

9th August, 1950.

PRESENT: —

HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT (MR. JOHN FEARNS NICOLL, C.M.G.).

THE COLONIAL SECRETARY (HON. R. R. TODD, *Acting*).

THE ATTORNEY GENERAL (HON. J. B. GRIFFIN, K.C.).

THE SECRETARY FOR CHINESE AFFAIRS (HON. J. C. McDouALL, *Acting*).

THE FINANCIAL SECRETARY (HON. C. G. S. FOLLOWS, C.M.G.).

DR. HON. I. NEWTON (Director of Medical and Health Services).

DR. HON. J. P. FEHILY, O.B.E. (Chairman, Urban Council).

HON. A. P. WEIR (Acting Director of Public Works).

HON. CHAU TSUN NIN, C.B.E.

DR. HON. CHAU SIK NIN, C.B.E.

HON. LEO D'ALMADA E CASTRO, K.C.

HON. M. M. WATSON.

HON. P. S. CASSIDY.

HON. LO MAN WAI, O.B.E.

HON. LAWRENCE KADOORIE.

MR. G. C. HAMILTON (Clerk of Councils).

ABSENT: —

HIS EXCELLENCY THE GENERAL OFFICER COMMANDING IN CHIEF (LIEUTENANT-GENERAL SIR E. C. R. MANSERGH, K.B.E., C.B., M.C.).

MINUTES.

The Minutes of the meeting of the Council held on 26th July, 1950, were confirmed.

PAPERS.

THE COLONIAL SECRETARY, by command of His Excellency the Officer Administering the Government, laid upon the table the following papers: —

Sessional Papers, 1950: —

No. 4. —Annual Report by the Postmaster General for the year 1950.

No. 5. —Annual Report by the Director, Royal Observatory for the year 1950.

No. 6. —Annual Report by the Government Statistician for the year 1950.

The Rating Ord., 1901, —Declaration of urban areas. (G.N. No. A. 162 of 1950).

The Essential Services Corps (General) (Amendment) Regulations, 1950. (G.N. No. A. 164 of 1950).

The Registration of Persons Order (No. 4), 1950. (G.N. No. A. 165 of 1950).

The Price Control Order, 1946, —Amendments to the Schedule. (G.N. No. A. 166 of 1950).

The Price Control Order, 1946, —Amendments to the Schedule. (G.N. No. A. 167 of 1950).

Proclamation No. 2—The Judgments (Facilities for Enforcement) Ord., 1921, to extend to judgments obtained in superior courts in the Federation of Malaya. (G.N. No. A. 168 of 1950).

The Merchant Shipping Ord., 1899, —Amendments to the Instructions to Government Surveyors as to the Survey of Passenger Ships. (G.N. No. A. 169 of 1950).

The Quarantine and Prevention of Disease Ord., 1936, —Order declaring Bombay infected on account of cholera. (G.N. No. A. 170 of 1950).

The Price Control Order, 1946, —Amendments to the Schedule. (G.N. No. A. 171 of 1950).

MOTIONS.

THE ATTORNEY GENERAL moved the following resolution: —

Resolved that a gratuity of \$834 and an annual allowance of \$250.20 be paid to TSANG LIN, that the commencement of the first annual period be the third day of April, 1949, and that this allowance be subject to the same conditions as an annual allowance granted under the Pensions Ordinance, 1949.

He said: Sir, this resolution refers to the case of Mr. Tsang Lin who served on the household staff at Government House from 1925 until he was invalided from service on the 3rd April, 1949. It is, Sir, both just and desirable that Mr. Tsang Lin should enjoy retiring benefits, but as the law stands he cannot do so as being a non-pensionable officer who retired before Part V of the Schedule to the Pensions Ordinance, 1949 came into force. At the same time, Sir, he cannot receive benefits under Pension Regulation C of the old Pensions Ordinance, the Pensions Ordinance, 1932, since at the date of his retirement Mr. Tsang Lin was not subject to Regulation C.

Now, Sir, it is obvious that the solution to the problem would be, in the ordinary way, the introduction of special legislation to this Council. However, Sir, this case is the only one of its kind. In these circumstances it is proposed to solve the problem by the grant to this officer of a retiring benefit by way of *ex gratia* award to be approved by resolution of this Council. In this way it will be possible to avoid the necessity for special legislation which, as I have said, would have only necessity or application in one single case.

It is in pursuance of this proposal, Sir, that I formally move the resolution which, as I have said, stands first in my name.

THE COLONIAL SECRETARY seconded, and the Motion was carried.

PENSIONS ORDINANCE, 1949.

THE ATTORNEY GENERAL moved the following resolution: —

Resolved that under the power conferred by section 3 of the Pensions Ordinance, 1949, the retrospective effect as expressed therein of the proposed regulations in the Schedule hereto be approved.

SCHEDULE.

PENSIONS ORDINANCE, 1949.

Regulations by the Governor in Council.

In exercise of the power conferred upon him by subsection (3) of section 3 of the Pensions Ordinance, 1949, with the sanction of the Secretary of State and the prior approval of Legislative Council signified by resolution, the Governor in Council hereby makes the following regulations: —

REGULATIONS.

Citation. **1.** These regulations may be cited as the Government House Staff (Allowance) Regulations, 1950, and shall be read as one with the Pensions Regulations, 1949.

2. The Pensions Regulations, 1949, shall apply to Chu Woo, Cheung Kwun, Lui Kam, Cheung Yee, Chung Ping-sam, Lee Shu-sum, Fung Kui, Wan Tai, Chan Tai and Wong Ku, now or recently employed at Government House in like manner for all purposes as if such persons had during the respective periods for which they served, prior to the 1st of April, 1949, been monthly paid non-pensionable officers in the service of this Colony:

Provided that nothing herein contained shall render it unnecessary to obtain the approval of the Governor under section 18 of the Ordinance for the purpose of deeming the service of any of such persons unbroken.

He said: Sir, Section 3(3) of the Pensions Ordinance, 1949 empowers the Governor in Council to make Regulations having retrospective effect, but in order to do so the Governor in Council must be satisfied that it is equitable so to do, in order to confer a benefit or remove a disability from any person. The provision quoted, however, also requires that no such Regulation having retrospective effect shall be good until it has received the prior approval of this Council by resolution.

Now, Sir, the necessity for the enactment of regulations under Section 3(3) of the Pensions Ordinance, 1949 is presented in the cases of the persons who are named in the Regulations which appear in the Schedule to the resolution set out at item 2 of the Order of Business.

The situation which has got to be met in regard to these persons arose in this fashion. Sir, prior to the 1st April, 1948 it was the practice, and had been for as many years as can

conveniently be traced, to include in the annual Estimates a provision under Head 1(i) for payment of an allowance to the Governor for wages for private servants employed at Government House.

Now, it appears, Sir, that for many years before 1st April, 1948, as indeed from that date, it has been the practice for the household staff of Government House to remain constant in personnel, that is to say, Sir, it has become customary for succeeding Governors to retain the identical private household staff of their predecessors.

In this way these servants, private servants, in fact became Government Servants. Thus, at this date and since 1st April, 1948 domestic staff at Government House are included within the non-pensionable establishment of the Government.

Sir, the consequence of the evolution described in the form of the employment of the household staff at Government House has been to raise the question whether the persons concerned would be eligible for retiring benefits based upon their whole period of service, in the same way as other officers of the non-pensionable establishment of the Government.

