

Question—put and agreed to.

Bill read a second time.

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

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

The Colonial Secretary seconded.

Question—put and agreed to.

Bill read a third time and passed, Mr. LAU CHÜ-PAK and Mr. Ho Fook voting against it.

PLACES OF PUBLIC ENTERTAINMENT REGULATION BILL.—The Bill intituled An Ordinance to consolidate and amend the law relating to Places of Public Entertainment, was not proceeded with.

RATING (SPECIAL WAR RATE) AMENDMENT BILL.—The Attorney General moved the Second reading of the Bill intituled An Ordinance to amend the Rating (Special War Rate) Ordinance, 1917.

The Colonial Secretary seconded.

Question—put and agreed to.

Bill read a second time.

Council in Committee on the Bill.

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

The Colonial Secretary seconded.

Question—put and agreed to.

Bill read a third time and passed.

ADJOURNMENT.—The Council then adjourned until Thursday, the 4th September, 1919.

CLAUD SEVERN,
Officer Administering the Government.

Confirmed this 4th day of September, 1919.

A. D. BALL,
Clerk of Councils.

No. 405.—His Excellency the Officer Administering the Government has given his assent, in the name and on behalf of His Majesty the King, to the following Ordinances passed by the Legislative Council:—

Ordinance No. 17 of 1919.—An Ordinance to amend the Law relating to Indictments in Criminal Cases, and matters incidental or similar thereto.

Ordinance No. 18 of 1919.—An Ordinance to authorize the Appropriation of a Supplementary Sum of Five million four hundred and sixty-six thousand three hundred and twenty-seven Dollars and sixty-three Cents to defray the Charges of the year 1918.

HONGKONG.

No. 17 OF 1919.

I assent to this Ordinance.

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CLAUD SEVERN,
Officer Administering the Government.

5th September, 1919.

An Ordinance to amend the Law relating to Indictments in Criminal Cases, and matters incidental or similar thereto.

[5th September, 1919.]

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 Indictments Ordinance, 1919.

Rules as to indictments. (5 & 6 Geo. 5, c. 90 s. 1.) 2. The rules contained in the First Schedule to this Ordinance with respect to indictments shall have effect as if enacted in this Ordinance, but those rules may be added to, varied, or annulled by further rules made by the Rule Committee under this Ordinance.

Powers of Rule Committee. (Ibid s. 2.) 3.—(1.) There shall be established for the purposes of this Ordinance a Rule Committee consisting of the Chief Justice, the Attorney General, the Registrar of the Supreme Court, the Senior Police Magistrate for the time being, and the President of the Law Society, three of whom shall form a quorum.

(2.) The Rule Committee shall have power from time to time to make rules varying or annulling the rules contained in the First Schedule to this Ordinance and to make further rules with respect to the matters dealt with in those rules, and those rules shall have effect subject to any modifications or additions so made.

(3.) Any rules made by the Rule Committee shall be laid, as soon as may be, before the Legislative Council, and if that Council disapproves of such rules or any of them the rules so disapproved of shall thenceforth be void, but without prejudice to the validity of anything done thereunder.

General provisions as to indictments. (Ibid s. 3.) 4.—(1.) Every indictment shall contain, and shall be sufficient if it contains, a statement of the specific offence or offences with which the accused person is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge.

(2.) Notwithstanding any rule of law or practice, an indictment shall, subject to the provisions of this Ordinance, not be open to objection in respect of its form or contents if it is framed in accordance with the rules under this Ordinance.

Joinder of charges in the same indictment. (Ibid s. 4.) 5.—(1.) Subject to the provisions of the rules under this Ordinance, charges for more than one felony or for more than one misdemeanour, and charges for both felonies and misdemeanours, may be joined in the same indictment, but where a felony is tried together with any misdemeanour, the jury shall be sworn and the person accused shall have the same right of challenging jurors as if all the offences charged in the indictment were felonies.

(2.) If one sentence is passed upon any verdict of guilty on an indictment containing more counts than one, the sentence shall be good if any of the counts upon which such verdict has been returned would have justified such sentence. (9 of 1899 s. 19 (4).)

6.—(1.) Where, before trial, or at any stage of a trial, it appears to the Court that the indictment is defective, the Court shall make such order for the amendment of the indictment as the Court thinks necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made without injustice. Orders for amendment of indictment, separate trial, and postponement of trial.

(5 & 6 Geo. 5, c. 90 s. 5.)

(2.) Where an indictment is so amended, a note of the order for amendment shall be endorsed on the indictment.

