

LEGISLATIVE COUNCIL.

Draft Bills.

No. S. 92.—The following bills are published for general information:—

[No. 1:—21.12.32.—1.]

A BILL

INTITULED

An Ordinance to amend the Summary Offences Ordinance, 1932.

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

Short title.

1. This Ordinance may be cited as the Summary Offences Amendment Ordinance, 1933.

New
Section
20A for
Ordinance
No. 40 of
1932.

2. The Summary Offences Ordinance, 1932, is amended by the insertion of the following new section after section 20 thereof:—

Fortune
telling.

20A.—(1) Every person who pretends or professes to tell fortunes, or uses any subtle craft, means or device by palmistry, divination, sortilege, astrology, phrenology, physiognomics, or otherwise to deceive and impose on any one, shall be liable to a fine not exceeding two hundred and fifty dollars or to imprisonment for any term not exceeding three months; and the magistrate may order to be forfeited any book or other article used or capable of being used by the offender for the purposes of the offence.

Ordinance
No. 7 of
1928.

(2) Nothing in this section shall be deemed to prohibit the practice of fortune telling in Chinese temples registered under the Chinese Temples Ordinance, 1928, and conducted by the temple-keepers in accordance with the religious principles governing Miu, Tsz, Kun, To Yuen or Om in the worship of gods or communication with spirits.

(3) No prosecution under this section shall be instituted without the consent of the Secretary for Chinese Affairs: Provided that such consent shall not be necessary for the arrest of any person suspected of having committed an offence against this section.

Objects and Reasons.

1. Fortune telling in the Colony is recognised to some extent by the provisions of the Chinese Temples Ordinance, 1928, which provides for the registration of places where in accordance with the religious principles governing Miu, Tsz, Kun, To Yuen or Om, worship of gods, or communication of spirits, or fortune telling, is practiced.

2. In the Straits Settlements any person who pretends to tell fortunes, or uses any subtle craft, means or device by palmistry, divination, sortilege, or otherwise to deceive or impose on any one is punishable under section 30 of Ordinance No. 96 (Minor Offences) by fine and imprisonment and by the forfeiture of any book or other article used as an implement of fortune telling.

3. Fortune telling outside temples has hitherto been dealt with in the Colony by having recourse to section 4 of the Vagrancy Act of 1824 providing for the punishment of rogues and vagabonds some of the provisions of which have already been included in section 21 of the Summary Offences Ordinance, 1932.

4. This Amending Ordinance deals with the practice by making it a summary offence and adding astrology, phrenology and physiognomics to the list of subtle crafts, means or devices set out in the Straits Settlements Ordinance. Prosecution is made subject to the consent of the Secretary for Chinese Affairs.

C. G. ALABASTER,
Attorney General.

January, 1933.

[No. 6 :—24.2.33.—1.]

(C.S.O. 7 in 4299/32.)

A BILL

INTITULED

An Ordinance to amend the New Territories Regulation Ordinance, 1910.

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

1. This Ordinance may be cited as the New Territories Regulation Amendment Ordinance, 1933. Short title.

2. The following sub-section is added at the end of section 6A of the New Territories Regulation Ordinance, 1910. Amendment of Ordinance No. 34 of 1910, s. 6A.

(3) It shall be lawful for the Governor in Council to make rules prohibiting the keeping of cattle, swine, sheep or goats either generally or except under and in accordance with a licence from the Sanitary Board or such other authority as may be specified, in any place or places in the New Territories, except New Kowloon, specified in such rules.

3. The word and figure "or 6A" is added after the figure "6" in sections 7 and 8 of the New Territories Regulation Ordinance, 1910. Amendment of Ordinance No. 34 of 1910.

Objects and Reasons.

1. By section 267 (1) of the Public Health and Buildings Ordinance, 1903, Part II of that Ordinance, which relates to Public Health, does not apply to any part of the New Territories, except New Kowloon, unless the Governor in Council shall otherwise direct.

