Attorney General may if he so wishes and without any prior leave conduct in person or by counsel on his behalf the prosecution of the offence to which the complaint or information relates

but the Attorney General may at any stage of the proceedings before the magistrate intervene and assume the conduct of the proceedings and may within the time limited by section 99 for applying for a review intervene for the purpose of applying for or being made a party to any review.

(2) As from the date of any such intervention the Attorney General shall be deemed to be a party to the proceedings or the review in lieu of such complainant or informant.

(3) Such intervention may be effected by oral intimation given to the magistrate by a public prosecutor acting under the instructions of the Attorney General or by notice in writing under the hand of the Attorney General of his intervention lodged with the magistrate's clerk. In the event of oral intimation as aforesaid having been given the Attorney General shall as soon as conveniently may be cause notice in writing of his intention to be lodged as aforesaid.

Power for public prosecutor to withdraw case.

11D. (1) In any case before a magistrate in which a defendant is being tried for any offence and at any stage thereof before judgment and in any case in which an inquiry is being held by a magistrate for the purpose of determining whether an accused should be committed for trial, the Attorney General may enter a *nolle prosequi* by informing the magistrate in writing that the Crown intends that the proceedings shall not continue, and thereupon the accused shall be at once discharged in respect of the charge for which the *nolle prosequi* is entered, and if he has been committed to prison shall be released, or if on bail his recognizances shall be discharged; but such discharge of an accused person shall not operate as a bar to any subsequent proceedings against him on account of the same facts.

(2) If the accused shall not be before the magistrate when such *nolle prosequi* is entered the magistrate's clerk shall forthwith cause notice in writing of the entry of such *nolle prosequi* to be given to the keeper of the prison in which such accused may be detained.

Rights of parties to conduct case personally or by counsel.

11E. (1) The party against whom the complaint is made or information laid shall be admitted to make his full answer and defence thereto and to have the witnesses examined and cross-examined by him or by counsel on his behalf.

(2) Without prejudice to the rights of the Attorney General every complainant or informant shall be at liberty to conduct the complaint or information respectively and to have the witnesses examined and cross-examined by him or by counsel on his behalf.

Solicitor General to act in the absence of or by authority of the Attorney General and Crown Counsel to be public prosecutors.

11F. The powers duties and discretions by sections 11A, 11B, 11C and 11D conferred on or entrusted to the Attorney General shall during his absence from duty for any cause be exercised by the Solicitor General: Provided that—

(a) the Attorney General may by writing under his hand authorise the Solicitor General to discharge and exercise all or any of the duties discretions and powers entrusted to or conferred upon him by section 11C or section 11D; and

(b) any officer discharging the functions of Crown Counsel shall without any appointment under section 11B be entitled to act as a public prosecutor and to represent the Attorney General on any appeal under section 100 or section 108."

9. Section 12 of the principal Ordinance is hereby amended by the insertion after sub-section (4) thereof of the following additional sub-sections:—

Addition of two new sub-sections to section 12 of the principal Ordinance.

"(5) Notwithstanding the provisions of this section if in the case of any offence, which is declared by the Ordinance creating it or by resolution of Legislative Council to be an offence to which the procedure prescribed by this sub-section is applicable, the defendant pleads guilty to such offence by letter addressed to the magistrate, the magistrate may in his discretion in lieu of proceeding under the other provisions of this section enter a plea of guilty and deal with the case in like manner *mutatis mutandis* as if the defendant had actually appeared before him and pleaded guilty.

(6) In every case in which the procedure prescribed by the preceding sub-section is applicable the summons shall contain a foot-note or endorsement in the following terms:—

"Under sub-section (5) of section 12 of the Magistrates Ordinance, 1932, a magistrate may in his discretion accept a plea of guilty contained in a letter addressed to the magistrate. If a defendant decides to take this course he may if he chooses mention in such letter any facts which he considers mitigate the offence. The magistrate has a complete discretion as to whether the defendant should be required to attend personally and if the statement of facts in mitigation is disputed this may lead to personal appearance being required." "

10. The following section is hereby substituted for section 21 of the principal Ordinance:—

Substitution of new section for section 21 of the principal Ordinance.

"Defects in and alteration of complaint information or summons.

21. (1) No objection shall be taken or allowed to any complaint, information or summons for any alleged defect therein in substance or in form, or for any variance between such complaint, information or summons and the evidence adduced in support thereof, and the adjudicating magistrate shall in all cases give judgment upon the substantial merits and facts of the case as proved before him, and convict the defendant of the offence with which he was charged with such variation as has been warranted

by the evidence or of any offence which under the provisions of paragraph (c) of sub-section (2) of section 10 could have been tried therewith.

(2) Whenever in the opinion of the magistrate there is a defect of substance or there has been any such variance as aforesaid he shall make the necessary amendment in the complaint, information or summons and shall read and explain the same to the defendant.

(3) In every case falling within the preceding sub-section parties shall be allowed to recall and examine on matters relevant to such amendment any witness who may have been examined and to call any further witness: Provided that if the amendment under sub-section (2) is made after the case for the complainant or informant is closed no further witness may be called by the complainant or informant other than such and on such matters only as it would, notwithstanding the provisions of this section be permissible to call and put in evidence in rebuttal.

(4) In any case falling within sub-section (2) the magistrate shall grant any adjournment which may be reasonably necessary to enable the parties to exercise their rights under sub-section (3) or to enable the defendant to reconsider his defence."

Substitution of new section 30 of the principal Ordinance.

11. Section 30 of the principal Ordinance is hereby repealed and the following substituted therefor:—

"Power to permit conditional release of offenders. 7 Edw. 7, c.17, s.1 (1), (3), (4). [cf. Ord. No. 9 of 1899, s.96, and No. 32 of 1935, s.59.]

First Schedule. Forms Nos. 26 & 45.

Forms Nos. 5 & 21.

30. (1) Where any person is charged before a magistrate with an offence punishable on summary conviction, and the magistrate thinks that the charge is proved but is of opinion that, having regard to the character, antecedents, age, health or mental condition of the person charged or to the trivial nature of the offence or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment or any other than a nominal punishment, or that it is expedient to release the offender on probation, the magistrate may without proceeding to conviction make an order either—

(a) dismissing the information or charge; or

(b) discharging the offender conditionally on his entering into a recognizance, with or without sureties, in a sum not greater than five hundred dollars, to be of good behaviour and to appear for conviction and sentence when called on at any time during such period, not exceeding three years, as may be specified in the order.

(2) The magistrate may, where he makes an order under this section, further order that the offender shall pay such costs of the proceedings or such damages

for injury or compensation for loss (not exceeding five hundred dollars or, if a higher limit is fixed by any enactment relating to the offence, that higher limit) as he thinks reasonable, or both such costs and damages or compensation.

(3) An order made by a magistrate under this section shall, for the purpose of revesting or restoring stolen property and of enabling the magistrate to make orders as to the restitution or delivery of property to the owner and as to the payment of money upon or in connection with such restitution or delivery, have the like effect as a conviction.

(4) The magistrate may order the defendant in default of compliance with any order made under this section to be imprisoned without hard labour for any term not exceeding six months."

12. Section 32 of the principal Ordinance is hereby amended by the substitution of the words "one hundred" for the words "twenty-five" in the second line thereof. Amendment of section 32 of the principal Ordinance.

13. Sub-section (2) of section 34 of the principal Ordinance is hereby amended— Amendment of sub-section (2) of section 34 of the principal Ordinance.

(a) by the insertion of the word "twenty" before the word "five" in the fourth line thereof; and

(b) by the substitution of the words "one thousand" for the words "two hundred" in the last line thereof.

14. Section 38 of the principal Ordinance is hereby amended by the insertion of the word "special" before the word "magistrate" in the first line thereof. Amendment of section 38 of the principal Ordinance.

15. Sub-section (2) of section 40 of the principal Ordinance is hereby amended by the substitution of the words "one thousand" for the words "two hundred and fifty" in the penultimate line thereof. Amendment of sub-section (2) of section 40 of the principal Ordinance.

