

LEGISLATIVE COUNCIL.

No. S. 240.—The following Bills were read a first time at a Meeting of the Council held on the 6th August, 1914:—

A BILL

ENTITLED

An Ordinance to amend the Deportation Ordinances, 1912 and 1913.

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 Deportation Ordinance, 1914, and shall be read and construed as one with the Deportation Ordinances, 1912 and 1913, and this Ordinance and the said Ordinances may be cited together as the Deportation Ordinances, 1912-1914.

Deportation of persons generally; procedure. 2. Section 4 of the Deportation Ordinance, 1912, as enacted by section 2 of the Deportation Ordinance, 1913, is hereby amended as follows:—

Amendment of section 4 of Ordinance No. 9 of 1912 as enacted by section 2 of Ordinance No. 10 of 1913. (a.) by the repeal of sub-section (1) thereof and by the substitution therefor of the following sub-section:—

“4.—(1.) Whenever it shall appear to the Governor that there are reasonable grounds for enquiry as to whether any person should be deported, the Governor may issue a warrant in Form No. 1 in the Schedule authorizing the Captain Superintendent of Police to arrest and detain such person for a period not exceeding 6 days.”

(b.) by the addition thereto of the following new sub-section:—

“(12.) The provisions of this section shall not apply—

(a.) in the case of any person whom it may be desirable to deport under the provisions of section 3 of this Ordinance;

(b.) in the case of any person whom it may be desirable to deport under the provisions of section 5 of this Ordinance;

(c.) in the case of any person whom it may be desirable to deport under the provisions of section 9 of this Ordinance;

(d.) in the case of any person who is prohibited from residing or being in the Colony under the provisions of section 11 of this Ordinance;

(e.) in the case of any person who is in the opinion of the Governor-in-Council a natural-born or naturalized subject of His Majesty save and except that the provisions of this section shall apply in the case of any person who in the opinion of the Governor-in-Council was born in the Colony of parents neither of whom was a British subject unless such person has obtained a certificate of his British birth or is registered in a British Consulate in China as a person entitled to British protection in China: Provided that any Deportation Order issued under the provisions of this paragraph shall be forthwith reported to the Secretary of State.

3. Section 8 of the Deportation Ordinance, 1912, is hereby amended as follows:—

Amendment
of section 8
of Ordinance
No. 9 of
1912.

(a.) by the deletion of the words—

“and provided also that in any case in which the person, when brought before a Magistrate on any such charge, pleads guilty thereto, the Magistrate may deal summarily with the case and sentence such person to imprisonment for any term not exceeding one year”—

at the end of sub-section (1) thereof, and by the substitution therefor of the words—

“and provided also that in any case in which the person is brought before a Magistrate on any such charge the Magistrate may, if he thinks fit, deal summarily with the case and sentence such person to imprisonment for any term not exceeding one year”;

(b.) by the deletion of the words—

“provided that in any case in which the prisoner when brought before a Magistrate on any such charge, pleads guilty thereto, it shall be lawful for the Magistrate to deal summarily with the case, instead of committing the prisoner for trial at the Supreme Court”

at the end of sub-section (2) thereof, and by the substitution therefor of the words—

“provided that in any case in which the person is brought before a Magistrate on any such charge the Magistrate may, if he thinks fit, deal summarily with the case and sentence such person to imprisonment for any term not exceeding one year”.

Objects and Reasons.

The object of this Bill is threefold. In the first place it has been pointed out that the provisions of section 4 of the Deportation Ordinance, 1913, might possibly be construed to apply to British subjects. As this was not the intention contemplated by the section, the present Bill lays down with precision the cases in which the provisions of the section do not apply.

It will be observed that the Bill provides that the provisions of section 4 of the Deportation Ordinance, 1913, shall not apply to those classes of persons for which under the provisions of sections 3, 5, 9 and 11 the Deportation Ordinances of 1911 and 1913 specifically provide. The Bill specifically prescribes that, subject to these exceptions and to the further exception mentioned later, the provisions of section 4 of the Ordinance shall not be applicable to persons who in the opinion of the Governor-in-Council are natural-born or naturalized subjects of His Majesty.

The second object of the Bill is to add to the powers of deportation which already exist under the local law the additional power to deport a class of persons with which it has not been hitherto possible to deal in any way under the present enactments. This class consists of persons who although born in the Colony are not of British parentage on either side, a limitation being added that these new provisions shall not apply to any person who has obtained a certificate of his British birth or who is registered in a British Consulate in China as a person entitled to British protection in that country; it is also prescribed that all the formalities of section 4 of the Deportation Ordinance, 1913, shall in any such case be complied with and that any deportation order issued under the new powers must be immediately reported to the Secretary of State.