Owing to the fact that, as I have described, Government House staff, until 1st April, 1948, were technically not on the non-pensionable establishment of Government, but were personal servants, it is the case that their service prior to 1st April, 1948 cannot, as the law now stands, be taken into account for retiring benefit purposes.

Now, Sir, it is manifest that this state of affairs would produce an injustice most particularly in the case of a number of the members of the staff at Government House who have served for many years in that capacity.

Thus it is that the machinery provided by Section 3 of the Pensions Ordinance can be called in aid for this problem, so that regulations can be made with retrospective effect to confer benefit upon and remove disability from the persons named in the Regulations set out on the Order Paper.

I therefore, Sir, formally move the resolution which, if approved by this Council, will enable the Regulations referred to to come into force with retrospective effect to the benefit of the persons concerned, so as to confer upon them eligibility for retiring benefits equivalent to other Government Servants on the non-pensionable establishment.

THE COLONIAL SECRETARY seconded, and the Motion was carried.

**LAW REVISION (MISCELLANEOUS AMENDMENTS)
(NO. 2) BILL, 1950.**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to make further amendments to miscellaneous Ordinances for the purpose of facilitating the preparation of the revised edition of the laws." He said: Sir, the time of this Council has, I fear, within recent months been frequently engaged on the business of dealing with amendments proposed to the law of the Colony as a whole, as a consequence of, or for the purposes of, the revision of the laws which is now proceeding. A notable example, fresh in the minds of Honourable Members is provided by the Law Revision (Miscellaneous Amendments) Ordinance, 1950, which was enacted as recently as last May.

The Bill now before Council has a similar objective. As summarized the objective is this: that in revision of the laws we take the opportunity to consider the legislation as at this date with a view to its utility at the present time, and with a view to the removal of anomalies which are to be found and which, by their existence, create clogs in the machinery of Government, particularly when such anomalies have accumulative effect over a vast field of legislation. Thus it is that the objective of the work is not merely to consolidate the amendments to the legislation which have occurred over the years and merely reprint in consolidated form, including all anomalies or inutilities as at this date.

Now, the Ordinance which I mentioned as having been passed in May dealt with, I think, 52 Ordinances and this Bill before Council to-day is designed to effect amendments to, some 77 others.

The Bill as it appears in the hands of Honourable Members is accompanied by extensive and rather detailed Objects and Reasons dealing with each proposed item of amendments. I do not think, therefore, even if time and patience of Honourable Members allowed, that I am called upon to try and deal with the various proposals in this Bill in any detail to-day. I would merely add in conclusion that it will be seen from clause 2 of the Bill that the Bill is divided into parts; that in the first part about 17 Ordinances are affected; and that only in regard to them will the amendments, if they are passed, take effect immediately upon the passing of the Ordinance. As to the rest, the items referred to in the second part, the coming into force will be postponed until the coming into force is proclaimed at a date which is assumed will be contemporaneous with the publication of the Revised Edition. In this way it will be possible to avoid the inconvenience and labour of effecting throughout the laws as they now appear the various amendments proposed by this Bill.

THE COLONIAL SECRETARY seconded, and the Bill was read a First time.

OBJECTS AND REASONS.

The "Objects and Reasons" for the Bill were stated as follows: —

This Bill comprises a second collection of proposals for amendments to Ordinances which are considered to be necessary for the purposes of law revision. The proposals are not confined to mere matters of form and thus cannot be effected under general powers afforded by the Revised Edition of the Laws Ordinance, 1948.

2. The Law Revision (Miscellaneous Amendments) Ordinance, 1950, (Ordinance No. 9 of 1950), contained amendments to fifty-two Ordinances. This Bill, which disposes of the greater part of the preparatory work for the revised edition of the laws so far as Ordinances are concerned, proposes to amend a further seventy-seven enactments. The amendments effected by Ordinance No. 9 of 1950 were in general necessary to provide for immediate rectification of existing Ordinances. Only a proportion of the amendments proposed by this Bill need to be immediately operative. In order therefore not to complicate by extensive amendment the present edition of Ordinances and annual volumes the Schedule of amendments is divided into two parts. The amendments made by both parts would be incorporated into the revised edition, but Part I alone would have immediate legislative effect upon enactment. Part II would take effect upon proclamation of the Governor, which, it is anticipated, would be made when the revised edition is ready for publication.

3. The following are the detailed reasons for the items of amendment proposed and correspondingly numbered in Part I and Part II of the Schedule—

PART I.

1. The subsections of these two sections of the Jury Ordinance, 1887, which are amended hereby provide that the Jury List should be posted at one of the entrances to the Supreme Court. This has been interpreted as meaning outside the door, but in this position such lists are subject to wind and rain and become untidy. The amendment provides for their being made accessible to the public within the entrance of the Supreme Court.
2. In the course of law revision the Code of Civil Procedure will become rules of court under the Supreme Court Ordinance, 1873, but meanwhile a minor amendment is necessary to make the amount of daily maintenance payable under section 569 for an arrested defendant conform with that payable for an imprisoned judgment debtor under section 439. Such amendment is made by this item.

3. (1) Section 2 of the Rating Ordinance, 1901, provides for a deduction of working expenses in respect of lift machinery, if such expenses are borne by the landlord. The proposed amendment extends this benefit to the tenant, where these expenses are paid by him.
 - (2) No objection has been raised to the Commissioner's present practice of not excluding from valuation such structures as family shrines, and this amendment is designed to remove any doubt that the practice is correct.
 - (3) There is periodical need for amendment of forms; it is therefore convenient that such forms shall be prescribed by the Governor in Council rather than be scheduled to the Ordinance. Such is the object of the amendment.
4. An amendment to the Man Mo Temple Ordinance, 1908, substitutes the Secretary for Chinese Affairs for the Colonial Secretary as being the appropriate person to receive the annual statement relating to the Temple Fund.
- 4A. (1) The Trading with the Enemy Ordinance, 1914, under which a Custodian of Enemy Property has from time to time been appointed, is amended to express the intention that the Official Receiver, who carried out the duties until an appointment was made, is *ex officio* such Custodian when no such appointment subsists.
 - (2) To deal with the state of emergency after the occupation specific requirements as to the declaration of enemy property within stated periods after publication of the Enemy Property (Amendment) Proclamation were substituted for the standing provisions of section 17. The provisions of section 17 can now be restored to deal with the situation should any state of war occur in future and this is the object of these amendments.
 - (3) A requirement that upon formation of a company during wartime the declaration of a solicitor is necessary that the company is not being formed to take over any part of an enemy undertaking is brought into accord with section 17 (2) of the Companies Ordinance, 1932, by providing that such declaration may be made by a solicitor or by a person named as director or secretary of the company.

5. The first amendment to the Importation and Exportation Ordinance, 1915, is phrased to take advantage of section 23 of the Interpretation Ordinance, 1950, whereby if an office is defined as including a deputy or assistant the force of law attaches to the authorized acts of such deputy or assistant, and the second amendment is to provide a convenient method of stipulating reasonable fees for the Director of Commerce and Industry to charge in respect of signatures given and miscellaneous documents issued by him. These fees are at present charged under the Official Signatures Fees Ordinance, 1935, and it is considered preferable to provide means whereby the Department's own scale of fees can be specifically stipulated.
6. In a slightly amplified form the provisions of the False Passports Ordinance, 1916, have been incorporated into the Immigrants Control Ordinance, 1949 (see item 16) and the repeal of the 1916 Ordinance is accordingly effected.
7. Amendments to the Stamp Ordinance, 1921, are consequential on the present position that over-embossing, which is extensively stipulated as the method of stamping, is not now followed, the pre-war machines not being available. Various methods of stamping, to suit particular circumstances, have been specified by regulations published under Gazette Notification A. 125 of the 9th June, 1950, and all that it is necessary for the Ordinance to do is to specify the few cases where adhesive stamps are permissible in lieu of such methods. These amendments are effected by items (1) and (2).