16. The following section is hereby substituted for section 43 of the principal Ordinance:— Substitution of new section for section 43 of the principal Ordinance.

"Power to make orders with respect to property in possession of police. 43. (1) Where any property has come into the possession of the police in connection with any criminal offence whether committed in the Colony or not, a magistrate may—

(a) on application by the police or by a claimant of the property make an order for the delivery of the property to the person appearing to the magistrate to be the owner thereof; or

(b) on application by the police if the owner is unknown or cannot be traced and such property is perishable or its retention in police custody is likely to involve unreasonable expense or inconvenience make an order either that such property be sold or if sale is

on grounds of public health or otherwise howsoever, unlawful, dangerous or impracticable that it be retained in police custody or disposed of in such manner including destruction, as the magistrate may direct: Provided that no such order shall be made either under paragraph (a) or paragraph (b) unless the magistrate is satisfied that the property will not be required as an exhibit in any further proceedings before a magistrate or before the Supreme Court and is not perishable and no such order shall be made until ten days after the determination of such trial and that, if in the meanwhile an appeal has been lodged under section 100 or section 108, no such order shall be made until any such appeal has been determined or abandoned.

(2) Where an order for sale has been made under the preceding sub-section, the rights of any person in the property ordered to be sold shall be extinguished in favour of the Crown, but he shall, until the expiration of six months from the time when such property came into the hands of the police, have a corresponding interest in the proceeds of sale. Upon the expiration of such period of six months then subject to any order made by a magistrate under sub-section (3) pursuant to an application lodged before the expiration of such period the proceeds of sale shall be forfeited to the Crown and shall be paid into general revenue.

(3) A magistrate may upon application by a person claiming a right in the proceeds of sale, order that such proceeds or the portion thereof to which a right has been established shall be paid to the person establishing such right.

(4) Where the retention or disposal of property is ordered under paragraph (b) of sub-section (1), the order shall not affect the right of any person to take within six months from the date of the order legal proceedings against any person in possession of property delivered to him by virtue of such order, but on the expiration of those six months the right shall cease.

(5) Where by any other enactment it is provided that any particular property or class of property should or may be forfeited, destroyed or disposed of, then the provisions of such enactment shall prevail."

Amendment of section 44 of the principal Ordinance.

17. Section 44 of the principal Ordinance is hereby amended by the substitution of the words "five hundred dollars" for the last three words thereof.

Substitution of new section for section 51 of the principal Ordinance.

18. The following section is hereby substituted for section 51 of the principal Ordinance:—

"Consecutive sentences of imprisonment.

51. Where a term of imprisonment is imposed by a magistrate, either in the first instance or in respect of the non-payment of any sum of money adjudged to be paid by a conviction or order, the magistrate may order

that the said term shall commence at the expiration, in whatever manner, of any other term of imprisonment which has previously been imposed by any court: Provided that where two or more terms of imprisonment imposed by a magistrate are ordered to run consecutively the aggregate of the said terms of imprisonment shall not, in the case of a special magistrate, exceed twelve months and in the case of a permanent magistrate exceed three years."

19. Sub-section (2) of section 54 of the principal Ordinance is hereby amended by the substitution of the words "one hundred" for the words "twenty-five" in the second line thereof.

Amendment of sub-section (2) of section 54 of the principal Ordinance.

20. The following scale is hereby substituted for the scale set forth in section 62 of the principal Ordinance:—

Substitution of scale in section 62 of the principal Ordinance.

"Where the amount—	the period of imprisonment shall not exceed—
does not exceed \$20	7 days
exceeds \$20 but does not exceed \$50	14 "
" \$50 " " " " \$100.....	1 month
" \$100 " " " " \$500.....	2 months
" \$500 " " " " \$1,000	3 "
" \$1,000	6 " "

21. Section 63 of the principal Ordinance is hereby amended by the substitution of the word "fifty" for the word "five" wherever the same appears.

Amendment of section 63 of the principal Ordinance.

22. Sub-section (1) of section 65 of the principal Ordinance is hereby amended by the substitution of the word "twenty" for the word "two" in the second line thereof.

Amendment of section 65 of the principal Ordinance.

23. Section 73 of the principal Ordinance is hereby amended—

Amendment of section 73 of the principal Ordinance.

(a) by the insertion of the words "unless the person remanded and the prosecutor consent" after the words "not exceeding" in the ninth line of sub-section (1); and

[cf. 4 & 5 Geo. 5, c.58, s.20(2).]

(b) by substituting for the figure "2" immediately following sub-section (1) the figure "3"; and

(c) by the insertion of a new sub-section (2) as follows:—

[cf. 4 & 5 Geo. 5, c.58, s.20(1).]

"(2) A magistrate, on being satisfied that a person accused of any offence who has been remanded is by reason of illness or accident unable at the expiration of the period for which he was remanded to appear personally before the magistrate, may, in the absence of the accused person, order him to be further remanded for such time as may be deemed reasonable."

Substitution of new section for section 76 of the principal Ordinance.

24. The following section is hereby substituted for section 76 of the principal Ordinance:—

“Provisions as to taking of depositions, and caution to and statement of accused on proceedings before examining justices.

76. (1) After the examination of all the witnesses for the prosecution has been completed, subject to the rejection of any submission made that there is no case which the accused should be called upon to answer, the magistrate shall read the charge to the accused and explain the nature thereof to him in ordinary language, and inform him that he has the right to call witnesses, and, if he so desires, to give evidence on his own behalf. After so doing the magistrate shall then address to him the following words or words to the like effect—

[cf. 15 & 16 Geo. 5, c.86, s.12, s.s.(2).]

“Do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence upon your trial.”

[cf. 15 & 16 Geo. 5, c.86, s.12, s.s.(3).]

(2) Before the accused makes any statement in answer to the charge, the magistrate shall state to him and give him clearly to understand that he has nothing to hope from any promise of favour and nothing to fear from any threat which may have been held out to him to induce him to make any admission or confession of his guilt, but that whatsoever he then says may be given in evidence on his trial notwithstanding the promise or threat.

[cf. 15 & 16 Geo. 5, c.86, s.12, s.s.(4).]

(3) Whatever the accused says in answer to the charge shall be taken down in writing and read over to the accused and signed by the magistrate and, if the accused so desires, by him, and shall be transmitted with the depositions as hereinafter mentioned. On the trial the statement of the accused taken down as aforesaid, and whether signed by him or not, may be given in evidence without further proof thereof, unless it is proved that the magistrate purporting to sign the statement did not in fact sign it.”

Substitution of new section for section 77 of the principal Ordinance.

25. The following section is hereby substituted for section 77 of the principal Ordinance:—

“Evidence of accused and defence witnesses. [cf. 15 & 16 Geo. 5, c.86, s.12, s.s.(5) & (6).]

77. (1) Immediately after complying with the requirements of the preceding section relating to the statement of the accused, and whether the accused has or has not made a statement, the magistrate shall ask the accused whether he desires to give evidence on his own behalf and whether he desires to call witnesses.

(2) If the accused in answer to the question states that he wishes to give evidence but not to call witnesses, the magistrate shall proceed to take forthwith the evidence of the accused, and after the conclusion of the evidence of the accused his counsel shall be heard on his behalf if he so desires.

(3) If the accused in answer to the question states that he desires to give evidence on his own behalf and to call witnesses, or to call witnesses only, the magistrate shall proceed to take either forthwith, or, if a speech is to be made by counsel on behalf of the accused, after the conclusion of that speech, the evidence of the accused, if he desires to give evidence himself, and of any witness called by him who knows anything relating to the facts and circumstances of the case or anything tending to prove the innocence of the accused.

(4) All statements by the accused and all evidence given by him or any such witness as aforesaid shall be taken down in writing and transmitted together with the depositions of the witnesses for the prosecution as is hereinafter mentioned.

(5) Nothing contained in this section shall prevent the prosecutor in any case from putting in evidence at the trial any admission or confession or other statement of the accused made at any time which is by law admissible as evidence against the accused.”