The third object of the Bill is to remove a doubt which at present exists as to whether a magistrate has any power to deal summarily with a case of disobedience of a deportation order, or of disobedience of an order of banishment, unless the defendant pleads guilty. It seems very desirable that the magistrates should have this power.

J. H. KEMP,
Attorney General.

A BILL

ENTITLED

An Ordinance to amend the Widows' and Orphans' Pension Ordinance, 1908.

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 Widows' and Orphans' Pension (Amendment) Ordinance, 1914, and shall be read and construed as one with the Widows' and Orphans' Pension Ordinance, 1908, (hereinafter called the Principal Ordinance), and this Ordinance and the said Ordinance may be cited together as the Widows' and Orphans' Pension Ordinances, 1908 and 1914.

Amendment of section 2 of Ordinance No. 15 of 1908. 2. Section 2 of the Principal Ordinance is hereby amended by deleting the definition of "officer" and by substituting the following definition therefor :—

New definition of "officer".

"Officer" means :—

(a.) a person permanently employed in the service of the Government ; or

(b.) a member of the police force of the rank of sergeant or of higher rank ; or

(c.) a married member of the police force below the rank of sergeant whose marriage has received or may hereafter receive either the previous or the subsequent approval of the Captain Superintendent of Police.

Provided that the term "officer" does not include any such person whose salary is less than 240 dollars per annum.

Objects and Reasons.

The object of this Bill is to provide that the class of contributors to the Widows' and Orphans' Pension Fund shall be extended so as to include all married members of the police force below the rank of sergeant whose marriages have received, or may hereafter receive, either the previous or the subsequent approval of the Captain Superintendent of Police. Under the present law only those members of the police force who are of the rank of sergeant or of higher rank are included in the class of contributors. All the existing members of the police force to whom this Ordinance will apply wish to join the Fund.

J. H. KEMP,
Attorney General.

A BILL

ENTITLED

An Ordinance to amend the law relating to the observance of precautions against Piracy.

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 Piracy Prevention Ordinance, 1914.

2. In this Ordinance :—

Definitions.

“Launch” means any vessel used in navigation not exceeding 60 tons net registered tonnage in the propulsion of which any use is made of any mechanical means other than oars and sails.

“Master” includes any person (except a pilot) having command or charge of any ship.

“Passenger” includes any person on a ship other than the master and crew and the owner his family and servants.

“Ship” means any vessel used in navigation exceeding 60 tons net registered tonnage in the propulsion of which any use is made of any mechanical means other than oars and sails.

3. No launch or ship shall leave or attempt to leave the waters of the Colony on a voyage to Amoy, Swatow, Macao, Kwong Chau Wan, Hoilhow, or Haiphong, or to any port or place on the Canton River or the West River or any river or estuary in the province of Kwong Tung or the province of Kwong Sai, or to any port or place in either of the said provinces, unless the owners agents charterers or licensees of the said launch or ship shall have duly entered into a bond as hereinafter required and unless such bond shall be subsisting and valid in all respects, and if any launch or ship shall leave or attempt to leave the waters of the Colony on any such voyage unless the said bond shall have been duly entered into and shall be subsisting and valid in all respects the master of the said launch or ship and the owners agents charterers and licensees shall be deemed to be guilty of a misdemeanour and shall be liable to imprisonment for any term not exceeding one year and to a fine not exceeding five hundred dollars.

No launch or ship to leave on certain voyages unless a bond has been entered into.

4. No launch shall carry any passenger from or to any place in the Colony unless the owners, agents, charterers or licensees of the said launch shall have duly entered into a bond as hereinafter required and unless such bond shall be subsisting and valid in all respects, and if any launch shall carry any passenger from or to any place in the Colony unless the said bond shall have been duly entered into and shall be subsisting and valid in all respects the master of the said launch and the owners agents charterers and licensees shall be deemed to be guilty of a misdemeanour and shall be liable to imprisonment for any term not exceeding one year and to a fine not exceeding five hundred dollars: Provided that this section shall not apply to the carriage of passengers between places within the limits of the Harbour of Victoria.

No launch to carry passengers except within the Harbour unless a bond has been entered into.

5. It shall be lawful for the Harbour Master to refuse to grant any permission or issue any document or do any act necessary to enable any launch or ship to leave the waters of the Colony or a port in the Colony in respect of any launch or ship with regard to which he shall have reasonable cause to anticipate that any offence against the provisions of this Ordinance is about to be committed.