(3.) Where, before trial, or at any stage of a trial, the Court is of opinion that a person accused may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same indictment, or that for any other reason it is desirable to direct that the person should be tried separately for any one or more offences charged in an indictment, the Court may order a separate trial of any count or counts of such indictment.

(4.) Where, before trial, or at any stage of a trial, the Court is of opinion that the postponement of the trial of a person accused is expedient as a consequence of the exercise of any power of the Court under this Ordinance to amend an indictment or to order a separate trial of a count, the Court shall make such order as to the postponement of the trial as appears necessary.

(5.) Where an order of the Court is made under this section for a separate trial or for the postponement of a trial—

(a) if such an order is made during a trial the Court may order that the jury are to be discharged from giving a verdict on the count or counts the trial of which is postponed or on the indictment, as the case may be; and

(b) the procedure on the separate trial of a count shall be the same in all respects as if the count had been found in a separate indictment, and the procedure on the postponed trial shall be the same in all respects (if the jury has been discharged) as if the trial had not commenced; and

(c) the Court may make such order as to admitting the accused person to bail, and as to the enlargement of recognizances and otherwise as the Court thinks fit.

(6.) Any power of the Court under this section shall be in addition to and not in derogation of any other power of the Court for the same or similar purposes.

7.—(1.) Nothing in this Ordinance or the rules thereunder shall affect the law or practice relating to the jurisdiction of a Court or the place where an accused person can be tried, nor prejudice or diminish in any respect the obligation to establish by evidence according to law any acts, omissions, or intentions which are legally necessary to constitute the offence with which the person accused is charged, nor otherwise affect the laws of evidence in criminal cases. Savings and interpretation. (5 & 6 Geo. 5, c. 90 s. 8.)

(2.) In this Ordinance, unless the context otherwise requires, the expression "the Court" means the Court before which any indictable offence is tried or prosecuted.

8. The enactments specified in the Second Schedule to this Ordinance are hereby repealed to the extent mentioned in the third column of that schedule. Repeals.

Commence-
ment of
Ordinance.

9. This Ordinance shall come into operation on the 12th day of October, 1919, but shall not apply to indictments in the case of persons committed for trial before that date, or to the trial of any such person.

Passed the Legislative Council of Hongkong, this 4th day of September, 1919.

A. D. BALL,
Clerk of Councils.

Assented to by His Excellency the Officer Administering the Government, the 5th day of September, 1919.

A. G. M. FLETCHER,
Colonial Secretary.

SCHEDULES.

FIRST SCHEDULE.

RULES.

Mode in
which
offences
are to be
charged.

1.—(1.) A description of the offence charged in an indictment, or where more than one offence is charged in an indictment, of each offence so charged, shall be set out in the indictment in a separate paragraph called a count.

(2.) A count of an indictment shall commence with a statement of the offence charged, called the statement of offence.

(3.) The statement of offence shall describe the offence shortly in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all the essential elements of the offence, and if the offence charged is one created by statute, shall contain a reference to the section of the statute creating the offence.

(4.) After the statement of the offence, particulars of such offence shall be set out in ordinary language, in which the use of technical terms shall not be necessary :

Provided that where any rule of law or any statute limits the particulars of an offence which are required to be given in an indictment, nothing in this rule shall require any more particulars to be given than those so required.

(5.) The forms set out in the Appendix to these rules or forms conforming thereto as nearly as may be shall be used in cases to which they are applicable, and in other cases forms to the like effect or conforming thereto as nearly as may be shall be used, the statement of offence and the particulars of offence being varied according to the circumstances in each case.

(6.) Where an indictment contains more than one count, the counts shall be numbered consecutively.

Provision as
to statutory
offences.

2.—(1.) Where an enactment constituting an offence states the offence to be the doing or the omission to do any one of any different acts in the alternative, or the doing or the omission to do any act in any one of any different capacities, or with any one of any different intentions or states any part of the offence in the alternative, the acts, omissions, capacities, or intentions, or other matters, stated in the alternative in the enactment, may be stated in the alternative in the count charging the offence.

(2.) It shall not be necessary, in any count charging a statutory offence, to negative any exception or exemption from or qualification to the operation of the statute creating the offence.

3.—(1.) The description of property in a count in an indictment shall be in ordinary language and such as to indicate with reasonable clearness the property referred to, and if the property is so described it shall not be necessary (except when required for the purpose of describing an offence depending on any special ownership of property or special value of property) to name the person to whom the property belongs or the value of the property.