26. The following section is hereby substituted for section 79 of the principal Ordinance:—

Substitution of new section for section 79 of the principal Ordinance.

“Discharge or committal of accused. [cf. 11 & 12 Vict. c.42, s.25 and 15 & 16 Geo. 5, c.86, s.12, s.s.(8).]

79. (1) If after hearing all the evidence offered on the part of the prosecution and the evidence, if any, of accused and his witnesses and after taking into consideration any statement made by the accused, the magistrate is of opinion that there is not sufficient evidence to put the accused upon his trial for any indictable offence, the magistrate shall forthwith order the accused, if in custody, to be discharged as to the complaint or information then under inquiry, but such discharge shall not be a bar to any subsequent complaint or information in respect of the same facts.

(2) If in the opinion of the magistrate, after hearing such evidence as aforesaid and taking into consideration any statement of the accused, such evidence is sufficient to put the accused upon his trial for an indictable offence, or if the evidence given raises a strong or probable presumption of the guilt of the accused, then the magistrate shall, by his warrant, commit him to prison to be there safely kept until he shall be thence delivered by due course of law or admit him to bail as hereinbefore mentioned.”

27. Section 81 and sub-section (1) of section 82 of the principal Ordinance are hereby amended by the deletion therefrom of the words “the Crown Solicitor for the use of”.

Amendment of sections 81 and 82 of the principal Ordinance.

Substitution of Third Schedule to the principal Ordinance.

28. The Schedule to this Ordinance is hereby substituted for the Third Schedule to the principal Ordinance.

Substitution of new section for section 84 of the principal Ordinance.

29. The following section is hereby substituted for section 84 of the principal Ordinance:—

“Indictable offences which may be dealt with summarily.

84. (1) Whenever any person is accused before a special magistrate of any indictable offence except an offence specified in the Third Schedule, the magistrate, instead of committing the accused for trial before the court, may deal with the case and convict the accused summarily, and on conviction may sentence the accused to imprisonment for any term not exceeding six months or to a fine not exceeding one thousand dollars: Provided that nothing in this sub-section shall affect the provisions of section 86.

(2) Whenever any person is accused before a permanent magistrate of any indictable offence except an offence specified in the first part of the Third Schedule, the magistrate, instead of committing the accused for trial before the court, may deal with the case and convict the accused summarily, and on conviction may sentence the accused to imprisonment for any term not exceeding two years or to a fine not exceeding two thousand dollars: Provided that nothing in this sub-section shall affect any greater punishment specifically provided for in any other Ordinance.”

Substitution of new section for section 86 of the principal Ordinance.

30. The following section is hereby substituted for section 86 of the principal Ordinance:—

“Special powers for summary trial of certain indictable offences. Ordinance No. 2 of 1865.

86. Where any person is accused of stealing from the person or of any offence within the meaning of either of sections 44 and 45 of the Offences against the Person Ordinance, 1865, it shall be lawful for a special magistrate to hear the case and convict the accused summarily and to sentence him to imprisonment for any term not exceeding one year or to commit the accused for trial before the court.”

Repeal of sections 87 and 88 of the principal Ordinance.

31. Sections 87 and 88 of the principal Ordinance are hereby repealed.

Amendment of section 91 of the principal Ordinance.

32. Section 91 of the principal Ordinance is hereby amended by the substitution of the words “two thousand” for the words “two hundred and fifty” in the sixth line thereof.

33. Section 92 of the principal Ordinance is hereby amended by the substitution of the words “two hundred and fifty” for the words “one hundred” in the fourth and fifth lines thereof.

Amendment of section 92 of the principal Ordinance.

34. Section 93 of the principal Ordinance is hereby amended by the substitution of the words “five hundred” for the word “fifty” in the last line thereof.

Amendment of section 93 of the principal Ordinance.

35. Section 94 of the principal Ordinance is hereby amended—

Amendment of section 94 of the principal Ordinance.

(a) by the substitution of the words “two hundred and fifty” for the words “one hundred” in the fifth line of sub-section (1) thereof; and

(b) by the substitution of the words “five hundred” for the words “one hundred” in the last line of sub-section (2) thereof.

36. The following section is hereby substituted for section 96 of the principal Ordinance:—

Substitution of new section for section 96 of the principal Ordinance.

“Forfeiture of articles in certain cases.

96. Whenever any person is found by any police officer or officer of the Sanitary Department hawking without a licence, or committing an offence against any Ordinance relating to markets, or causing any obstruction by hawking in a public thoroughfare, such officer is hereby empowered to convey or cause to be conveyed before a magistrate all the articles being displayed, hawked and sold, and also the utensils, vessels or other paraphernalia in the apparent use of such offender, and the magistrate may, on conviction of the offender, order the forfeiture of all such goods, utensils, vessels and other paraphernalia in addition to or in substitution for any other fine or punishment which he may by law impose.”

37. Section 97 of the principal Ordinance is hereby amended—

Amendment of section 97 of the principal Ordinance.

(a) by the repeal of sub-sections (2) and (3) thereof and their replacement by the following sub-section:—

“(2) Subject to the provisions of sub-section (1) where a person is charged with an indictable offence a magistrate may in his discretion admit the accused to bail, on his procuring or producing such surety or sureties as, in the opinion of the magistrate, will be sufficient to ensure the appearance of the accused at the time and place when and where he is to be tried for such offence and thereupon the magistrate shall take the recognizance of the accused and his surety or sureties conditioned for the appearance of the accused at the time and place of trial and that he will then surrender and take his trial and will not depart the court without leave.”;

(b) by the repeal of sub-section (7) thereof.

Amendment of section 99 of the principal Ordinance.

38. Section 99 of the principal Ordinance is hereby amended by the substitution for sub-sections (9) and (10) of the following sub-sections:—

“(9) No application for a review shall be granted and no exercise by a magistrate shall be made of the power conferred on him by sub-section (5) subsequent to the commencement of proceedings by either party with a view to questioning the decision of the magistrate by way of appeal *mandamus* or *certiorari*, unless such proceedings shall have been abandoned.

(10) For the purpose of determining the time, within which an appeal whether by way of case stated under section 100 or under section 108 may be lodged, the determination of a case by way of review under this section or the refusal to grant a review shall, in the event of such determination or refusal and notwithstanding anything contained in the sections aforesaid, or in section 109 be the date as from which the respective periods for lodging an appeal shall run but nothing in this Ordinance shall authorise an appeal, whether by way of case stated or otherwise, from the refusal of a magistrate to grant a review.”

Substitution of Part VI of the principal Ordinance.

39. The following Part VI is substituted for Part VI, including sections 100 to 118I, of the principal Ordinance:—

“ PART VI.
APPEALS.

Appeal by way of case stated on point of law.

Application to state case on point of law. [cf. 20 & 21 Vict. c.43, s.2; 42 & 43 Vict. c.49, s.33.] First Schedule, Forms Nos. 84 & 87.

100. Within seven clear days after the hearing and determination by a magistrate of any complaint, information, charge or other proceeding which he has power to determine in a summary way, either party thereto or any person aggrieved thereby who desires to question by way of appeal any conviction, order, determination or other proceeding as aforesaid on the ground that it is erroneous in point of law, or that it is in excess of jurisdiction, may apply in writing to the magistrate to state and sign a case setting forth the facts and the grounds on which the conviction, order or determination was granted and the grounds on which the proceeding is questioned, for the opinion of a judge of the court. In the case of any determination which a magistrate has power to determine in a summary way and which relates to or is connected with an offence the Attorney General shall notwithstanding that he may not be deemed to be a party, have a similar right to apply for a case to be stated as that hereinbefore afforded to the parties and upon the exercise of such right by the Attorney General the complainant or informant shall cease to be a party to any further proceedings.

Transmission of case to Registrar and notice to respondent. [cf. 20 & 21 Vict. c.43, s.3.]

101. The appellant shall, within fourteen days after the delivery of the case to him as hereinafter mentioned, transmit the case to the Registrar, first giving notice in writing of such appeal and sending with it a copy of the case to the other party to the proceeding before the magistrate, hereinafter referred to as the respondent, and, in any case in which the Attorney General is neither the appellant nor deemed to be a party but is entitled to apply for a case to be stated, also to the Attorney General.