Clearance, etc., may be refused where reasonable ground to anticipate that an offence is about to be committed.

6. The bond hereinbefore referred to shall be entered into by the owners agents charterers or licensees with two sureties approved by the Captain Superintendent of Police and shall in the case of a launch be in the sum of one thousand dollars and in the case of a ship be in the sum of five thousand dollars and shall be conditioned for the observance by the said owners agents charterers or licensees and their servants and employees and any person to whom the said launch or ship may be leased or chartered and the master, crew and staff of the said launch or ship of all the regulations for the time being in force under this Ordinance.

Nature of bond required.

7. The said bond may be in the form set forth in the Schedule to this Ordinance with such alterations omissions and additions if any as may be necessary.

Form of bond.

Procedure in case of invalid surety.

8.—(1.) If at any time either of the sureties to any such bond shall in the opinion of the Captain Superintendent of Police become or be not a proper person to be a surety to such bond it shall be lawful for the Captain Superintendent of Police to give notice in writing to the owners agents charterers or licensees that such is his opinion and on the expiration of seven days from the service of such notice the said bond shall for the purposes of section 3 be deemed to be no longer subsisting and valid.

(2.) Any such notice may be served either personally or by delivery thereof to some adult at the address of the said owners agents charterers or licensees given in the said bond or by registered letter addressed to the said owners agents charterers or licensees at the said address.

Summons to obligors in case of breach.

9. In any case in which it is alleged that a breach has occurred of the conditions of any bond entered into in pursuance of the provisions of this Ordinance it shall be lawful for a magistrate on the application of the Captain Superintendent of Police to issue a summons calling upon the persons by whom the bond was entered into to shew cause why the sum secured by the said bond should not be forfeited.

Forfeiture of sum secured by bond.

10. On the hearing of such summons the magistrate shall first receive such evidence as may be offered on behalf of the Captain Superintendent of Police and then such evidence if any as may be offered on behalf of the defendants and if after hearing the whole of such evidence he is of opinion that any breach has occurred of the condition of the bond he shall declare the sum secured by the bond to be forfeited.

Hearing in the absence of defendant not served.

11. It shall be lawful for a magistrate to proceed to hear and determine any such summons in the absence of one or more of the defendants whether such defendant shall have been served with the said summons or not: Provided that no declaration of forfeiture shall be enforceable as against any person who shall not have been served with the said summons.

General powers of magistrate.

12. With reference to any such summons a magistrate shall have as full powers as he shall have with reference to any other matter over which he has jurisdiction.

Powers of magistrate with reference to recovery of penal sum declared to be forfeited.

13. With reference to the recovery of the sum so declared to be forfeited a magistrate shall have as full powers as he shall have with reference to the recovery of any fine or other sum of money which he shall have jurisdiction to impose or order to be paid.

Launch or ships in certain cases to be deemed to have left, etc., on a voyage to a particular place.

14. Without prejudice to any other method of proof, a launch or ship shall be deemed to have left or to have attempted to leave the waters of the Colony on a voyage to any particular port or place if information that it was about to leave on such a voyage shall have been given by or on behalf of the master owner agents charterers or licensees upon application for any permission necessary for enabling the said launch or ship to leave the waters of the Colony or a port in the Colony, and a launch or ship shall be deemed to have left the waters of the Colony on a voyage to any particular port or place if it shall have called or touched at such port or place at any time within ten days after leaving the waters of the Colony.

Powers of search.

15.—(1.) Every police officer, and every guard and watchman within the meaning of the regulations for the time being in force under this Ordinance, shall have power to search any launch or ship and its stores and equipment, the crew and staff and their belongings, the passengers and their goods and baggage, and the cargo, and may do all such acts as may be reasonably necessary in order to carry out any such search effectually.

(2.) The police officer in charge of any searching party, and any police officer superior to him, shall have power to detain any launch or ship so about to proceed until in his opinion the said searches shall have been completed.

Power to detain ship.

(3.) No action shall lie against any police officer, guard or watchman in respect of any act *bonâ fide* done or omitted to be done in connection with any such search.

Protection of police, guards and watchmen.

(4.) Every person who shall obstruct any such search shall be liable on summary conviction to a fine not exceeding two hundred and fifty dollars and to imprisonment for a period not exceeding three months.

Penalty for obstructing search.

(5.) Nothing in this Ordinance shall be construed as limiting any other powers of search possessed by any police officer.

Other powers of search not affected.

