

No. 153.—The following Bills were read a first time at a Meeting of the Council held on the 22nd February, 1906:—

A BILL

ENTITLED

An Ordinance to amend the Summary Offences (Amendment) Ordinance, 1905.

Be it enacted by the Governor of Hongkong, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance shall be construed as one with the Summary Offences Ordinance, 1845, as amended by the Summary Offences (Amendment) Ordinance, 1905, and may be cited as "The Summary Offences (Further Amendment) Ordinance, 1906." Construction and short title.

2. Section 2 of the Summary Offences (Amendment) Ordinance, 1905, is hereby repealed, and the said Ordinance shall be read as if the following section appeared therein instead of the repealed section:— Repeal of section 2 of the Summary Offences (Amendment) Ordinance, 1905, and new section substituted therefor.

"2. For the purposes of sections 3 and 4 of this Ordinance the expressions "thoroughfare" and "public place" shall be deemed to include and extend to all thoroughfares, streets, roads, lanes, alleys, courts, squares, archways, passages, paths, ways, and places in the Colony to which the public have access either continuously or periodically, whether the same are the property of the Crown or of private persons." Certain terms to include privately owned streets and ways.

Objects and Reasons.

The object is to confine the meaning of the expressions "thoroughfare" and "public place" as used in the Summary Offences (Amendment) Ordinance, 1905, to the purposes of sections 3 and 4 of that Ordinance inasmuch as the unofficial members of the Council understood when voting for the passing of that Ordinance that the scope and meaning of those expressions was so confined.

HENRY S. BERKELEY,
Attorney General.

A BILL

ENTITLED

An Ordinance further to amend the Magistrates Ordinance, 1890.

Be it enacted by the Governor of Hongkong, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Magistrates (Amendment) Ordinance, 1906, and shall be read and construed as one with the Magistrates Ordinance, 1890, hereinafter called the Principal Ordinance. Short title and construction.

2. Sub-section 4 of section 17 of the Principal Ordinance is hereby repealed and the following is substituted therefor:— Repeal of sub-section 4 of section 17 of the Principal Ordinance, and new sub-section substituted therefor.

"17.—(4.) If any person having come before any Magistrate whether voluntarily or in obedience to a summons or having been brought before him by warrant or otherwise shall refuse to be sworn or having been sworn shall without just excuse refuse to answer such questions as shall be put to him concerning the premises the Magistrate may by warrant under his hand and seal commit the person so refusing to prison for any time not exceeding two months unless he in the meantime shall consent to be sworn and to answer concerning the premises or such Magistrate may impose upon such person a fine not exceeding twenty dollars." Provision as to witness refusing to be sworn or answer questions.

Amendment of section 80 of the Principal Ordinance as to what indictable offences may be summarily dealt with.

3. Notwithstanding the exception contained in section 80 (1) of the Principal Ordinance a Magistrate may deal summarily under the provisions of that section with the case of a person accused, under section 82 (5) (a) of the Bankruptcy Ordinance, 1891, of the offence of obtaining credit under false pretences or by means of any other fraud.

Power of Justices of the Peace to issue search warrants.

4. In every case where under the authority of section 36 of the Summary Offences Ordinance, 1845, a Magistrate may issue a search warrant to cause any dwelling house or other place to be entered and searched at any time of the day or by night for anything stolen or unlawfully obtained said to be concealed or lodged in such dwelling house or other place it shall be lawful for a Justice of the Peace to issue such warrant.

Objects and Reasons.

The object of this Ordinance is to remove doubts as to the power of a Magistrate to treat a witness who has come voluntarily before him in the same manner as a witness who has attended on subpoena; and to remove doubts as to the jurisdiction of a Magistrate to deal summarily under the powers conferred by Section 80 of the Magistrates Ordinance, 1890, with persons charged under section 82 (5) (a) of the Bankruptcy Ordinance with obtaining credit under false pretences or by means of any other fraud; and also to remove doubts as to the power of Justices of the Peace to issue search warrants under the Summary Offences Ordinance, 1845.

HENRY S. BERKELEY
Attorney General.

A BILL

ENTITLED

An Ordinance to provide for the establishment of Lunatic Asylums and to provide for the custody and care therein of persons of unsound mind.

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

Short title. 1. This Ordinance may be cited as the Lunatic Asylums Ordinance, 1906.

Definition. 2. For the purposes of this Ordinance every person shall be deemed to be of unsound mind who is so far deranged in mind as to render it necessary that he, either for his own sake or that of the public, should be placed under control.

The Governor or may establish lunatic asylums and make regulations for the management thereof. 3. The Governor may from time to time establish lunatic asylums for the custody and care of persons of unsound mind and may with the advice of the Executive Council make from time to time such regulations for the management and conduct of such asylums as to him shall seem expedient.

Appointment of visitors. 4. The Governor may appoint fit and proper persons to be visitors of any such asylums. Such visitors shall be at liberty to enter any such asylums at all times and make such enquiry or examination therein as may be deemed necessary and shall make such reports to the Colonial Secretary as may be required by any order of the Governor.

5. Any Officer of the Government Medical Department, or of the Police Force, or any private person, having reason to believe that a person is of unsound mind may apply in writing to a Magistrate that the state of mind of such person be inquired into: Provided that an application from a private person shall not be entertained unless it is accompanied by a certificate from a duly qualified medical practitioner that the person so suspected has been under his observation and that he believes him to be of unsound mind.

Enquiry into state of mind of person suspected to be of unsound mind may be made on application of Medical Officer or Officer of Police or on application of a private person if supported by medical certificate.