Amendment of case by magistrate.

102. After the delivery of a case to the appellant as aforesaid but before the commencement of the hearing by a judge, it shall be lawful for the magistrate on application by either party and on notice of such application to the other party previously given, to amend the case stated and signed by him in any way he may think fit: Provided that if the case is so amended the provisions of sections 101 and 103 shall be complied with in respect of the amended case as if it were the case as originally delivered to the appellant and as if the delivery to the appellant of the amended case were the delivery to him of the original case.

Setting down case for argument.

103. When the case has been transmitted to the Registrar as aforesaid, it shall be set down for argument on the request of either party four clear days at least before the day appointed for argument, and shall be heard, save as hereinafter provided, by a judge of the court: Provided always that the party setting down the case for argument shall give to the Attorney General and the respondent four clear days notice of the day appointed therefor.

Judge may send case back for amendment. [cf. 20 & 21 Vict. c.43, s.7.]

104. The judge shall have power, if he thinks fit, to cause the case stated for his opinion to be sent back to the magistrate for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after the same has been amended.

Giving of security by appellant and fees for appeals under s.100. First Schedule, Form No. 88.

105. (1) The appellant shall, within three weeks from the making of an application under section 100, enter into a recognizance with or without sureties as any magistrate may have directed, and in such reasonable sum as, having regard to the purpose of the recognizance and to his means, the magistrate may have thought necessary to fix, conditioned to prosecute his appeal with diligence to abide by and duly perform the order of the judge or Full Court and to pay such costs as may be awarded by the judge or Full Court or, with the magistrate's consent, he may, as respects the whole or any part of the sum so fixed, give such other security, by deposit of money with the magistrate's clerk, or otherwise, as the magistrate may deem sufficient.

First Schedule. Form No. 89.

(2) The appellant, if in custody, may, by order of a magistrate, be brought up for the purpose of entering into the recognizance.

(3) The appellant shall not be entitled to have the case delivered to him unless he completes the recognizance within the prescribed time, and if he makes default in so doing the appeal shall be deemed to be abandoned.

(4) The appellant shall at the same time, and before he shall be entitled to have the case delivered to him, pay to the magistrate's clerk or other proper officer, in respect of the said case and recognizance, the fees following:—

	\$ c.
1. For the recognizance	5. 00
2. For drawing the case and copy thereof for appellant, if not exceeding 5 folios of 72 words each	5. 00
3. Or if the case exceeds 5 folios, for every additional folio	1. 00

(5) This section shall not apply where the application is made by or under the direction of the Attorney General.

Refusal to state or amend a case. [cf. 20 & 21 Vict. c.43, s.4.] First Schedule. Form No. 86.

106. If the magistrate is of opinion that the application to state or amend a case is merely frivolous, but not otherwise, he may refuse to state or amend a case and shall, on the request of the party or person applying therefor, sign and deliver to him a certificate of such refusal, on payment of the sum of two dollars: Provided always that the magistrate shall not refuse to state a case where the application therefor is made to him by or under the direction of the Attorney General.

Compelling magistrate to state or amend a case. [cf. 20 & 21 Vict. c.43, s.5.]

107. (1) Subject as aforesaid, if the magistrate refuses to state a case, or neglects to state a case within three weeks from the time when the application therefor was made, or refuses to amend a case, when stated and delivered, on the application of either party within the time limited for such amendment, it shall be lawful for the party aggrieved by such refusal or neglect to apply to a judge of the court, by notice of motion served on the magistrate and on the respondent, supported by an affidavit of the facts, for a rule calling upon the magistrate to show cause why such case should not be stated or amended; and the judge may make the same absolute or discharge the same with or without payment of costs by the magistrate or either party, as may seem just.

(2) The magistrate, on being served with such rule absolute, shall state a case, or amend the case stated accordingly.

Alternative procedure.

Right of appeal from magistrate in a criminal matter.

[cf. 4 & 5 Geo. 5, c.58, s.37(1).]

Right of appeal against sentence of a magistrate. [cf. 15 & 16, Geo. 5, c.86, s.25.]

Right of appeal from magistrate in a non-criminal matter.

Procedure for appeals under s.108 prior to entry of appeal. [cf. 23 & 24, Geo. 5, c.38, s.1.]

First Schedule. Forms Nos. 91 & 92.

First Schedule. Form No. 88.

108. (1) Any person aggrieved by any conviction, order or determination of a magistrate in respect of or in connection with any offence, who did not plead guilty or admit the truth of the information or complaint, may appeal from the conviction, order or determination, in manner hereinafter provided to a judge of the court.

(2) Any person who after pleading guilty or admitting the truth of the information or complaint is convicted of any offence by a magistrate may appeal to a judge of the court against his sentence unless the sentence is one fixed by law.

(3) After the hearing and determination of any complaint or other proceeding which a magistrate has power to determine in a summary way other than a determination or proceeding relating to or in connection with an offence either party thereto may appeal from such order or determination of such magistrate to a judge of the court.

109. Where a person is authorised by section 108 to appeal to a judge, the following provisions shall apply:—

(1) The appellant shall, within ten days after the day of his conviction or the order or determination by the magistrate, give to such magistrate's clerk notice in writing of his appeal, stating the general grounds of his appeal, and signed by him or his agent on his behalf, and thereupon the magistrate's clerk shall give a copy of such notice to the respondent and, if he is not the respondent, also to the Attorney General.

(2) When a notice of appeal has been given to a magistrate's clerk the magistrate whose conviction, order or determination is the subject of the notice of appeal shall prepare a signed statement of his findings on the facts and other grounds of his decision and within twenty days after the said conviction, order or determination cause a copy to be served upon the appellant and respondent and, if he is not the respondent, also upon the Attorney General.

(3) The appellant shall, after giving notice of appeal to the magistrate's clerk and within thirty days after the day of his conviction or the order or determination, enter into a recognizance with or without sureties as any magistrate may have directed, and in such reasonable sum as, having regard to the purpose of the recognizance and to his means, the magistrate may have thought necessary to fix, condi-

tioned to prosecute his appeal with diligence, to abide by and duly perform the order of the judge or Full Court and to pay such costs as may be awarded by the judge or Full Court, or, with the magistrate's consent, he may, as respects the whole or any part of the sum so fixed, give such other security, by deposit of money with the magistrate's clerk, or otherwise, as the magistrate may deem sufficient.

General provisions as to appeals.

Service and notice.

110. (1) Despite the provisions of this Part it shall be unnecessary to serve any notice or document on the Attorney General if the appeal relates to any order or determination other than an order or determination relating to or in connection with an offence.

(2) Any notice or document required to be served on the Attorney General shall be served upon the clerk in the Attorney General's Chambers from time to time discharging the duties of prosecution clerk or by addressing the same to the Attorney General by registered post.

(3) Any notice or document required to be given to or served upon any other party shall be deemed to have been duly served on such person if given to or served upon his solicitor or if despatched by registered post addressed, in the case of a person in prison custody, to the Commissioner of Prisons and, in the case of any other person, addressed to him at his last or usual place of abode or business. A notice or document despatched by registered post shall be deemed to be given or received at the time when it would have been delivered in the ordinary course of post.

(4) Where it is made to appear to a judge of the court that for any reason any notice which is required cannot be given or that service of any document required to be served cannot conveniently be effected in the manner hereinbefore provided he may order that such notice be given or such document served—

(a) by delivery thereof to some agent within the Colony of the person to be served, or to some other person within the Colony through whom it appears in his opinion that there is a reasonable probability that the notice or document will come to the knowledge of the person to whom notice is to be given or upon whom the document is to be served; or

(b) by advertisement thereof in one or more newspapers published in the Colony; or

(c) by notice thereof put up at the court house or at some other place of public resort.

Provision as to entry of appeal.
[cf. 23 & 24 Geo. 5, c.38, s.3.]