Item (3) transfers to the Financial Secretary functions with regard to the compounding of stamp duties on cheques previously carried out by the Colonial Secretary, and item (4) amends a reference to the stamp duty on Bills of Exchange consequentially on the change last year in such stamp duty.

The last amendment concerns the Schedule and is a natural corollary to Ordinance 17 of 1949, which raised the stamp duty on cheques and receipts from 10 cents to 15 cents. The documents affected by these amendments are of less frequent use but are entirely analogous to cheques and receipts. The four heads affected are Comprador Orders, Cashier Orders, Dividend Warrants and Life Insurance Premium Receipts.

8. The amendment to section 4 of the Judgments (Facilities for Enforcement) Ordinance, 1921, corrects an error which was in the Ordinance as enacted and which has escaped attention until recently.

9. The provision in the Chinese Temples Ordinance, 1928, for a representative of the District Watch Committee to sit on the Chinese Temples Committee, is no longer appropriate in view of the abolition of the functions of the District Watch Committee by Ordinance 15 of 1949, and such provision is repealed, its place being taken by provision for an additional member of the Chinese Temples Committee to be nominated by the Governor.
10. The inclusion in the Pilots Ordinance, 1930, of a definition of the word "Director" as including a Deputy or Assistant Director will enable delegation under the provisions of section 23 of the Interpretation Ordinance, 1950, to take place. The Ordinance provides for a board of examiners to officiate upon the grant of pilot's licences, but section 9 provides that the Director of Marine may on his own authority suspend or revoke such licences. It is convenient that he should have power to obtain the advice of the examiners in appropriate cases, and the opportunity has also been taken to make it clear that the board of examiners is a standing and not an "*ad hoc*" board, and to make it possible that a quorum of three may act in order to avoid delay and inconvenience in the functioning of the board.
11. Section 31 of the Summary Offences Ordinance, 1932, contains power to make regulations, but amendments to the section are necessary for the following purposes—
 - (i) to remove references to sections 4 and 12 which are repealed;
 - (ii) to provide for the charging of fees for permits which hitherto have been charged under the general provisions of the Official Signatures Fees Ordinance, 1935;
 - (iii) to provide that offences against the regulations may be specified to be offences.

Subsection (2) of the section provided the details of procedure whereby the regulations were to be laid before Legislative Council; such provisions are contained in the Interpretation Ordinance and the subsection is therefore now omitted.

12. The Third Schedule to the Magistrates Ordinance, 1932, specifies certain offences which cannot be tried by magistrates in their summary jurisdiction, and, so far as Part II of that Schedule is concerned, by special magistrates. Bribery to a limit of \$25 under the Misdemeanors Punishment Ordinance, 1898, is at present included in such Part. The Misdemeanors Punishment Ordinance, 1898, has been repealed by the Prevention of Corruption Ordinance, 1948, and consideration

has failed to elicit any substantial reason for the limitation to \$25. Both such references are accordingly repealed and all offences of bribery will upon enactment fall only within the jurisdiction of permanent magistrates and the Supreme Court.

13. This amendment to the Quarantine and Prevention of Disease Ordinance, 1936, is designed to provide for a guarantor as an alternative to a cash deposit as a condition of release from surveillance of a contact arriving in the Colony. Absence of the correct currency frequently renders such a deposit inconvenient. At the same time the maximum exigible for such deposit or such bond has been increased from \$200 to \$400 as several instances have occurred of such an undertaking being broken and of the person giving the undertaking disappearing.
14. The purpose of these amendments to the Consular Privileges Ordinance, 1947, is to extend the exemption which may be granted under the Ordinance to include rates payable under the Rating Ordinance, 1901, to provide for refund where they have been paid, and to provide authority for the manner in which such exemption and such refund may be granted and made. The additions follow the principle of the Ordinance which applies in cases where similar privileges are granted reciprocally by the state represented by a particular consular representative.
15. Amendments to the Landlord and Tenant Ordinance, 1947, provide for repeal of section 27 which dealt with the continuance of the Tenancy Tribunal Panel originally appointed under the British Military Administration and since supplemented. This panel has not been used for some time, the functions having been exercised by individual persons sitting alone. The power for the Chief Justice to appoint such panels if they should be necessary in the future remains, and minor verbal amendments consequential upon the repeal of section 27 are made.
16. This item of amendment introduces into the Immigrants Control Ordinance, 1949, the provisions of the False Passports Ordinance, 1916. This Ordinance was omitted from the 1937 Edition of Ordinances, the intention of the Editor being to incorporate it in another Ordinance which no doubt would have found its place in Volume IV of the 1937 Edition. This volume was however never in fact published. The opportunity has been taken to widen the scope of the section to cover other travel documents, while the punishment remains the same as originally provided.

PART II.

1. The only provisions of the Suppression of Desertion Ordinance, 1852, which remained useful (section 3) have been embodied in the Incitement to Disaffection Ordinance, 1939. The repeal of the 1852 Ordinance is accordingly provided for by this amendment.
2. Section 38 of the Offences against the Person Ordinance, 1865, is repealed by this amendment since the section deals with the summary trial of an assault upon a female or upon a male child not exceeding fourteen years, but provides a sentence not exceeding six months or a fine not exceeding one hundred dollars for such offence. Summary trial of such an offence is in fact now the normal procedure, and the powers in Hong Kong of a magistrate, under section 43 of the same Ordinance, extend to permit imprisonment up to twelve months for common assault; such latter powers are considered sufficient to deal with this aggravated form of assault.

Similarly section 41 provided that upon the magistrate finding an intent to commit a felony present, and in certain other circumstances, committal for trial must follow. The cases which must be committed for trial have since the enactment of the Ordinance been exhaustively dealt with in the Magistrates Ordinance, 1932, and there is no point in preserving further limitations on magistrates' powers. The repeal of the section is accordingly provided for.

Sections 42 and 43 have been re-cast to provide that assaults occasioning actual bodily harm and common assaults shall be expressed to be misdemeanors to render it clear that a magistrate may commit for trial where he considers that the circumstances necessitate such course, while removing in each case the words "upon indictment" which might be taken to be an expression by the legislature of an intention that committal for trial should in all cases take place.

The Criminal Justice Act, 1925, made provision for binding over in respect of the offences of common assault and aggravated assault contained in the 1865 Act upon summary conviction, in addition to or in lieu of sentence. It is appropriate that such provision should apply to the offences proposed to be dealt with by the new clauses 42 and 43, which provision by an anomaly only previously applied in Hong Kong to cases of aggravated assault. Clause 43A accordingly makes such provision. Although the Supreme Court has other authority under which it can bind offenders over, it has not been considered necessary to restrict this provision to summary jurisdiction.