6. The Magistrate shall thereupon with as little delay as possible cause such person so suspected to be of unsound mind (hereinafter called suspected person) to be brought before him and shall then, or on some other day to which he may see reason to adjourn the enquiry, examine the suspected person and may hear evidence to enable him to determine whether such person is or is not of unsound mind and shall adjudicate accordingly. Provided that the Magistrate may in the course of such enquiry remand the suspected person for further observation for such reasonable time as shall be specified in the order for remand and every suspected person so remanded shall during such remand be kept in such place as the Governor shall appoint and shall be subject to the observation and inspection of such persons as the Governor may nominate.

Proceedings thereupon by Magistrate.

7. Any medical officer of a lunatic asylum may admit thereto without an order from a Magistrate any person who is, in his opinion, a person of unsound mind, for the purpose of safe keeping such person therein until he can be brought before a Magistrate for enquiry into his state of mind: Provided that no person shall be so detained in any asylum for a longer period than three days.

Detention with a view to enquiry.

8. If any fit relative or friend shall enter into sufficient security for the proper custody care and maintenance of any person adjudged under this Ordinance to be of unsound mind the Magistrate may order that the person so adjudged shall be placed in his charge and under his control, otherwise the Magistrate shall order such person so adjudged to be kept in custody in such place as the Governor shall appoint until the Governor's pleasure shall be known; whereupon the Governor shall issue his warrant for the removal of such person to a lunatic asylum, and shall give such further order for the safe custody of such person as to the Governor shall seem fit: Provided that any relative or friend who shall have entered into security as aforesaid may at any time thereafter surrender such person to a Magistrate who shall thereupon order that until the Governor's pleasure be known, and until the Governor's warrant shall have been received such person shall be detained in the place appointed by the Governor for the detention of persons under remand for further observation.

Relative or friend may undertake care and custody, otherwise person of unsound mind to be sent to an asylum.

9. If any person under imprisonment in any place of confinement shall become of unsound mind the Governor may by warrant under his hand direct that such person be removed to a lunatic asylum named in such warrant there to be detained until the expiration of the sentence under which such person may have been imprisoned. If such person shall become of sound mind before the expiration of his sentence, of which the period of his detention in such asylum shall be reckoned as part, the Governor shall thereupon by warrant under his hand direct such person to be removed back to the place of confinement from which he shall have been taken, or shall give such other order thereon as to the Governor shall seem proper.

Prisoners becoming of unsound mind may be removed to lunatic asylum.

10. It shall be lawful for a Magistrate to order any person removed to a lunatic asylum under the provisions of the last preceding section who at the date of the expiration of his sentence is still of unsound mind to be detained in such asylum until discharged therefrom by order of the Governor.

Procedure at expiration of sentence if person still of unsound mind.

Appeal. 11. Every order made by a Magistrate under the provisions of sections 8 and 10 of this Ordinance shall be subject to an appeal to the Full Court of the Supreme Court. The procedure to be followed on any such appeal shall be as nearly as may be the same as may be from time to time prescribed for appeals to the Full Court from the Puisne Judge. The Supreme Court shall take cognizance of such appeal and make such order thereon as justice may require.

Objects and Reasons.

The object of this Bill is to authorize the establishment of lunatic asylums and the detention therein of persons of unsound mind: and to provide for the custody and care of persons detained in such asylums.

HENRY S. BERKELEY,
Attorney General.

A BILL

ENTITLED

An Ordinance relating to the jurisdiction of the Supreme Court with respect to the care and commitment of the custody of the persons and estates of Lunatics.

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

Short title. 1. This Ordinance may be cited as the Lunacy Ordinance, 1906.

Interpretation. 2. For the purposes of this Ordinance:—
“Lunatic” means an idiot or person of unsound mind:
The words “the Treasury” in section 148 of the enactment of the Imperial Parliament entitled the Lunacy Act, 1890, shall be interpreted to include the Governor in Council:

The words “Great Seal” in the said Lunacy Act, 1890, shall be interpreted to include the seal of the Supreme Court, and the provisions of the said Act with respect to the Lord Chancellor or the Court of Chancery, or any Judge in England shall be interpreted to include the said Supreme Court in its equity jurisdiction and the Judges thereof; and every officer (however designated) of the said Supreme Court or judge thereof having or exercising functions of the like kind or analogous to the functions of any officer (however designated) of the said Lord Chancellor, Court of Chancery, or Judge in England shall be deemed to be within the meaning of any of the provisions of the said Lunacy Act, 1890, respecting such last mentioned officers.

Jurisdiction of Supreme Court. 3. The Supreme Court in relation to the persons and estates of lunatics shall have, in addition to the powers conferred upon such Court by the Supreme Court Ordinance, 1873, such jurisdiction as may be exercised in England by the Lord Chancellor or other Judge or Judges of the High Court of Judicature under the provisions of the said Lunacy Act, 1890, or any Act amending the same.

Forms. 4. The forms contained in the schedule to the said Lunacy Act, 1890, may be used in the cases to which they respectively have reference with such variations and additions as circumstances may require.

Repeal. 5. The Imperial Enactments Extension Ordinance, 1856, is hereby repealed.

Objects and Reasons.

The object of this Ordinance is to confer upon the Judges of the Supreme Court, with respect to the persons and estates of such as being of unsound mind are unable to take care of themselves or estates, the like jurisdiction as is conferred by the Lunacy Act, 1890, upon the Lord Chancellor and Judges of the High Court of Judicature in England.

HENRY S. BERKELEY,
Attorney General.