111. (1) So soon as an appellant has complied with the provisions of sub-section (3) of section 109, with respect to entering into a recognizance or giving other security, the magistrate's clerk shall transmit to the Registrar the notice of appeal, the depositions and such copies thereof as the Registrar may require, and the recognizance, if any, and a statement as to any other security given by the appellant, and the statement by the magistrate of his findings on the facts and other grounds of his decision, and thereupon the Registrar shall enter the appeal, and shall in due course give notice, together with a copy of the depositions, to the appellant, to the respondent and to the Attorney General as to the date, time and place fixed for the hearing of the appeal.

(2) Where an appellant has for the purposes of sub-section (4) of section 114 entered into a separate recognizance or given other security for his appearance, the clerk to the magistrate against whose decision the appeal is brought shall, before the date fixed for the hearing of the appeal, transmit to the Registrar the recognizance, if any, and a statement as to any other such security given by the appellant.

(3) Where any recognizance for the purposes of such an appeal as aforesaid is entered into otherwise than before the magistrate against whose decision the appeal is brought, or his clerk, the officer concerned in the taking of the recognizance shall forthwith transmit it to such magistrate's clerk.

Abandonment of appeal.
[cf. 23 & 24 Geo. 5, c.38, s.4.]

112. (1) In the case of an appeal under section 100 or section 108 the appellant may at any time, not less than two clear days before the date fixed for the hearing, abandon the appeal by giving notice in writing to the clerk of the magistrate against whose decision the appeal is brought, and, if he gives such notice, the clerk shall forthwith give notice of the abandonment to the respondent and to the Registrar.

(2) Where an appeal has been abandoned—

(a) any magistrate may issue process for enforcing the decision against which the appeal was brought, subject to anything already suffered or done thereunder by the appellant; and

(b) any magistrate may, on the application of the respondent, order the appellant to pay to him such costs as the Registrar shall determine to be just and reasonable in respect of expenses properly incurred by him in connection with the appeal before notice of the abandonment was given to him; and

(c) any recognizance entered into in connection with the appeal shall be dealt with by a magistrate instead of by the judge, and accordingly the Registrar

shall re-transmit any such recognizance to the magistrate's clerk, and the provisions of sub-sections (1) and (3) of section 59 (except the words from "and paying or giving security" to the end of the said sub-section (1)) shall apply in relation to any such recognizance as they apply to such recognizances as are mentioned therein, but any condition for the appearance of the appellant at the hearing of the appeal shall be deemed to be performed if he duly surrenders himself.

(3) The payment of any costs ordered to be paid under sub-section (2) may be enforced as a civil debt recoverable on a magistrate's summons by the party to whom they are ordered to be paid, and shall not be enforced in any other manner.

Procedure on hearing appeal.

113. (1) In the case of any appeal to which section 100 or section 108 applies—

(a) the depositions taken before the magistrate or a certified copy thereof shall, without prejudice to any other method of proof, be admissible as evidence of the evidence which was given and of the statements which were made before the magistrate, and generally that the proceedings therein recorded took place;

(b) when the appeal comes on for hearing the appellant shall be first heard in support of the appeal, the respondent if present and if he so desires shall be heard against it and the appellant thereafter shall be entitled to reply. If the judge thinks additional evidence to be necessary he may receive such evidence, and for that purpose shall have the like powers under paragraphs (a), (b) and (c) of sub-section (8) of section 78A of the Criminal Procedure Ordinance, 1899, that the Full Court would have had if the appeal had been an appeal to which that section applied, and the judge may issue any process necessary for enforcing the exercise of such powers;

Ordinance No. 9 of 1899.

(c) except in the case of whipping, which shall be stayed pending appeal, the appeal shall not operate as a stay of execution, but the magistrate or a judge may on motion stay execution or sentence pending the appeal on such terms as to security for the payment of any money or the suffering of any punishment ordered by or in such conviction or sentence as to the magistrate or judge shall seem necessary: Provided that if the appellant is in prison, no such security shall be required, and on such stay as aforesaid the appellant shall be treated, pending the determination of his appeal, in such manner as may be directed by the rules made under the Prisons Ordinance, 1932, for the case of persons awaiting trial;

Ordinance No. 38 of 1932.

[cf. 20 & 21 Vict. c.43, s.6 and 36 & 37 Vict. c.66, s.46.]

(d) the judge may reserve the appeal, or any point in the appeal for the consideration of the Full Court, or may direct the appeal, or point in the appeal, to be argued before the Full Court; and the Full Court shall have power to hear and determine any such appeal or point so reserved or so directed to be argued and may in connection therewith exercise all or any of the powers conferred on a judge of the court by this Part or may remit the matter to the judge with the opinion or decision of the Full Court and may also make any such other order in relation to the matter and such orders as to costs as to the Full Court shall seem fit;

(e) the powers and duties of a judge shall be exercised and performed by the Chief Justice or by such one of the judges of the court as the Chief Justice shall from time to time appoint;

(f) if any step in or in connection with any appeal or intended appeal is rendered impossible by the death, absence or incapacity of a magistrate, a judge of the court upon motion shall have power for good cause to order that the case be heard *de novo* by a magistrate and the case shall be so heard accordingly.

(2) Either party to any appeal under section 100 or section 108 may be heard in person or by any barrister and in any appeal under sub-sections (1) and (2) of section 108, not being appeals reserved for hearing or directed to be argued before the Full Court, either party may be heard by any Counsel.

Release from custody by a magistrate and powers of the judge on appeal.

114. In the case of any appeal to which section 100 or section 108 applies—

First Schedule. Form No. 88.

(a) where an appellant is in custody, any magistrate may, if he thinks fit, release him from custody on his complying with the provisions of sections 105 and 109 relating to entering into recognizances, if he has not already done so, and on his either entering into a recognizance, with or without sureties and in such reasonable sum as he thinks necessary to fix, conditioned to appear at the hearing of the appeal, or giving with the magistrate's consent other security for his appearance;

(b) recognizances for the purpose of section 105 or section 109 and this section may, if it be convenient, be combined in one recognizance;

(c) the judge may from time to time adjourn the hearing of any appeal;

(d) the judge may by his order confirm, reverse or vary the magistrate's decision or may direct that the case shall be heard *de novo* by a magistrate or may remit the matter with his opinion thereon to a magistrate, or may make such other order in the matter

as he thinks just, and by such order exercise any power which the magistrate might have exercised; and any decision or order made by the judge shall have the like effect and may be enforced in the like manner as if it had been made by the magistrate;

(d) shall be construed as including power to award any punishment, whether more or less severe than that awarded by the magistrate, which the magistrate might have awarded;

(f) the Registrar shall send to the magistrate's clerk, for entry in his record, a memorandum of the judge's decision, and shall endorse a like memorandum on the conviction, and whenever any copy or certificate of the conviction is made, a copy of the memorandum shall be added thereto and shall be sufficient evidence of the judge's decision in every case where the copy or certificate would be sufficient evidence of the conviction.

Provisions as to costs. [cf. 23 & 24 Geo. 5, c.38, s.5.]

115. (1) On any appeal to which section 100 or section 108 applies, the judge may make such orders as to costs, as he may think fit, and may—

(a) where he allows the appeal, direct that there shall be included in any costs to be paid by the respondent to the appellant the costs properly incurred by the appellant in the proceedings before the magistrate, or such fixed sum as the judge may consider reasonable in respect of the costs so incurred by him;

(b) in any case, in which the appeal is from an order or determination in respect of or in connection with an offence, in lieu of directing a taxation of costs, fix the sum to be paid by way of costs by either party to the appeal;

and in fixing, for the purposes of this sub-section, the amount of any costs to be paid to a party to an appeal shall have regard to his means.

(2) The payment of costs ordered by the judge to be paid on any such appeal as aforesaid may be enforced as a civil debt recoverable on a magistrate's summons by the party to whom they are ordered to be paid, and shall not be enforced in any other manner.

Provisions as to forfeited recognizances. [cf. 23 & 24 Geo. 5, c.38, s.6.]

116. (1) The following provisions of this section shall have effect in any case where a recognizance entered into in connection with any appeal to which this Ordinance applies has become forfeited.