3. Section 43 of the Malicious Damage Ordinance, 1865, provides that compensation for damage to property up to \$25 may be ordered by a magistrate. It is proposed in the Law Revision (Penalties Amendment) Bill, 1950, that the accompanying fine of \$25 shall be raised to \$250, and this item proposes a similar increase in the stipulated sum for compensation.
4. The Public Assemblages (Regulation of Traffic) Ordinance, 1869, provided for regulations and directions which can now adequately be made under the Merchant Shipping Act, 1899, and the Vehicle and Road Traffic Ordinance, 1947. Its repeal has been recommended and is effected by this proposed item.
5. Section 3 of the Crown Rights (Re-entry) Ordinance, 1870, envisages that the formal documents leading to registration in the Land Office register of re-entry upon land by the Crown shall be signed by the Colonial Secretary or any Assistant Colonial Secretary authorized so to sign by command of the Governor. Amendment thereof is necessary in view of administrative re-arrangement of duties, and it is therefore desired to substitute wider provisions that will enable any officer so authorized by command of the Governor to sign such memorials. The wording should be wide enough to cover any future administrative changes.

The second amendment to this Ordinance has as its object a provision that when the Land Officer receives information from the Clerk of Councils or Registrar of the Supreme Court that a re-entry is to be cancelled, he may, without reference back to such officers for their signature to a formal cancellation, himself sign such a cancellation forthwith.

The form of memorial at present contained in the Schedule would need consequential amendment in view of these changes. Section 10 however makes it clear that such form need not be slavishly followed, and it is considered that the form itself and section 10 might be omitted, and their repeal is accordingly provided for.

6. (1) The additional definitions imported into the Supreme Court Ordinance, 1873, are common to the Code of Civil Procedure, 1901, and to the Law Amendment Ordinance, 1901. In revision the former will become rules of court made under the Supreme Court Ordinance (until replaced in due course under paragraph (3) of this amendment) and the sections of the latter which contain the expressions defined will be consolidated into the Supreme Court Ordinance. The definitions under reference have to be incorporated by this specific legislative amendment however since hereafter

they will apply to the whole Supreme Court Ordinance and the subsidiary legislation thereunder.

- (2) Section 13 of the same Ordinance, as amended by Ordinance 25 of 1949, gives the Registrar jurisdiction to deal in certain events with matters assigned to him by rules made by the Chief Justice. This amendment provides that rules of court made under the general authority of the succeeding item of amendment shall take the place of such rules by the Chief Justice.
- (3) The amendments proposed by this item constitute the main revision of the Supreme Court Ordinance so far as this Bill is concerned. Rules of court are made in the United Kingdom by a joint committee of judges and the legal profession and cover a great many minor points of practice and procedure. Such practice and procedure is in Hong Kong governed by the Code of Civil Procedure, founded for the most part on the Rules of the Supreme Court in England and last re-cast in 1901 by Sir John Carrington the then Chief Justice. The Code is itself an Ordinance and although many amendments have taken place, each has necessitated an amending Ordinance. For some restricted purposes the Chief Justice is empowered to make general rules and orders subject to the approval of Legislative Council, but even such rules and orders are at present, by section 32(2) of the Ordinance, stipulated to be subject to disallowance by His Majesty.

It is proposed by this amendment to repeal section 32 which gives the Chief Justice restricted powers to make rules and orders. The Secretary of State has been communicated with and concurs with the repeal of the provision that rules shall be subject to disallowance. A new section 32 provides for a rules committee consisting of the Chief Justice, the two puisne judges, a practising barrister and a practising solicitor which rules committee shall be convened and dissolved as need may be by the Chief Justice.

It is provided that rules of court may be made on all the matters now dealt with by the Code of Civil Procedure, on the matters which can be dealt with by the rules committee set up under the Judicature Act, 1925, in the United Kingdom, and on the matters over which there has already been some restricted jurisdiction by rules made by the Chief Justice. Such rules of court may regulate the business and hours of the court, vary the periods of vacation, and regulate business

during vacation, (*vide* sub-clause (1) para. (5), as this last provision will conveniently enable the Supreme Court (Vacations) Ordinance, 1898, to be consolidated into the Supreme Court Ordinance in the course of revision.

Until such rules of court are made it is a normal rule of construction that present rules will continue (*vide* section 9, Interpretation Ordinance, 1950) and under the authority of the Revised Edition of the Laws Ordinance it is proposed to transfer the present Code of Civil Procedure to be rules of court under the Supreme Court Ordinance. Its nomenclature will change from Chapters and sections to Orders and rules, for each of the subsisting Ordinances of Hong Kong will in this revision become a Chapter of Hong Kong legislation. It is therefore desired to avoid any other use of the word "Chapter". The allocation of a group of numbers (rules) to each Order, instead of numbering rules throughout the Code, will moreover facilitate the work of the Rules Committee should they decide to deal with the rules of court a section at a time. It is also provided (sub-clause (1) para. (e)) that the rules of court when they come into force may repeal enactments which they replace. There is a precedent for this in the United Kingdom legislation.

Sub-clause (1) of the proposed amendment sets out in considerable detail the permissible scope of such rules. Paragraphs (a) to (g) thereof follow section 99 of the Judicature Act, 1925, with some variations derived from section 88 of the Singapore Courts Ordinance, and some local variations to provide for the Full Court and for transfer of proceedings from one jurisdiction of the Supreme Court to the other. Paragraphs (e) to (i) are derived from similar provision in the Singapore Ordinance. Paragraphs (k) to (s) provide specifically for matters now dealt with by the Code of Civil Procedure and para. (v) is a general power to legislate for other matters which are at present dealt with by such Code.

Sub-clause (2) provides for similar rules of court with regard to Admiralty jurisdiction which permits the consolidation into the Supreme Court Ordinance of the Supreme Court (Admiralty Procedure) Ordinance, 1896. In accordance with the Colonial Courts of Admiralty Act, 1890, such rules shall come into operation upon approval by His Majesty in Council.

It is provided by sub-clauses (3) and (4) that rules of court may govern proceedings by or against the Crown, and shall bind the Crown in cases where they purport so to do.

Sub-clause (5) preserves in the Ordinance a provision at preset in the Code (section 4) that the English rules of procedure shall be followed where there is no local provision.

7. (1) The Crown Remedies Ordinance, 1875, is consolidated into the Supreme Court (Summary Jurisdiction) Ordinance, 1873, by this amendment since the former Ordinance is wholly concerned with prescribing a form of procedure under the latter Ordinance. Opportunity has been taken to make some slight amendments, removing the forms of certificate (which are now contained in the Schedule to the Ordinance) to subsidiary legislation dispensing with the signature of the Land Officer in the case of chums for rent, and providing for rules to be made by the Chief Justice dealing with some of the matters previously dealt in the 1875 Ordinance.
 - (2) It is already provided by section 32 of the Jury Ordinance, 1887, that a panel of jurors for the court's summary jurisdiction shall be six. Section 21 of the Supreme Court (Summary Jurisdiction) Ordinance, 1873, provides that a jury of three shall be "empanelled". The new section 21 substituted by this amendment to the latter Ordinance makes it clear that there is no real conflict, the intention being that a jury of three shall be drawn from the panel of six.
8. The Crown Remedies Ordinance, 1875, is repealed by this item, as its major provisions have been consolidated into the Supreme Court (Summary Jurisdiction) Ordinance, 1873, by item 7 in this Part of the Schedule.
9. Under the Peak Tramway Ordinance, 1883, the authorized route of the tramway was specified as being described on a plan deposited by the Company with the Public Works Office. Such plan has not survived the occupation and a copy thereof which has survived has been agreed between the Director of Public Works and the Company. Reference is therefore made to this plan in the amendment, and the opportunity is taken to correct references to a lot number the nomenclature of which has changed.
10. The Legislative Council (Witnesses) Ordinance, 1886, follows closely the precedent of the Parliamentary Witnesses Oaths Act, 1871. Both enactments provide

that a witness who conscientiously objects to take an oath may make a solemn affirmation and declaration. But in England and in the Colony these enactments were followed a few years later by the Oaths Act, 1881, and the Evidence Ordinance, 1889, respectively, which made it common form that any person who objects to being sworn on grounds of religious objection or because he has no religious belief may make an affirmation in lieu. It is convenient in revision to consolidate the Ordinance into the Evidence Ordinance and it is accordingly provided that the rather more elaborate declaration provided by section 3 shall be repealed in reliance on the standard provision of section 46 of the Evidence Ordinance.