16. No order of any kind whatsoever shall be given, and no threat or inducement, direct or indirect, shall be made or held out, and no pressure shall be exerted, and no advice shall be offered, which might have the effect of influencing any person to fail to observe any of the provisions of this Ordinance or of any regulations made thereunder, and every person who shall give any such order, or make any such threat, or hold out any such inducement, or exert any such pressure, or offer any such advice, shall be deemed to be guilty of a misdemeanour and shall be liable to imprisonment for any term not exceeding one year and to a fine not exceeding five hundred dollars.

No order, etc., to be given which might have the effect of causing failure to observe regulations.

17. The Governor-in-Council shall have power to make regulations for the purposes of section 6 prescribing the precautions to be observed with a view to the prevention of piracy, and any such regulations made after the passing of this Ordinance but before the date of its coming into operation shall if previously published in the *Gazette* and notwithstanding anything to the contrary contained in section 40 of the Interpretation Ordinance, 1911, come into force on the day on which this Ordinance shall come into operation unless they shall have been repealed in the meantime.

Power to make regulations.

18. The owners agents charterers and licensees of every launch or ship which by any regulations made under this Ordinance shall be required to carry watchman or guards shall be jointly and severally liable to pay to the Colonial Treasurer such monthly sum for each watchman or guard as may be fixed by the said regulations, and any such sum in respect of payment of which default is made may, without prejudice however to any proceedings already taken or to be taken on any bond entered into in accordance with the provisions of this Ordinance, be recovered as a fee payable to the Crown within the meaning of the Crown Remedies Ordinance, 1875.

Liability to pay for guards.

19. This Ordinance shall not apply to any launch on occasions on which it is being used solely for purposes of pleasure.

Ordinance not to apply to launch when being used for pleasure.

20. The Governor-in-Council shall have power to exempt any launch or ship or class of launch or ship from the provisions of this Ordinance either generally or for a specified period and shall have power in his absolute discretion to withdraw at any time any exemption so granted.

General power of exemption.

21. The Launch and River Trade Steamer (Protection against Piracy) Ordinance, 1900, and the Steam Launch and River Trade Steamer (Protection against Piracy) Ordinance, 1913, are hereby repealed.

Repeal of Ordinances 7 of 1900 and 18 of 1913.

22. This Ordinance shall not come into operation unless and until the Governor shall notify by proclamation that it is His Majesty's pleasure not to disallow it and there-

Suspending clause.

after it shall come into operation upon such day as the Governor shall notify by the said proclamation or any other proclamation.

SCHEDULE.

BOND.

The Piracy Prevention Ordinance, 1914.

KNOW ALL MEN by these presents that We
.....of.....
and.....of.....
and..... of.....
are held and firmly bound to His Majesty the King His Heirs and Successors in the sum of.....thousand Dollars Hongkong Currency to be paid to His said Majesty His Heirs and Successors for which payment to be well and truly made we bind ourselves and each of us our and each of our heirs executors and administrators jointly and severally by these presents Sealed with our seals and dated the day ofOne thousand Nine hundred and

WHEREAS the saidand are the owners agents charterers and licensees of the ship (launch)

NOW THE CONDITION of the above written bond or obligation is such that if the said owners agents charterers and licensees and their servants and employees and the master officers crew and staff of the said ship (launch) and any person to whom the said ship (launch) may be leased or chartered shall comply with all the provisions of the Piracy Protection Ordinance 1914 and with all the regulations for the time being in force under the said Ordinance THEN the above written bond or obligation shall be void otherwise the same shall remain in full force and virtue.

Signed sealed and delivered by }
the said..... }
in the presence of }

Signed sealed and delivered by }
the said..... }
in the presence of }

Signed sealed and delivered by }
the said..... }
in the presence of }

Objects and Reasons.

The Launch and River Trade Steamer (Protection against Piracy) Ordinance, 1900, as amended by the Steam Launch and River Trade Steamer (Protection against Piracy) Ordinance, 1913, provides for the giving of security by the owners, agents, charterers or licensees of launches and river trade steamers for the observance of reasonable precautions against the commission of piracy or robbery on or in respect of such launches or river trade steamers, their cargo or their passengers, and it gives power to a magistrate in certain cases to order the security given to be estreated. It has however been found to be defective in several respects.

In the first place it does not apply to all ships which are exposed to piratical attacks but only to launches and river trade steamers as therein defined.

In the second place the power of the magistrate to order the security to be estreated can be exercised only when a piracy or robbery has actually been committed though it is obviously desirable that it should not be necessary to wait for the actual commission of a piracy or robbery before taking proceedings against a person who has failed to observe the precautions against piracy which he undertook by his bond to carry out.