(2) (a) The Registrar shall, during or after the hearing of the appeal, make out a list or lists of persons bound by such recognizance and, if he is able to do so, state the cause why each such person has therein made default.

Ordinance No. 9 of 1899.

(b) The list or lists so made shall be examined, and, if necessary corrected and signed by the judge, and shall be delivered by the Registrar to the bailiff of the Supreme Court or his deputy, and thereupon payment of the sum due by the recognizance shall, save as hereinafter in this section provided, be enforced in the manner provided for the enforcing of recognizances by sections 99 to 102 of the Criminal Procedure Ordinance, 1899.

(3) The judge may, in lieu of signing a list in accordance with sub-section (2), make an order wholly discharging the recognizance.

(4) The judge, unless he makes an order wholly discharging the recognizance—

(a) shall, at the time when he signs as aforesaid, make an order fixing the term of imprisonment which the person bound by the recognizance is to undergo if any sum due in respect thereof is not duly paid and cannot be recovered by distress; and

(b) may at the same time make an order directing that the sum due in respect of the recognizance be paid on some future date specified in the order, or that the said sum be paid by instalments of such amount, on such dates respectively, as he may specify in such order.

(5) Any order under paragraph (b) of sub-section (4) postponing the payment of any sum due in respect of a recognizance, shall operate as a direction to the Registrar to proceed with the enforcement of payment of the sum due in respect of the recognizance only if and when default is made in complying with the order.

(6) The Registrar shall enter upon the record any order made by the judge under this section.

(7) The powers conferred by this section shall be in addition to, and not in derogation of, any other powers conferred by this or any other Ordinance, and this section shall not, save as otherwise expressly provided therein, be taken to affect the law relating to the procedure for enforcing recognizances.

Treatment of appellant, etc., pending appeal or rehearing.

117. (1) Any judge shall have power to admit to bail any appellant who is in the custody of the Commissioner of Prisons, or such judge may order him to be brought up to the court in custody for the purpose of attending the appeal or any application or proceeding therein.

[cf. 7 Edw. 7, c.23, s.14(3).]

(2) The time during which an appellant, pending the determination of his appeal, is admitted to bail, and, subject to any directions which the judge may give to the contrary, the time during which the appellant, if in custody, is treated as if he were a person awaiting trial, shall not count as part of any term of imprisonment

under his sentence, and any imprisonment under the sentence of the appellant, whether it is the sentence passed by the magistrate or the sentence passed by the judge, shall, subject to any directions which may be given by the judge, be deemed to be resumed or to begin to run, as the case requires, if the appellant is in custody, as from and including the day on which the appeal is determined, or, if he is not in custody, as from and including the day on which he is received into prison under the sentence.

(3) Paragraph (a) of section 114 and sub-sections (1) and (2) of this section shall apply to the case of a review under the provisions of section 99, in like manner as if the convicted person were an appellant, save that references to a judge shall be construed as references to the magistrate and references to an appeal shall be construed as references to a review.

Right of Attorney General to substitute himself as a party in appeals relating to criminal matters in respect of proceedings to which he is not deemed to be a party.

118. In the case of any appeal to which section 100 or section 108 applies from a determination relating to or connected with an offence it shall be lawful for the Attorney General, if he is not already a party to cause himself to be substituted as a party in lieu of the complainant or informant at any time before the date fixed for the hearing of the appeal by notice in writing to such complainant or informant and to the Registrar and thereupon such complainant or informant shall cease to be a party to any further proceedings and the Attorney General shall be deemed to be a party."

Amendment of First Schedule to the principal Ordinance.

40. The First Schedule to the principal Ordinance is hereby amended—

(a) by the substitution of the words "a judge of the Supreme Court" for the words "the Full Court" in the last two lines of Form No. 84;

(b) by the deletion of Forms Nos. 85, 90, 93 and 94;

(c) by the substitution of the following for Form No. 86:—

" FORM No. 86. [s.106.]

Magistrate's certificate of refusal to state or amend case.

HONG KONG. IN THE POLICE COURT AT

Whereas on the day of 19, an information [or complaint] preferred by A.B. against C.D., or

(hereinafter called the defendant) for that he [etc., as in the information, complaint or summons] was heard and determined by me, the undersigned, a magistrate of the said Colony, and thereon [here state the adjudication, order or determination to-

gether with any consequential order as to fine, imprisonment, costs or other matter] and whereas the defendant [or A.B.,] being dissatisfied with the said determination and alleging that he is aggrieved thereby as being erroneous in point of law, has applied to me pursuant to section 100 of the Magistrates Ordinance, 1932, to state and sign a case setting forth the facts and grounds of such determination in order that he may appeal therefrom to a judge of the Supreme Court and, if so, whereas on the day of 19, I stated and signed a case accordingly, but the defendant [or A.B.] is dissatisfied with the way in which I have so stated such case and has, pursuant to section 102 of the said Ordinance, duly applied to me to amend the same by [here state what amendment is desired]: Now I being of opinion that the application of the defendant [or A.B.] is merely frivolous have refused to state such case, [or now I, having refused to amend such case], of which refusal the defendant [or A.B.] has requested me to sign and deliver to him a certificate: Now therefore I, the said magistrate, pursuant to section 106 of the said Ordinance, do hereby certify that I am of opinion that the application of the defendant [or A.B.] as aforesaid is merely frivolous, and that I have refused to state such case accordingly [or to amend such case].

Dated this day of 19 .
[L.S.] (Signed.) Magistrate."

(d) by the substitution of the words "a judge of the Supreme Court" for the words "the Full Court" and "the Supreme Court" wherever they occur in Form No. 87;

(e) by the substitution of the following form for Form No. 88:—

"FORM No. 88. [s.105(1), s.109(3), s.114(a).]

Recognizance to prosecute appeal and to appear if appellant is liberated from custody.

HONG KONG IN THE POLICE COURT AT
(The form of recognizance will be the same as in Form No. 28 supra, but the condition indorsed will be as follows):—

The condition of the within-written recognizance is such that if the within-bounden

(a) shall without delay prosecute a certain appeal to a judge of the Supreme Court from a conviction (or order or determination) of J.P. Esquire, a magistrate of the said Colony, dated the day of 19, whereby [here state effect of conviction order or determination] and further shall abide by and duly perform the order of the said judge or the Full Court to be made upon the hearing of such appeal, and shall pay such costs as may be awarded by the said judge or court; and

(b) shall personally appear and surrender himself at before and to a judge of the Supreme Court or the Full Court at each and every hearing of his appeal by such judge or court and to then and there abide by the judgment of such judge or court and not to depart or be absent from court at any hearing without the leave of such judge or court and in the meantime not to depart out of the Colony of Hong Kong; then this recognition to be void or else to stand in full force and effect.

Dated this day of , 19 .

(Signed)

[L.S.]

Magistrate.

Note:—the conditions (a) or (b) may be used separately or together as occasion demands, but the conditions in (b) will only be required if the appellant is released from custody under s. 114(a)."

(f) by the substitution of "s.105(2)." for "s.108." in Form No. 89;

(g) by the substitution of "s.109(1)." for "s.188E(i)." in Form No. 91;

(h) by the substitution of "s.109(1)." for "s.118E(i)." in Form No. 92.

Repeal of Ordinance No. 5 of 1946.

41. The Powers of Magistrates (Emergency) Ordinance, 1946, is hereby repealed.

THE SCHEDULE.

THIRD SCHEDULE. [ss. 84 and 90]

PART I.

1. Any offence which is punishable with death.
2. Any offence (except burglary) which is punishable with imprisonment with hard labour for life.
3. Any felony mentioned in the Suppression of Piracy Ordinance, 1868.
4. Misprision of treason.
5. Any offence against the King's title, prerogative, person or government.
6. Blasphemy and offences against religion.
7. Composing, printing or publishing blasphemous, seditious or defamatory libels, except as provided by section 17 of the Defamation and Libel Ordinance, 1887.

Ordinance No. 1 of 1868.

Ordinance No. 1 of 1887.

PART II.