11. This amendment to the Colonial Books Registration Ordinance, 1888, provides that copies of a memorandum relating to books published in the Colony which previously were transmitted to the India Office Library shall in future be supplied to the Commonwealth Relations Office, London.
12. The repeal of the Forts Protection Ordinance, 1891, is provided for by this item as the Ordinance is outmoded. Insofar as it has not been superseded by other enactment, its provisions can be covered by administrative arrangement.
13. The British Dollar (Chopping) Ordinance, 1895, is repealed as the coin in question is no longer legal tender.
14. It is now common for the Chief Justice to have power to make rules on administrative and similar matters, and the provision in the Suitors Funds Ordinance, 1896, that such rules shall only be made with the concurrence of the Governor is accordingly repealed by this item. This Ordinance will as amended be consolidated into the Supreme Court Ordinance, 1873.
15. The Kellet Island Ordinance, 1898, is repealed as being no longer necessary. It was applicable to Kellet Island when this place was a magazine, which it is no longer.
16. The Sung Wong T'oi Reservation Ordinance, 1899, provided for the preservation of the "Hill of the King of the Sung", near Kai Tak, in view of its antiquarian and historic interest. By levelling part of the hill and damaging the remainder the Japanese destroyed the character of the area. While the repeal of the Ordinance is accordingly provided for it is nevertheless provided by item 50 of this Schedule that the area shall be listed in the Schedule of the Pleasure Grounds and Bathing Places Regulation Ordinance, 1936, to provide some means of regulating the area should it be treated as a place of public resort.

17. (1) The Criminal Procedure Ordinance, 1899, has from time to time been used as the vehicle of consolidation, and its long title, referring as it did to criminal procedure in the Supreme Court, has become a misnomer. Amendment is therefore effected to permit further items relating to evidence to be incorporated in the course of revision and to make clear that certain provisions already included relate additionally to courts other than the Supreme Court.
 - (2) There is at present a restriction that legal aid may only be provided for by rules in capital cases, appeals and cases reserved. Such rules when made are in any case subject to the approval of Legislative Council, and this amendment therefore provides that the restriction on the scope of such rules shall be removed.
 - (3) The power vested in the Court to award compensation is only utilized in exceptional cases, but this amendment substituting one thousand dollars for five hundred dollars relates the amount more nearly to that specified in the Forfeiture Act, 1870, which is £ 100.
 - (4) The amendment is consequent on the abolition of the term "Treasurer", and it is appropriate only to substitute that such unclaimed goods shall become forfeited to the Crown.
18. (1) and (2). By the first two items of amendment to the Merchant Shipping Ordinance, 1899, authority is given upon enactment to conform with present administration of shipping matters in the United Kingdom by substituting the Minister of Transport of the United Kingdom for the Board of Trade. There are such references in the Ordinance and many more such references in regulations under the Ordinance. An addition to the interpretation clause of the Merchant Shipping Ordinance is effected by sub-item (2) to obviate the necessity for repetition of such full title in the Ordinance, and permit sufficient latitude for references to continue to acts already performed by the Board of Trade or other department in charge of shipping.
 - (3) During the period of the present revision the provisions of a Convention made in 1948 in substitution for the 1929 Convention for the Safety of Life at Sea are in process of being applied by His Majesty's Government. The purpose of sub-item (3) is to give power for the Governor in Council to make regulations if he thinks fit carrying out the provisions of such Convention.

- (4) The amendment numbered (4) widens the provisions of section 22 to embrace the custom that all vessels shall identify themselves to the port's signal station, and provides a more flexible method of notifying any chancres in such signal stations.
 - (5) This amendment is designed to provide a more specific power for the Director of Marine to charge fees for permits and similar documents than that contained in the Official Signatures Fees Ordinance, 1935, and to extend the application of such fee to searches of the shipping registers.
19. This amendment to the Crown Lands Resumption Ordinance, 1900, substitutes a more convenient method of allocating a judge to perform duties under the Ordinance.
20. This penalty of one hundred dollars in the Fine Arts Copyright Ordinance, 1901, was based on a penalty of ten pounds stipulated in the Fine Arts Copyright Act, 1862, and it has been represented that it is reasonable that the figure should now be \$1,000, which amendment is the object of this item.
21. These amendments to the interpretation clause of the Employers and Servants Ordinance, 1902, are formulated to include motor drivers expressly within the scope of the Ordinance, and to include within wages the cash value of food, fuel or quarters, as such provision is now of more frequent occurrence than when the Ordinance was enacted. A further amendment removes an unnecessary restriction that a police officer before whom a contract of service is entered into must be a European police officer.
22. The first amendment to the Fire Insurance Companies Ordinance, 1908, is for the sake of conformity with analogous provisions in section 277 of the Companies Ordinance, 1932, and the second excuses the Registrar from service of a copy of a Gazette notification as to a company being struck off where no effective address for such service is available.
23.
 - (1) The Boilers Ordinance, 1909, is considered to be more expressively intituled the Steam Boilers Ordinance, 1909, as effected by amendment (1).
 - (2) The amendments to section 2 are designed to clarify certain definitions, to make provision dealing with the collapse of a boiler and to utilize a better definition of "boiler" originating in the Factories Act, 1937. It is considered no longer expedient to restrict the jurisdiction of inspecting authorities to boilers made outside the Colony.

- (3) It is designed to provide a competent boiler attendant, under regulations, with a certificate of competence himself rather than being named in a certificate of fitness relating to a particular boiler.
 - (4) It is administratively convenient to allow a period of slightly more than twelve months between inspections. Fourteen months is accordingly substituted.
 - (5) The word "forthwith", in relation to inspection of a damaged boiler, being difficult to construe, should be replaced, it is proposed, by the expression "within forty-eight hours".
 - (6) This amendment substitutes better details of procedure to be followed in the event of accidents or defects.
 - (7) It has been demonstrated that the General Manager of the Railway has technical personnel who maintain the railway locomotive boilers in safe condition and it is proposed subject to any expedient conditions to exempt such boilers, and furthermore to exempt boilers in domestic premises not utilized for gain.
24. The Fisheries (Dynamite) Ordinance, 1911, was not included in the 1937 Edition of the Ordinances, but the Editor made a note that it was incorporated in the Summary Offences Ordinance, 1932. The 1937 Edition was not completed by publication of Volume IV in which the consolidated form of the Summary Offences Ordinance, 1932, no doubt would have appeared. Meanwhile the practice prohibited by the Ordinance has been dealt with by "Regulations for fishing in the Waters of the Colony" made under section 29 of the Merchant Shipping Ordinance, 1899. The repeal of the Ordinance is therefore effected by this item.
25. These amendments to the Stamp Duties Management Ordinance, 1911, are intended to remove an unnecessary restriction in three sections that a search under warrant by a police officer shall be conducted by a European police officer.
26. Powers under the Revenue Officers (Powers of Arrest) Ordinance, 1917, are given with regard to offences committed under the Ordinances specified in the Second Schedule to the Ordinance. Included in such Schedule is the Dangerous Goods Ordinance, 1873. This Ordinance is in process of being re-cast and submitted for re-enactment, embodying the provisions of the Gunpowder and Fireworks Ordinance, 1901, and the Celluloid and Cinematograph Film Ordinance, 1923. It is appropriate that the powers under reference be exercised with regard to offences under the

consolidated enactment, and to secure legislative permission therefor the two Ordinances which are to be absorbed are by this amendment added to the Second Schedule of the 1917 Ordinance.