2. But by section 6A (1) of the New Territories Regulation Ordinance, 1910, the Governor in Council is empowered to make rules to take effect within the New Territories, except New Kowloon, in any matter with regard to which the Sanitary Board may for the time being have power to make by-laws under the Public Health and Buildings Ordinance, 1903, to take effect within that part of the Colony to which Part II of the Public Health and Buildings Ordinance, 1903, applies.

3. The powers of the Sanitary Board to make such by-laws are contained in section 16 of the 1903 Ordinance, under paragraphs (21) to (24) of which certain by-laws relating to cattle, sheep, goats, swine and other animals may be made. But these powers do not appear to be wide enough to provide for the prohibition of the keeping of such animals in specified localities where such prohibition is considered desirable.

4. Such prohibition is provided for in section 52 of the 1903 Ordinance which is also in Part II thereof.

5. Section 2 of the Amending Ordinance adds this power to section 6A of the 1910 Ordinance.

6. Section 3 of the Amending Ordinance corrects an oversight of the draughtsman of the Law Revision Ordinance, 1924, when in paragraph 99 of the Schedule to Ordinance No. 5 of 1924, he provided for the renumbering of subsections 6 (2) and 6 (3) of Ordinance No. 34 of 1910 as subsections 6A (1) and 6A (2) respectively, but made no consequential provision for any reference to the new section 6A in sections 7 and 8 where section 6 is mentioned.

C. G. ALABASTER,
Attorney General.

February, 1933.

C.S.O. 1 in 3667/31.

A BILL

INTITULED

An Ordinance to amend and consolidate the Full Court Ordinances.

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

1. This Ordinance may be cited as the Full Court Ordinance, 1933. Short title.

2.—(1) In this and in all existing and future enactments, “Full Court” means any two or three judges sitting together, whether in Court or in Chambers. Constitu-
tion of
Full
Court.

(2) Except in the case of questions or points reserved under any Ordinance or of appeals under the Criminal Procedure Ordinance, 1899, or except for the purpose of dealing with any interlocutory or incidental matter relating to an appeal, the trial judge or a judge whose judgment or order is appealed from shall not be a member of a Full Court of two judges only. Ordinance
No. 9 of
1899.

(3) Subject to the provisions of sub-section (2) the Chief Justice shall direct in every case whether the Full Court shall consist of two or of three judges, and, subject to the provisions of sub-section (4), he shall also direct of what judges it shall consist.

(4) A Full Court of three judges shall consist of the Chief Justice, the Puisne Judge and either the Judge of His Britannic Majesty’s Supreme Court for China (if the Principal Secretary of State for Foreign Affairs has consented to such appointment) or a barrister who has previously held or has acted in any judicial office in the Colony, or a barrister of not less than seven years standing, temporarily appointed by the Governor from time to time for the purpose of this Ordinance.

3. The Chief Justice shall preside in any Full Court of which he is a member and shall decide who shall be president of any Full Court of which he is not a member. Precedence.

4.—(1) Where a Full Court consisting of three judges sits, the judgment or order of any two of them shall be deemed the judgment or order of the Full Court. If no two of such judges agree as to the judgment or order to be made, then the judgment or order appealed from shall be deemed to be the judgment or order of the Full Court. Rule
where
judges
differ.

(2) Subject to the provisions of sub-section (4), where a Full Court consisting of two judges only sits in appellate jurisdiction and the two judge differ, then the judgment or order appealed from shall be disturbed only in so far as it may be modified or affected by any order they

may make as to which they do not differ. If the judgment or order appealed from is not so modified or affected it shall be deemed to be the judgment or order of the Full Court; and if the judgment or order appealed from is so modified or affected it shall, as so modified or affected, be deemed to be the judgment or order of the Full Court.