1. Perjury and subornation of perjury.
2. Making or suborning any other person to make a false oath punishable as perjury or as a misdemeanor.
3. Any offence against the provisions of the laws relating to bankrupts, other than the offence of obtaining credit under false pretences or by means of any other fraud under section 78A(a) of the Larceny Ordinance, 1935.
4. Bigamy.
5. Bribery, except in cases punishable under section 3 or section 4 of the Misdemeanors Punishment Ordinance, 1898, where the amount or value of the bribe does not exceed twenty-five dollars.
6. Arson.
7. Stealing, or fraudulently taking, or injuring or destroying records or documents belonging to any court of record or relating to any proceeding therein.
8. Stealing, or fraudulently destroying or concealing wills or testamentary papers or any document or written instrument being or containing evidence of the title of any lands, or any interest in lands, tenements or hereditaments.
9. Any offence committed by trustees created by deed or will, bankers, or factors, and mentioned in any of sections 62 to 73 of the Larceny Ordinance, 1935.

Ordinance No. 32 of 1935.

Ordinance No. 1 of 1898.

Ordinance No. 32 of 1935.

Passed the Legislative Council of Hong Kong, this 18th day of May, 1949.

Deputy Clerk of Councils.

HONG KONG

No. 25 OF 1949.



I assent.

M. H. H. H.
Governor

26th May, 1949.

An Ordinance to make further provision for officers of the Supreme Court and to modify and regulate the duties thereof.

[27th May, 1949.]

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

1. This Ordinance may be cited as the Officers of the Supreme Court (Regulation) Ordinance, 1949.

2. The following section is hereby substituted for section 13 of the Supreme Court Ordinance, 1873:—

“Officers of the Court.

13. (1) There shall be attached to the Supreme Court a Registrar and such number of Deputy Registrars, bailiffs, clerks of the Court, clerks, interpreters and other officers as to the Governor may appear to be necessary.

(2) Any act which under any enactment is required to be done by the Registrar may be performed by a Deputy Registrar appointed under the preceding sub-section or any officer appointed under the style of Deputy Registrar General by virtue of section 3 of the Registrar General (Establishment) Ordinance, 1949, and any process of the Court may be executed by any bailiff thereof notwithstanding that it may have been directed personally to some other bailiff.

Repeal and replacement of section 13 of Ord. No. 3 of 1873.

Ordinance No. 14 of 1949.

(3) In addition to any powers and duties which he is by this or any other enactment enabled to exercise or required to perform the Registrar may exercise such powers and perform such duties, being powers or duties which in England are exercised and discharged by Masters, Registrars or the like officers of the Supreme Court of Judicature but which in Hong Kong are now or may hereafter be exercisable only by a Court or judge as—

(a) are conferred or imposed on him by rules made by the Chief Justice with the approval of Legislative Council; or

(b) are in any particular case, conferred or imposed on him by order of the Court or of a judge.

(4) The powers and duties of the Registrar shall include such powers and duties as are for the time being assigned to the King's Remembrancer in England, and the Registry of the Supreme Court shall be deemed to be the office or department of the King's Remembrancer in the Colony.

(5) Whenever jurisdiction is exercised by a Registrar by virtue of rules made under paragraph (a) of sub-section (3) the Registrar may refer to a judge any matter which appears to him proper for the decision of a judge and the judge may either dispose of the matter or refer the same back to the Registrar with such directions as he may think fit.

(6) Any person affected by any order or decision of the Registrar made pursuant to jurisdiction conferred by rules under paragraph (a) of sub-section (3) may appeal therefrom to a judge at chambers. Such appeal shall be by notice in writing to attend before the judge without a fresh summons, within five days after the decision complained of or such further time as may be allowed by a judge or the Registrar. Unless otherwise ordered there shall be at least one clear day between service of the notice of the appeal and the day of hearing. An appeal from the decision of the Registrar shall be no stay of proceedings unless so ordered by a judge or the Registrar.

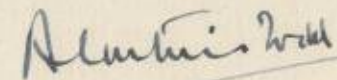
(7) The provisions of sub-sections (5) and (6) shall also apply *mutatis mutandis* to the exercise of any powers or the discharge of any duties by the Registrar pursuant to paragraph (b) of sub-section (3) save that in such case reference shall be made and appeal shall lie to the Court or the judge conferring or imposing such power or duty or, in the event of such lastly mentioned judge being absent or unable from any cause to act, then to such judge as the Chief Justice may designate to act in his place.

(8) It is hereby declared that the fact that any powers or duties exercisable by a Court or judge are conferred or imposed upon the Registrar under paragraph (b) of sub-section (3) or are by reason of any rules made under paragraph (a) of sub-section (3) exercisable by or to be discharged by the Registrar shall not be construed to preclude the Court or a judge as the case may be from exercising any power or discharging any duty which such Court or judge could have exercised or discharged if sub-section (3) of this section had not been enacted."

3. Section 685 of the Code of Civil Procedure is hereby repealed.

Repeal of
section 685 of
Ordinance
No. 3 of
1901.

Passed the Legislative Council of Hong Kong, this 25th day of May, 1949.



Deputy Clerk of Councils.

HONG KONG

No. 26 of 1949.



I assent.

Governor.

26th May, 1949.

An Ordinance to change the style of the Registrar General of Births and Deaths and to make connected and consequential provision for a change in definition and interpretation in enactments affecting the duties of such office and instruments issued thereunder or referring to such office.

[27th May, 1949.]

Be it enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof:

1. This Ordinance may be cited as the Registrar General of Short title. Births and Deaths (Change of Style) Ordinance, 1949.

2. Whenever in any Ordinance, order of the Governor in Council, regulation, appointment, minute, instrument, or document the term "Registrar General of Births and Deaths" occurs the same shall be read construed and take effect as if for such term there were substituted the term "Registrar of Births and Deaths".

3. Whenever in any of the enactments specified in the Schedule hereto or in any order of the Governor in Council, regulation, appointment, minute, instrument or document effect thereunder or having reference thereto the term "Registrar General" occurs the same shall be read and construed and take effect as if for such term there were substituted the term "Registrar".

"Registrar General" to be construed as "Registrar" in certain enactments and instruments.

SECRET
HONG KONG



SCHEDULE.

- Ordinance No. 21 of 1934 and any amendment thereof.
- Ordinance No. 50 of 1947.
- Ordinance No. 51 of 1947.
- Ordinance No. 18 of 1948.

Passed the Legislative Council of Hong Kong, this 25th day of May, 1949.


Deputy Clerk of Councils.

HONG KONG

No. 27 of 1949.



I assent.

W. Hancock
Governor.

26th May, 1949.

An Ordinance to facilitate the clearance of war damaged sites, to provide for the recovery of the cost thereof, and for sale of the sites where so required.

[27th May, 1949.]

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

1. This Ordinance may be cited as the War Damaged Sites Ordinance, 1949.

2. In this Ordinance, unless the context otherwise requires— Interpretation.

“Director” means the Director of Public Works and includes in the case of a public servant anyone acting with the authority of such Director, and in the case of a corporation or a person not a public servant shall mean a corporation or a person acting in relation to a specified war damaged site with the written authority of such Director or the agent of such corporation or person;

“owner” includes any person holding premises direct from the Crown or entitled so to do; and, where such owner cannot be found or ascertained or is absent from the Colony or is under disability, the agent of such owner; and for the purposes of this Ordinance, every mortgagee in possession shall be deemed an owner; and a person holding over against the Crown after the expiration or sooner determination by re-entry or otherwise of a leasehold term shall for the purposes of this Ordinance be deemed to be an owner;

"war damage" includes—

(i) damage occurring (whether accidentally or not) as the result of action taken by the enemy, or action taken in combating the enemy or in repelling an anticipated attack by the enemy, or, during the enemy occupation of the Colony, as a result of action taken by Allied Forces or action taken in combating Allied Forces or in repelling an anticipated attack by Allied Forces;

(ii) damage occurring (whether accidentally or not) as the direct result of measures to avoid the spreading of, or otherwise to mitigate, the consequences of such damage as aforesaid;

(iii) accidental damage occurring as the direct result of any precautionary or preparatory measures taken with a view to preventing or hindering the carrying out of any attack by the enemy on the Colony or during the enemy occupation of the Colony by Allied Forces on the Colony or in either case in anticipation of attack or action in furtherance of such attack;

and shall include damage or destruction to buildings or damage or the deposit of refuse or rubble on land arising as a consequence of bombing, shelling, fire, looting, neglect or otherwise after and as a natural result of the proclamation of war with Japan dated the 8th December, 1941;

"war damaged site" means any land in the Colony of Hong Kong (including the New Territories) which in the opinion of the Director requires to be cleared as a consequence wholly or partly of war damage thereto or war damage in the neighbourhood thereof.