The Revenue Officers (Power of Arrest) Ordinance, 1917, will itself be consolidated into the Dutiable Commodities Ordinance, 1931, in the course of revision.

27. The rules made under the Indictments Ordinance, 1919, should properly be found under subsidiary legislation, and the object of the amendment is to facilitate that transference and to provide that the rule committee shall have power to make and amend such rules, as can be done under the Indictments Act, 1915, which Act is closely followed by the Ordinance.
28. The amendments effected by items (1) and (2) to the Stamp Ordinance, 1921, are for the purpose of incorporating into the Ordinance the provisions of the B. M. A. Proclamation entitled the Stamp (Occupation Transactions) Proclamation (Proclamation 29), and thus to enable that proclamation to be repealed. The Proclamation has worked well and little alteration in phraseology has been necessary, while its effect is wholly preserved. The first item exempts from the Stamp Ordinance documents which were stamped under regulations enforced by the Japanese, and the second admits of a nominal stamp duty on deeds which are confirmatory of transactions which parties entered into during the occupation.
29. In view of amendments made to the Supreme Court Ordinance, 1873, whereby rules of court are made by a rules committee, it is now possible to assimilate the provisions of the Judgments (Facilities for Enforcement) Ordinance, 1921, to the United Kingdom Act on which it is based, which is the object of the amendments now formulated.
30. A proposed amendment to the fine of fifty dollars which may be imposed under the Wild Birds Ordinance, 1922, raises this to two hundred and fifty dollars. It is proposed by this item of amendment similarly to increase the limit of compensation from \$50 to \$250.
31. On the 1st December, 1929, registration under the Female Domestic Service Ordinance, 1923, became the only method of legalizing the employment of a mui tsai, but as a mui tsai is defined as being under the age of eighteen, there is now no possibility of such legal employment. As a consequence the many sections of the Ordinance and the regulations thereunder dealing with registration and control are unnecessary and will be excised in the course of revision. The

Ordinance will remain as a prohibition against the employment of mui tsai, for which purpose it is necessary to amend the long title, and desirable to re-phrase the prohibitory sections to forbid the present employment of mui tsai, rather than the future taking into employment. Such amendments are effected by this item.

32. The Chinese Certificates (Fees) Ordinance, 1923, made provision for the payment of a fee of \$50 payable to the Secretary for Chinese Affairs for each certificate given by him in respect of a Chinese person other than a labourer proceeding to a foreign country. The Ordinance provided for a practice which has ceased and its repeal is effected by this item in the Schedule.
33. The Ordinance vested in the corporation which the Ordinance created in 1928 properties of various natures which are listed on pp. 1731 to 1734 of the present Volume III of Ordinances. This Schedule is no longer a true picture of the property now vested in the corporation and it is appropriate that administrative records, title deeds and the registers of the Land Office should take the place of the Schedule, which has effected its purpose of vesting the property concerned. The object of the amendment is to repeal the Schedule, but to preserve the tenure of the property on the conditions laid down in the original Ordinance.
34. It is proposed by this amendment that the Watchmen Ordinance, 1928, should be repealed. The Ordinance has always been of restricted application, as persons of Chinese race are excluded. Because of administrative difficulties in supervision and training, police watchmen are no longer supplied, and the discretion attached to the issue of an arms licence sufficiently facilities control of armed private watchmen. Police are still in appropriate circumstances available for special duty under the Police Force Ordinance, 1948. The portion of the regulations applicable to the New Territories is similarly out of touch with modern needs. The Ordinance is therefore not now implemented and serves no useful purpose.
35. Section 16 of the Pawnbrokers Ordinance, 1930, is re-cast to include the prescribed periods for redemption, which are now prescribed by regulations, but the power to prescribe other periods is preserved for the Governor in Council by the new subsection (2).
36. Proposed amendments to the Dutiable Commodities Ordinance, 1931, are for the purpose of making provision as follows—
 - (1) In accordance with modern usage to substitute "Commonwealth" for "Empire".

- (2) To incorporate provisions applying the Ordinance to table waters, proprietary medicines and toilet preparations, such application hitherto having been effected by resolution.
 - (3) To simplify the method of notifying the list of bonded and licensed warehouses by providing that it shall be published and amended by notice in the *Gazette*.
 - (4) By making provision for warrants for revenue officers, which have supplanted badges.
 - (5) By substituting \$50 as being a more suitable analyst's fee than \$25.
 - (6) For offences against section 42 a scale of punishment in three steps is provided, namely, for first, second and subsequent offences. Two such steps are considered sufficient, and in conformity with deliberations on general revision of penalties the penalty of five hundred dollars is raised to five thousand dollars, and that of two thousand dollars raised to ten thousand dollars. The penalty for offences committed with an intent to avoid duty is also raised from two thousand dollars to ten thousand dollars.
 - (7) By removing an unnecessary restriction that police officers entering licensed premises must be European.
 - (8) By adding as new Parts V and VI the provisions applicable to table waters, proprietary medicines and toilet preparations, hitherto applicable only by resolution. The opportunity has been taken in the definition of "proprietary medicine" to replace the expression "held out" by the expression "recommended", and thus to accord with the practice elsewhere.
37. The purpose of these amendments to the Estate Duty Ordinance, 1932, is to incorporate the provisions of the Estate Duty (Amendment) Proclamation, 1946, and so to enable that to be repealed, which is effected later in the Schedule.

The amendments incorporated perpetuate the provisions that the period of the occupation is not to be considered in calculating certain periods which are deemed to precede default under the Estate Duty Ordinance and so to provide for the payment of stipulated interest in certain cases; they permit in the case of deaths during the war the exercise by the Estate Duty Commissioner of power as to remission and refunds, provide for relief in the case of successive deaths under certain circumstances during the emergency,

and they provide by similar permanent amendment that duty in excess of \$200 may be paid in some more convenient method than by stamps.

38. The first two amendments to the Empire Preference Ordinance, 1932, substitute in the title and in the Ordinance the term "Commonwealth" for "Empire" in accordance with present usage, and define "Commonwealth" by reference to the Interpretation Ordinance, 1950, for convenience. The present effect is to exclude Burma, but should there be any future change in name or otherwise in a component part of the Commonwealth, the effect is that such change need only be made in the Interpretation Ordinance.

The third amendment incorporates into the Ordinance the provisions of G.N. 811 of 1932 which was an order made under the Grown Fees Ordinance, 1870, permitting the refund in appropriate circumstances of the special licence fee on a vehicle temporarily admitted into the Colony.