Description of property.

(2.) Where property is vested in more than one person, and the owners of the property are referred to in an indictment, it shall be sufficient to describe the property as owned by one of those persons by name with others, and if the persons owning the property are a body of persons with a collective name, such as "Inhabitants", "Trustees", "Commissioners", or "Club" or other such name, it shall be sufficient to use the collective name without naming any individual.

4. The description or designation in an indictment of the accused person, or of any other person to whom reference is made therein, shall be such as is reasonably sufficient to identify him, without necessarily stating his correct name, or his abode, style, degree, or occupation; and if, owing to the name of the person not being known, or for any other reason, it is impracticable to give such a description or designation, such description or designation shall be given as is reasonably practicable in the circumstances, or such person may be described as "a person unknown".

Description of persons.

5. Where it is necessary to refer to any document or instrument in an indictment, it shall be sufficient to describe it by any name or designation by which it is usually known, or by the purport thereof, without setting out any copy thereof.

Description of document.

6. Subject to any other provisions of these rules, it shall be sufficient to describe any place, time, thing, matter, act, or omission whatsoever to which it is necessary to refer in any indictment, in ordinary language in such a manner as to indicate with reasonable clearness the place, time, thing, matter, act or omission referred to.

General rule as to description.

7. It shall not be necessary in stating any intent to defraud, deceive or injure to state an intent to defraud, deceive or injure any particular person, where the statute creating the offence does not make an intent to defraud, deceive or injure a particular person an essential ingredient of the offence.

Statement of intent.

8. The Interpretation Ordinance, 1911, applies for the interpretation of these rules as it applies for the interpretation of an Ordinance.

Interpretation. (Ordinance 31 of 1911.)

9. These rules may be cited as the Indictment Rules, 1919, and these rules, together with any rules made under section 2 of this Ordinance, may be cited together by such collective title as may be prescribed by the last-mentioned rules.

Short title.

APPENDIX TO RULES.

FORMS OF INDICTMENT.

1.

STATEMENT OF OFFENCE.

Murder.

PARTICULARS OF OFFENCE.

A.B., on the _____ day of _____, at Victoria
in this Colony, murdered J.S.

2.

STATEMENT OF OFFENCE.

Accessory after the fact to murder.

PARTICULARS OF OFFENCE.

A.B., well knowing that one, *H.C.*, did on the _____ day of _____, at Victoria in this Colony, murder *C.C.*, did on the _____ day of _____, at Victoria in this Colony, and on other days thereafter receive, comfort, harbour, assist, and maintain the said *H.C.*

3.

STATEMENT OF OFFENCE.

Manslaughter.

PARTICULARS OF OFFENCE.

A.B., on the _____ day of _____, at Victoria in this Colony, unlawfully killed *J.S.*

4.

STATEMENT OF OFFENCE.

Rape.

PARTICULARS OF OFFENCE.

A.B., on the _____ day of _____, at Victoria in this Colony, had carnal knowledge of *E.F.* without her consent.

5.

STATEMENT OF OFFENCE.

First Count.

Wounding with intent, contrary to section 17 of the Offences against the Person Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., on the _____ day of _____, at Victoria in this Colony, wounded *C.D.*, with intent to do him grievous bodily harm, or to maim, disfigure, or disable him, or to resist the lawful apprehension of him the said *A.B.*

STATEMENT OF OFFENCE.

Second Count.

Wounding, contrary to section 19 of the Offences against the Person Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., on the _____ day of _____, at Victoria in this Colony, maliciously wounded *C.D.*

6.

STATEMENT OF OFFENCE.

Larceny, contrary to section 54 of the Larceny Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., on the _____ day of _____, at Victoria in this Colony, being clerk or servant to *M.N.*, stole from the said *M.N.* ten yards of cloth.

7.

STATEMENT OF OFFENCE.

Robbery with violence, contrary to section 31 of the Larceny Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., on the day of , at Victoria in this Colony, robbed *C.D.* of a watch, and at the time of or immediately before or immediately after such robbery did use personal violence to the said *C.D.*

8.

STATEMENT OF OFFENCE.

First Count.

Larceny after a previous conviction.

PARTICULARS OF OFFENCE.

A.B., on the day of , at Victoria in this Colony, stole a bag, the property of *C.D.*

A.B. has been previously convicted of burglary on the day of , at the Criminal Sessions of January, 19 .

STATEMENT OF OFFENCE.

Second Count.