(3) Subject to the provisions of sub-section (4), where a Full Court consisting of two judges only sits otherwise than in appellate jurisdiction and the two judges differ, the judgment or order of the president shall be deemed to be the judgment or order of the Full Court subject to a right which is hereby conferred on any party aggrieved to an appeal to a Full Court consisting of three judges if applied for within fourteen days after the delivery of the judgment or order.

Ordinance
No. 9 of
1899.

(4) Where a Full Court consisting of two judges only sits to determine any question reserved for consideration or any appeal under the Criminal Procedure Ordinance, 1899, and the two judges differ as to the judgment or order to be made, then the matter shall be reheard by a Full Court consisting of three judges, and if no two of such three judges agree as to the judgment or order to be made, then the judgment or order of the trial judge, if he be a member of the Full Court, or of the president, if the trial judge be not a member of the Full Court, shall be deemed to be the judgment or order of the Full Court.

Provision
for pending
appeals and
motions.

5. All appeals and all motions for a new trial or to set aside a verdict, finding or judgment, which have been brought or made before the date of the coming into operation of this Ordinance and which have not been heard and determined before that date, may be continued before and heard and determined by the Full Court as constituted by this Ordinance in all respects as if such appeals and motions had been brought or made since the date of the coming into operation of this Ordinance.

Repeal of
Ordinance
No. 27 of
1912, and
Ordinance
No. 35 of
1931.

6. The Full Court Ordinance, 1912, and the Full Court Amendment Ordinance, 1931, are repealed.

Objects and Reasons.

1. The Full Court Ordinance (No. 27 of 1912) made provision for a third member of the Full Court by the inclusion in certain cases of the Judge of His Britannic Majesty's Supreme Court for China or a barrister of not less than seven years standing temporarily appointed by the Governor.

2. The Judge from His Majesty's Supreme Court for China is necessarily unavailable for appeals and other applications to the Full Court which require to be promptly heard and suitable members of the local bar are frequently themselves engaged in the appeals and applications in question. Ordinance No. 27 of 1912 made provision for the determination of such appeals and applications by a Full Court of two judges.

3. Section 2 of the new consolidation Ordinance places a limitation on the practice by providing that, except in certain specified cases, the trial judge or a judge whose judgment or order is appealed from shall not be a member of a Full Court of two judges only. He may, however, be a member of a Full Court of three judges.

4. In future therefore appeals from a judge in the summary jurisdiction will be heard either by three judges or by a court of two other judges. Magisterial appeals may be heard by either two or three judges as the Chief Justice may determine. Circumstances now obtain which makes a court of three local judges possible whenever it is deemed necessary.

5. Sections 2, 3 and 4 of the new Ordinance replace sections 2, 3, 4 and 5 of Ordinance No. 27 of 1912 as amended by Ordinance No. 35 of 1931. But all these sections have been redrafted and revised to meet present conditions. In particular it should be noted that the proviso to section 3 of Ordinance No. 27 of 1912 has been omitted. That proviso required that the Judge of His Britannic Majesty's Supreme Court for China should preside, when present, in the Full Court if his appointment as such judge was earlier in date than the appointment of the Chief Justice as such Chief Justice. A reciprocal provision was contained in Article 22 (2) of the China Order in Council, 1925. It is considered now, by the judges of both Courts, more suitable that the Chief Justice and Judge should each preside in his own Court.

6. Section 5 re-enacts section 5A of the principal Ordinance (repealed by No. 35 of 1931) so as to make provision for pending appeals and motions.

7. Section 6 effects the necessary repeals.

C. G. ALABASTER,
Attorney General.

February, 1933.

NOTICES.

COLONIAL SECRETARY'S DEPARTMENT.

No. S. 93.—Statement of Sanitary Measures adopted by Hong Kong.

Disease.	Port or Place.	Restriction in Force.	Authority.
Small-pox.	Swatow.	Quarantine, Vaccination and/or Fumigation at the discretion of Health Officer.	Notification No. 15 of 9th January, 1933.

W. T. SOUTHORN,
Colonial Secretary.

10th March, 1933.