39. This amendment to the Prisons Ordinance, 1932, serves to substitute the present prisons, by their present nomenclature, for the list of prisons given in the Ordinance.
40. The first amendment to the Companies Ordinance, 1932, is to provide for a Gazette Notification to replace service of a notice in certain cases where addresses are not available, and the second to remove a provision that the Companies Liquidation Account may be kept with the Accountant General in lieu of at a nominated bank.
41. (1) and (2). These two sections of the Summary Offences Ordinance, 1932, prohibit, in the City of Victoria, in the one case the dressing of granite, and in the other the uttering of loud cries while playing the Chinese game of "Chai-Mui". Regulations were made in 1872 and in 1900 under such sections in the earlier Ordinance which was replaced by the 1932 Ordinance. It is considered that the matter is no longer of such importance as to need such legislation, and the repeal of the sections is proposed hereby.
- (3) Section 14 is repealed by this item, as its provisions have been more exhaustively dealt with by the Dogs and Cats Ordinance, 1950.
- (4) Subsection (4) of section 23 of the same Ordinance, repealed by this item, deals with the offence of being drunk whilst driving or being in charge of a motor vehicle. The offence is more suitably dealt with under section 5 of the Vehicle and Road Traffic Ordinance, 1947.

42. The amendments to the Hong Kong Dollar Loan Ordinance, 1934, repeal section 3 and the Schedule which specified allocation of the loan, as the loan fund is exhausted, and repeal as having had their effect subsections (10) to (12) of section 5, which stipulated the method in which redemption in the years 1942 to 1946 should be allowed for.
43. The Colonial (Bahamas and Leeward Islands) Light Dues Ordinance, 1934, has been re-arranged by these amendments, to obviate the reproduction in an Appendix thereto of the relevant Order of His Majesty in Council made under the Merchant Shipping Act, 1894, and to make any necessary amendment of such Ordinance in the future more convenient. The Board of Trade gave way in 1939 to the Ministry of Shipping, the functions of which have since been transferred to the Ministry of Transport, and to provide for changes such as this it is now provided (by clause 4) in accordance with precedents in other Colonies that the procedure shall be that laid down with the authority of the Secretary of State for the Colonies. Clause 5 makes available the method permitted by the Merchant Shipping Ordinance, 1899, for collection of similar dues, for no remedy was previously expressly supplied, and clause 6 permits the Governor in Council to vary the Schedule should such variation be necessary. Amendments in the rates, and the deletion of two lighthouses included in the original Schedule, which amendments are made by H. M. Order in Council of the 26th January, 1948, have been incorporated.
44.
 - (1) The first amendment to the Trustee Ordinance, 1934, removes a power relating to the alterations of objects of a company which was available only for six months after the commencement of the Ordinance.
 - (2) The second amendment to the same Ordinance serves to remove as now unnecessary a power to Trust Companies enabling them to carry on business within the limits of the China Order in Council, 1925.
 - (3) Sections 38 and 40 give trust corporations power to act alone in certain cases where two individual trustees would be required. This accords with English statute law. Section 86 however states that a Trust Company may be appointed as though it were an individual. A saving clause is therefore added to preserve the effect of sections 38 and 40.

(4) The re-casting of section 106A effected by the fourth amendment serves to reproduce in more convenient form the previous section 106A which was engrafted onto this Ordinance by an amendment in 1939, but also adds the machinery applied to other Trust Companies whereby a certificate is issued, and entry made in the register and a notification thereof published in the *Gazette*.

45. The first amendment to the Public Health (Animals and Birds) Ordinance, 1935, is to render the definition of animals more comprehensive, and the second is to specify a further contagious disease to which it is advised the Ordinance should apply.

The amendments effected by item (2) allow for increases in values of stock which have occurred since enactment of the Ordinance.

46. The three International Opium and Narcotic Drug Conventions referred to in the Dangerous Drugs Ordinance, 1935, have each been amended since signature, and in order to allow for this and for amendment or replacement by further Conventions, which may not materially differ, a form of definition of the term "Convention" is supplied in this Ordinance which may obviate further minor legislative amendment. The definition of "corresponding law" in section 2(2) is consequentially re-cast, as are further references in sections 20 and 22 to individual Conventions. The previous functions of the League of Nations relating to dangerous drugs are now carried out by the United Nations, and the consequent substitution is effected in sections 20 and 22.

Section 20 (3) permitted the Governor in Council to apply the provisions of the Ordinance, with modifications if necessary, to the drugs commonly known as codeine and dionin. Such provisions were applied so far as manufacture, import, export and wholesale trade were concerned, by G.N. 972 of the 2nd December, 1935. It is convenient that such provisions be incorporated in the Ordinance, which is effected by amendment (2), the permissive section 20 (3) being repealed by amendment (3).

47. Duplicate licences, permits and other documents are frequently required on grounds of loss or destruction of the original. The first item of amendment to the Official Signatures Fees Ordinance, 1935, provides that a nominal fee of five dollars shall be payable in respect of such a duplicate, or the fee payable for the original, if such is less than five dollars. Similarly, by the second and third items of amendment, a fee of five dollars is made payable for endorsement of certificates and for certification of a true copy of documents and records.

The second amendment to the Ordinance replaces the Schedule, which at present designates seventeen officers, by a Schedule designating six. As a result of amendment to other legislation the other officers who were designated have been given power to charge appropriate fees in Ordinances which have special application to their particular departments. This is considered a more fitting method of charging fees. Similar procedure applicable to the six offices remaining designated is not practicable in their case in the absence of appropriate departmental legislation.

48. This amendment to the Defences (Firing Areas) Ordinance, 1936, is to provide for administrative convenience that the powers of the Governor in Council may be utilized by means of an order.
49. The amendment to the Telecommunication Ordinance, 1936, replaces a reference to the Madrid Conference, 1932, by a reference to a later Convention held in 1947, and applies the regulations subscribed to at the latter.
50. The Schedule to the Pleasure Grounds and Bathing Places Regulation Ordinance, 1936, will be re-cast in clearer form in revision, but meanwhile several amendments are proposed for the following reasons—

The area of the West End Park has been leased to the Church Missionary Trust, and the Albany has now been converted to a recreation ground.

The May Road, Wanchai No. 2, and Kowloon City Children's Playgrounds no longer exist while two playgrounds now exist at Kowloon Tong.

The Yaumati Typhoon Refuge Promenade is now occupied by the Marine Department and the Public Library does not exist, while the area once occupied by the Sung Wong T'oi in Kowloon is proposed as a park.

Tweed Bay is inaccessible as a bathing place as the approach road lies through an area occupied by Stanley Prison.

51. These amendments to the Incitement to Disaffection Ordinance, 1939, apply the Ordinance to the Air Force and embody provisions extracted from section 153 of the Army Act, expressly applying that which is in any case applicable by virtue of the operation of that Act in the Colony. They supersede analogous provisions of the Suppression of Desertion Ordinance, 1852, which is accordingly repealed by item 1 of Part II of this Schedule, the other provisions of this old Ordinance being outmoded.