Receiving stolen goods, contrary to section 79 of the Larceny Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., on the day of , at Victoria in this Colony, did receive a bag, the property of *C.D.*, knowing the same to have been stolen.

9.

STATEMENT OF OFFENCE.

Burglary and larceny, contrary to section 48 of the Larceny Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., in the night of the day of , at Victoria in this Colony, did break and enter the dwelling-house of *C.D.* with intent to steal therein, and did steal therein one watch, the property of *S.T.*, the said watch being of the value of dollars.

10.

STATEMENT OF OFFENCE.

Sending threatening letter, contrary to section 34 of the Larceny Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., on the day of , at Victoria in this Colony, sent, delivered or uttered to or caused to be received by *C.D.*, a letter accusing or threatening to accuse the said *C.D.* of an infamous crime with intent to extort money from the said *C.D.*

11.

STATEMENT OF OFFENCE.

Obtaining goods by false pretences, contrary to section 75 of the Larceny Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., on the day of , at Victoria in this Colony, with intent to defraud, obtained from *S.P.* five yards of cloth by falsely pretending that he, the said *A.B.*, was a servant to *J.S.*, and that he, the said *A.B.*, had then been sent by the said *J.S.*, to *S.P.* for the said cloth, and that he, the said *A.B.*, was then authorised by the said *J.S.* to receive the said cloth on behalf of the said *J.S.*

12.

STATEMENT OF OFFENCE.

Conspiracy to defraud.

PARTICULARS OF OFFENCE.

A.B. and *C.D.* on the day of and on divers days between that day and the day of , at Victoria in this Colony, conspired together with intent to defraud by means of an advertisement inserted by them, the said *A.B.* and *C.D.*, in the *H.S.* newspaper, falsely representing that *A.B.* and *C.D.* were then carrying on a genuine business as jewellers at Victoria in this Colony, and that they were then able to supply certain articles of jewellery to whomsoever would remit to them the sum of dollars.

13.

STATEMENT OF OFFENCE.

First Count.

Arson, contrary to section 3 of the Malicious Damage Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., on the day of , at Victoria in this Colony, maliciously set fire to a dwelling-house, one *F.G.* being therein.

STATEMENT OF OFFENCE.

Second Count.

Arson, contrary to section 4 of the Malicious Damage Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., on the day of , at Victoria in this Colony, maliciously set fire to a house with intent to injure or defraud.

14.

STATEMENT OF OFFENCES.

A.B., arson, contrary to section 4 of the Malicious Damage Ordinance, 1865 ;

C.D., accessory before the fact to same offence.

PARTICULARS OF OFFENCES.

A.B., on the day of , at Victoria in this Colony, set fire to a house with intent to injure or defraud.

C.D., on the same day, at Victoria in this Colony, did counsel, procure, and command the said A.B. to commit the said offence.

15.

STATEMENT OF OFFENCE.

First Count.

Offence under section 27 (a) (1) of the Malicious Damage Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., on the day of , at Victoria in this Colony, displaced a sleeper belonging to the Kowloon-Canton Railway with intent to obstruct, upset, overthrow, injure, or destroy any engine, tender, carriage or truck using the said railway.

STATEMENT OF OFFENCE.

Second Count.

Obstructing railway, contrary to section 27 (a) (2) of the Malicious Damage Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., on the day of , at Victoria in this Colony, by unlawfully displacing a sleeper belonging to the Kowloon-Canton Railway did obstruct or cause to be obstructed an engine or carriage using the said railway.

16.

STATEMENT OF OFFENCE.

Damaging trees, contrary to section 21 of the Malicious Damage Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., on the day of , at Victoria in this Colony, maliciously damaged a fir tree there growing.

A.B. has been twice previously convicted of an offence under section 21 of the Malicious Damage Ordinance, 1865, namely, at , on the day of , and at , on the day of .

17.

STATEMENT OF OFFENCE.

Uttering counterfeit coin, contrary to section 8 of the Coinage Offences Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., on the day of , at a shop called " " at Victoria in this Colony, uttered a counterfeit dollar, knowing the same to be counterfeit.

18.

STATEMENT OF OFFENCE.

Uttering counterfeit coin contrary to section 11 of the Coinage Offences Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., on the day of , at a shop called " ," at Victoria in this Colony, uttered a counterfeit dollar, knowing the same to be counterfeit.

A.B. has been previously convicted of a misdemeanour under section 8 of the Coinage Offences Ordinance, 1865, on the day of at .

19.

STATEMENT OF OFFENCE.

Libel.

PARTICULARS OF OFFENCE.