Notice and entry on sites.

3. (1) The Director may, by notice in writing in accordance with Form No. 1 in the Schedule, declare any land to be a war damaged site and require the owner to state in writing within a period of three weeks in accordance with Form No. 2 in the Schedule what his intentions are with regard to clearance thereof.

(2) In the following events:—

(a) if the owner cannot be found, or ascertained, or is absent from the Colony and his agent cannot be found or ascertained, or is dead and no representation has been granted to his estate or his personal representatives cannot be found;

(b) if Form No. 2 or the information required in that form is not received by the Director within three weeks of service of Form No. 1;

the Director may publish notification in the *Gazette* in accordance with Form No. 3 in the Schedule.

(3) If in accordance with Form No. 2, or by a communication in reply to a notification in the *Gazette*, or at any other time, an owner requests an extension of time in which to effect clearance of a war damaged site, the Director may in his discretion grant an extension for such period as appears to him to be reasonable and will notify the owner in writing whether such extension is granted or not.

4. (1) On the expiration of six clear weeks from the service of a notice in accordance with Form No. 1, or if publication of a *Gazette* notification in accordance with section 3(2) has taken place, then on the expiration of three clear weeks from the date thereof, together in either case with the period of the extension in any particular case duly approved by the Director in accordance with section 3(3) hereof, if clearance of a war damaged site has not been effected, the Director may without further notice enter and effect clearance of such war damaged site either wholly or to such extent as seems to him expedient and either separately or together with other sites being so dealt with.

Power to effect clearance, and scope thereof defined.

(2) In the event of an owner of a war damaged site requesting that under the provisions of this Ordinance clearance shall be effected by the Director at the cost of the owner, then the Director may forthwith enter and effect such clearance either wholly or to such extent as seems to him to be expedient, and either separately or together with other sites being so dealt with.

(3) For the purpose of the provisions of this Ordinance clearance of a war damaged site shall include such of the following acts as the Director may in each case from time to time consider necessary:—

(i) demolition of buildings or parts thereof;

(ii) removal of rubble, stone, bricks, wood, pipes, paving, girders, rods, metal, roofing, building, refuse, domestic refuse, decaying matter, rubbish, huts, and all or any materials that could be utilised for erecting permanent or temporary buildings;

(iii) disposal of such materials by selling, tipping in authorised places, or use elsewhere;

(iv) levelling sites and filling cavities therein;

(v) disconnection, diversion of, or necessary work in connection with water, gas, electricity or other services;

(vi) filling, blocking, clearing, diverting or other necessary works in connection with ditches, cess-pits, drains or sewers;

(vii) eviction of persons living in insanitary conditions;

(viii) mosquito control measures;

(ix) rodent control measures;

(x) disinfection;

(xi) nullah-training;

(xii) re-construction of paths;

(xiii) erection of fences or walls;

(xiv) erection of supports for neighbouring properties, on payment or otherwise by the owners of such neighbouring properties of a fair proportion thereof; and

(xv) such other work as the Director may expressly specify or which may in his opinion manifest itself from time to time as necessary.

Certificate of cost and recovery thereof.

5. (1) The cost of clearance effected by the Director under section 4 hereof shall be assessed as equitably as may be by the Director having regard to the amount of war damage affecting any particular site and shall be certified by him and shall include an addition not exceeding twenty-five per cent thereof in respect of the cost of supervision of the work, the cost of obtaining tenders (if any) and issuing notices, and unless already provided for in the tender or otherwise there shall be allowed as a reduction the amount that arises from the sale of materials removed from the site or such sum as appears to the Director to be fair compensation for the value of materials removed therefrom for immediate or subsequent use by the Crown.

(2) The cost of such clearance as so certified shall constitute a first charge on the land which comprises the war damaged site as against the owner or any person into whose hands the same may come and whether or not such person be a *bona fide* purchaser thereof for valuable consideration without notice.

(3) The certificate of such charge may be registered in the appropriate Land Office against the title of the land affected and the Land Officer shall in any particular case refuse the registration of any conveyance for money or money's worth relating to the property unless in his opinion satisfactory provision is made for the liquidation of such charge.

(4) The owner of any war damaged site and his successors in title and assigns shall be liable to the Crown for the amount specified in such certificate up to the value of his interest in the property but not further or otherwise but together with interest at the rate of four per centum per annum from the date of such certificate to the date of payment thereof:

Provided that the Governor in Council may in such case or cases as he thinks fit waive the payment of such interest and provided that nothing in this Ordinance contained shall prevent the exercise by the Crown of any other rights for the recovery of such charge in particular the right of re-entry where that arises by deed, lease, agreement or otherwise:

And provided that if a net profit results from the sale or disposal of material removed from a war damaged site after all clearance measures that the Director deem necessary thereon have been effected and all charges authorised in respect thereof under this Ordinance have been deducted then the amount of such net profit shall be notified to the owner if his whereabouts can be ascertained and paid to him on request or if not requested shall be dealt with in accordance with the Unclaimed Balances Ordinance, 1929.

6. Where the Director has reason to suppose that by reason of a covenant or condition enforceable against him an owner has unfulfilled responsibilities relating to the maintenance or upkeep of a building on a war damaged site and whether the Director has taken any steps further than to declare the site a war damaged site or not, he may serve upon such owner a notification in accordance with Form No. 4 in the Schedule, with such modifications as appear to be necessary, requiring the owner to state within the same period of three weeks what period he requires to fulfil such responsibilities.

Breach of covenants to maintain.

7. (1) In the event of re-entry for breach of an owner's covenants in respect of non-payment of a charge certified under section 5, or re-entry for breach of an owner's covenant relating to maintenance or repair of a building on a war damaged site, or if a site re-entered upon for other reasons is subsequently declared by the Director to be a war damaged site, the Director shall cause a new lease of such land to be sold by public auction upon such terms as the Governor may approve.

Power to sell by auction.

(2) The price or premium realised from such auction shall be retained towards satisfaction of any charge and interest thereon and proper costs and charges in connection therewith and in connection with the auction and the balance remaining thereafter shall without prejudice to any lawful claim thereto be paid to the owner up to the extent of his interest and in the event of the owner not being traced or not making any claim shall be dealt with in accordance with the Unclaimed Balances Ordinance, 1929.

Ordinance No. 5 of 1929.

(3) Notwithstanding the provisions of sub-section (1) no sale shall take place without the consent of the owner except after one month's notice of such intention has been published under the hand of the Colonial Secretary in the *Gazette* and not even then if a petition for relief has been presented to the Supreme Court or to the Governor in Council unless and until a decision permitting such sale has been arrived at upon such petition.

8. During the period for which this Ordinance remains in force, section 8 of the Crown Rights (Re-entry) Ordinance, 1870, shall be read as though the following words were added at the end thereof:—

Amendment of Ordinance No. 4 of 1870.

“but in the case of a site which has been declared to be a war damaged site by the Director of Public Works under section 3 of the War Damaged Sites Ordinance, 1949, the Governor in Council shall in his discretion have power—

(i) in the case of an unsatisfied charge for the cost of site clearance to cause a sale by public auction of a new lease of the land to take place instead of giving relief and cause to be refunded to the owner the amount so realised less the amount of the charge and all proper charges and expenses; and

(ii) in the case of some other breach of covenant to receive representations by the owner with regard to his intention or capacity to carry out the terms under which he