52. These amendments to the Registration of Dentists Ordinance, 1940, serve to render into clearer form the provisions of such Ordinance as amended by the Registration of Dentists (Amendment) Ordinance, 1949.
53. The Hong Kong Corps of Air Raid Wardens Ordinance, 1940, is repealed by this item, other arrangements having been made for carrying out the functions of the Ordinance insofar as they are now necessary.
54. This Ordinance which was enacted in the special circumstances prevailing in 1941, is no longer required.
55. This item repeals in the Law Amendment (Transitional Provisions) Ordinance, 1946, the item in the Third Schedule which kept in force Order No. 3 made by the Chief Civil Affairs Officer which related to remission of estate duty in respect of certain wartime deaths and in respect of the death of a beneficiary where estate duty had already been incurred following an earlier death in wartime. The effect of this Order has been incorporated into the Estate Duty Ordinance, 1932, by item 37 of Part II of this Schedule.
56. There are a number of transitional provisions in the Banking Ordinance, 1948, and their excision requires more re-casting of the Ordinance than appears to come within the inherent powers of the Law Revision Commissioners. Items (2) to (4), (6) and (7) effect these amendments. Items (1) and (5) replace the present prohibition on issue of bank notes by a reference to such a prohibition that already exists in the Colony's legislation dealing with note issue.
57. Section 7 of the Debtor and Creditor Ordinance, 1948, providing for the submission by banks of accounts and for procedure to follow thereon was originally inserted to conform with draft legislation under consideration by the legislatures of Singapore and Malaya. After further consideration the clause was not included in the Singapore and Malaya legislation. It has not been substantially acted upon here and its repeal is accordingly provided for.
58. In correlating the Prevention of Corruption Ordinance, 1948, with the provisions of the Prevention of Corruption Act, 1916, it was necessary to provide for imprisonment to take the place of penal servitude, as the latter punishment does not obtain in this Colony. There was however always a statutory minimum of three years applicable to the sentence of penal servitude prior to the abolition in the United Kingdom of this punishment, and it was possible to construe the Ordinance as making a sentence of three years' imprisonment the

minimum which could be imposed under section 6 of the Ordinance. The proviso to section 6 has therefore been added to, to make it plain that in appropriate cases an alternative punishment such as a fine or a lesser term of imprisonment than three years is possible.

59. The Estate Duty (Amendment) Proclamation of the British Military Administration is repealed, its effect having been incorporated into the Estate Duty Ordinance, 1932, by item 37 of Part II of this Schedule.
60. The Stamp (Occupation Transaction) Proclamation is repealed, its effect having been incorporated into the Stamp Ordinance, 1921, by item 28 of Part II of this Schedule.

DEPORTATION OF ALIENS (AMENDMENT) BILL, 1950.

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance further to amend the Deportation of Aliens Ordinance, 1935". He said: Sir, the Deportation of Aliens Ordinance, 1935 was amended by Ordinance No. 44 of 1949. Honourable Members will recall that the purpose of the extensive amendments effected by Ordinance No. 44 of 1949 was to render the administration of deportation procedure more flexible and effective and to prune that Ordinance of administration machinery which was really unnecessary and which added to the complication of employing the Deportation of Aliens Ordinance to the extent which, in present times, it is necessary to employ.

Now, Sir, I think it can be claimed that the amendments made by Ordinance No. 44 of 1949 have proved a success and that the working of the Ordinance, the principal Ordinance, has been considerably smoothed and facilitated by those amendments. But nevertheless, experience since the passing of Ordinance No. 44 of 1949 has shown defects and improvements which still could be made. Now, the purpose of this Bill is to make provision for such improvement and removal of such defects.

One such amendment, Sir, is manifest from clause 2 of the Bill. There, a change is proposed which will, I feel, do something to aid the administrative machine by reducing the number of references to authorities which have to be made or consulted in connection with any one deportation case. I refer to the amendment proposed at (c) in clause 2 of the Bill. Roughly, Sir, the purpose of that proposal is that where the Secretary for Chinese Affairs and the Attorney General are agreed that a claim to be not an alien has been established, it will thereafter be unnecessary for that case to go further and for the decision

of Your Excellency to be sought and at that stage there will merely be a decision communicated to the competent authority that deportation shall not take place.

The other, and only other, change of importance is that provided for by clause 3 which repeals and replaces the Schedule to the principal Ordinance wherein are listed the offences for which upon conviction automatic, deportation takes place unless a person can establish the fact that he is not an alien. The repeal and replacement is largely one of convenience; in fact it is replaced with merely three changes, that is, the addition to the Schedule of offences set out in clause 3 or mentioned in clause 2 of the Objects and Reasons.

THE COLONIAL SECRETARY seconded, and the Bill was read a First time.

OBJECTS AND REASONS.

The "Objects and Reasons" for the Bill were stated as follows: —

1. The Bill seeks to make minor amendments to the Deportation of Aliens Ordinance, 1935, the principal Ordinance.

2. It is proposed that the schedule of offences upon conviction of which a competent authority may order deportation be widened (clause 3) to include—

- (i) offences against the Forgery Ordinance, 1922;
- (ii) breach of an expulsion order (Vagrancy Ordinance, 1897);
- (iii) offences in connection with illegal importation, exportation or possession of dangerous drugs (Dangerous Drugs Ordinance, 1935).

3. Under the principal Ordinance deportation may be ordered by a competent authority irrespective of the nature of the offence where sentences of imprisonment aggregating over 18 months have been imposed. Clause 2 (*b*) substitutes twelve months for eighteen months.

4. It is proposed (clause 2 (*c*)) to amend subsection (9) of section 8 so as to make it unnecessary to refer to the Governor a claim not to be an alien which has been accepted both by the Secretary for Chinese Affairs and the Attorney General and to clarify that both in such case and in a case where the Governor has decided to accept or reject a claim the competent authority shall act in conformity with the opinions given or decision taken.

5. Under the Juvenile Offenders Ordinance, 1932, provision is made for the detention of juveniles in lieu of imprisonment. There are numerous juvenile offenders who have no connection with the Colony and whose good behaviour no person in the Colony can be found to guarantee. If they remain in the Colony after release from detention they almost invariably commit fresh offences. It is accordingly desirable that in applying the provisions of the Deportation of Aliens Ordinance, 1935, such detention should be treated as equivalent to imprisonment. This is clarified by clause 2 (*d*).

DEFENCE WORKS PROTECTION BILL, 1950.

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance to afford greater protection to defence works and property essential to the security or life of the community."

THE COLONIAL SECRETARY seconded, and the Bill was read a Second time.

Council then went into Committee to consider the Bill clause by clause.

Council then resumed.

THE ATTORNEY GENERAL reported that the Defence Works Protection Bill, 1950 had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded, and the Bill was read a Third time and passed into law.

LAW REVISION (PENALTIES AMENDMENT) BILL, 1950.

THE ATTORNEY GENERAL moved the Second Reading of a Bill intituled "An Ordinance to effect amendments in penalties for offences under miscellaneous Ordinances, to amend the procedure for trial in certain cases, and by amending the Interpretation Ordinance, 1950, to vary certain methods of prescribing offences and punishments therefor."

THE COLONIAL SECRETARY seconded, and the Bill was read a Second time.

Council then went into Committee to consider the Bill clause by clause.

Council then resumed.

THE ATTORNEY GENERAL reported that the Law Revision (Penalties Amendment) Bill, 1950 had passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded and the Bill was read a Third time and passed into law.

**REVISED EDITION OF THE LAWS (AMENDMENT)
(NO. 2) BILL, 1950.**

THE ATTORNEY GENERAL moved the Second reading of a Bill intituled "An Ordinance further to amend the Revised Edition of the Laws Ordinance, 1948".

THE COLONIAL SECRETARY seconded and the Bill was read a Second time.

Council then went into Committee to consider the Bill clause by clause.

Council then resumed.

THE ATTORNEY GENERAL reported that the Revised Edition of the Laws (Amendment) (No. 2) Bill, 1950 has passed through Committee without amendment and moved the Third reading.

THE COLONIAL SECRETARY seconded, and the Bill was read a Third time and passed into law.

ADJOURNMENT.

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT: —That concludes the business. When would Honourable Members wish to meet again?

THE ATTORNEY GENERAL: —I propose adjournment to this day week.

H.E. THE OFFICER ADMINISTERING THE GOVERNMENT: —Council will adjourn to this day week.