A.B., on the day of , at Victoria in this Colony, published a defamatory libel concerning E.F., in the form of a letter [book, pamphlet, picture, or as the case may be].

[Innuendo should be stated where necessary].

20.

STATEMENT OF OFFENCE.

First Count.

Publishing obscene libel.

PARTICULARS OF OFFENCE.

E.M., on the day of , at Victoria in this Colony, sold, uttered, and published and caused or procured to be sold, uttered, and published an obscene libel the particulars of which are deposited with this indictment.

[Particulars to specify pages and lines complained of where necessary, as in a book.]

STATEMENT OF OFFENCE.

Second Count.

Procuring obscene libel [or thing] with intent to sell or publish.

PARTICULARS OF OFFENCE.

E.M., on the day of , at Victoria in this Colony, procured an obscene libel [or thing], the particulars of which are deposited with this indictment, with intent to sell, utter or publish such obscene libel [or thing].

21.

STATEMENT OF OFFENCE.

First Count.

Falsification of accounts, contrary to section 74 of the Larceny Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., on the day of , at Victoria in this Colony, being clerk or servant to C.D., with intent to defraud, made or concurred in making a false entry in a cash book belonging to the said C.D., his employer, purporting to show that on the said day 100 dollars had been paid to L.M.

STATEMENT OF OFFENCE.

Second Count.

Same as first count.

PARTICULARS OF OFFENCE.

A.B., on the _____ day of _____, at Victoria in this Colony, being clerk or servant to *C.D.*, with intent to defraud, omitted or concurred in omitting from or in a cash book belonging to the said *C.D.*, his employer, a material particular, that is to say, the receipt on the said day of 50 dollars from *H.S.*

22.

STATEMENT OF OFFENCE.

First Count.

Fraudulent conversion of property, contrary to section 62 (1) (a) of the Larceny Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., on the _____ day of _____, at Victoria in this Colony, fraudulently converted to his own use and benefit certain property, that is to say, 100 dollars entrusted to him by *H.S.*, in order that he, the said *A.B.*, might retain the same in safe custody.

STATEMENT OF OFFENCE.

Second Count.

Fraudulent conversion of property, contrary to section 62 (1) (b) of the Larceny Ordinance, 1865.

PARTICULARS OF OFFENCE.

A.B., on the _____ day of _____, at Victoria in this Colony, fraudulently converted to his own use and benefit certain property, that is to say, the sum of 200 dollars received by him for and on account of *L.M.*

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Number of Ordinance.	Short title.	Extent of Repeal.
4 of 1865.	The Forgery Ordinance, 1865.	Sections forty-two and forty-three <i>in toto</i> , and section forty-four down to the words "any particular person; and".
5 of 1865.	The Larceny Ordinance, 1865.	Sub-section two of section seventy-four. Sub-section two of section seventy-five down to the words "valuable security and".
6 of 1865.	The Malicious Damage Ordinance, 1865.	Sub-section one of section fifty-one.
1 of 1887.	The Defamation and Libel Ordinance, 1887.	Section twenty-one.
9 of 1889.	The Criminal Procedure Ordinance, 1889.	Sections nineteen, twenty-two, fifty-five, and fifty-six.

HONGKONG.

No. 18 OF 1919.

I assent to this Ordinance.



CLAUD SEVERN,
Officer Administering the Government.

5th September, 1919.

An Ordinance to authorize the Appropriation of a Supplementary Sum of Five million four hundred and sixty-six thousand three hundred and twenty-seven Dollars and sixty-three Cents to defray the Charges of the year 1918.

[5th September, 1919.]

WHEREAS it has become necessary to make further provision for the public service of the Colony for the year 1918, in addition to the charge upon the revenue of the Colony for the service of the said year already provided for :

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

A sum of Five million four hundred and sixty-six thousand three hundred and twenty-seven Dollars and sixty-three Cents is hereby charged upon the revenue of the Colony for the service of the year 1918, the said sum so charged being expended as hereinafter specified ; that is to say :—

Miscellaneous Services,	\$ 5,229,871.24
Judicial and Legal Departments,...	130,447.27
Public Works, Recurrent,	103,975.37
Charitable Services,.....	2,033.75
Total,	\$ 5,466,327.63

Passed the Legislative Council of Hongkong, this 4th day of September, 1919.

A. D. BALL,
Clerk of Councils.

Assented to by His Excellency the Officer Administering the Government, the 5th day of September, 1919.

A. G. M. FLETCHER,
Colonial Secretary.