In the third place it fails to provide for the giving of any notice to the owners, agents, charterers or licensees of any proceeding with a view to the estreating of the security given, or for the furnishing to such owners, agents, charterers or licensees of any opportunity of showing cause against such order.

The present Bill accordingly provides that a bond shall be required in the case of any launch or ship as therein defined which is about to proceed on a voyage to Amoy, Macao Kwong Chau Wan, Hoihow or Haiphong, or to any place in the two Kwongs; that the power of a magistrate to order the forfeiture of the sum secured by the bond shall not be limited to cases where a piracy has actually occurred but shall be exerciseable whenever a breach has occurred of the condition of bond; and that the persons by whom the bond shall have been entered into shall have an opportunity of showing cause before any order of forfeiture is made.

It also provides that if any launch or ship in respect of which no bond has been given proceeds on any voyage which can lawfully be made only if a bond has been entered into the master and owners shall be deemed to be guilty of a misdemeanour, and it gives the Harbour Master power to refuse a clearance to any launch or ship which he has reasonable grounds to anticipate is about to proceed on any such voyage without a bond.

The regulations to be made under the Ordinance will, like those now in force, require guards to be carried, but these guards will in future be engaged and trained and paid by the Police Department, and will be appointed to the various launches and ships as required. The Bill accordingly provides that the owners of the launches and ships required to carry guards shall be liable to pay to the Government in respect of each guard carried such sum per month as may be fixed by the regulations.

The Bill also legalises the searches necessary for carrying out the contemplated precautions against piracy.

It also makes it a misdemeanour to give any order, or make any threat, or hold out any inducement, or exert any pressure, or offer any advice, which might have the effect of influencing any person to fail to observe any of the provisions of the Ordinance or of any regulations made thereunder.

The Bill does not apply to any vessel not exceeding 60 tons which is being used for pleasure purposes only, and the Governor-in-Council is given power to exempt any vessel or class of vessel from its provisions.

The bond is one to be entered into by the owners, agents, charterers or licensees, and is conditioned for the observance of all regulations for the time being in force under the Ordinance. The form of bond is given in a Schedule to the Bill.

A "ship" is any vessel over 60 tons in the propulsion of which any use is made of any mechanical means other than oars and sails, and a "launch" is any such vessel not exceeding 60 tons.

The Bill contains a clause suspending the operation of the Ordinance until the signification of His Majesty's pleasure thereupon, and providing that if approved it shall not come into operation until a date to be fixed by proclamation by the Governor.

J. H. KEMP,
Attorney General.

A BILL

ENTITLED

An Ordinance to exempt certain securities on imported goods from the operation of the Bills of Sale Ordinance, 1886.

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 Bills of Sale Amendment Ordinance, 1914, and shall be read and construed as one with the Bills of Sale Ordinance, 1886, and the said Ordinance and this Ordinance may be cited together as the Bills of Sale Ordinances, 1886 and 1914.

Exemption of certain securities on imported goods from Ordinance No. 7 of 1886. (54 & 55 Vict. c. 35 s. 1.)

2. An instrument charging or creating any security on or declaring trusts of imported goods given or executed at any time prior to their deposit in a warehouse, godown, factory, or store, or to their being reshipped for export, or delivered to a purchaser not being the person giving or executing such instrument, shall not be deemed a bill of sale within the meaning of the Bills of Sale Ordinance, 1886.

Saving of Ordinance No. 7 of 1891, s. 37. (53 & 54 Vict. c. 53 s. 2.)

3. Nothing in this Ordinance shall affect the operation of section 37 of the Bankruptcy Ordinance, 1891, in respect of any goods comprised in any such instrument as is hereinbefore described, if such goods would but for this Ordinance be goods within the meaning of that section.

Objects and Reasons.

The object of the Bill is to introduce into this Colony the provisions of the Bills of Sale Act, 1890, as amended by the Bills of Sale Act, 1891. The Hongkong Bills of Sale Ordinance, 1886, was modelled closely on the English statutes existing at the time of its introduction, and it seems desirable to incorporate in it the changes subsequently made in the law in England by the above Acts.

J. H. KEMP,
Attorney General.

NOTICES.

COLONIAL SECRETARY'S DEPARTMENT.

No. S. 241.—It is hereby notified that information has been received from the Colonial Secretary, Singapore, to the effect that under the Quarantine Regulations immigration is prohibited on account of Plague, there being no accommodation available in the Quarantine Stations.

No. S. 242.—It is hereby notified, with reference to Government Notification No. S. 107 of the 9th April, 1914, that information has been received from H. B. M.'s Consul-General at Shanghai, to the effect that Hongkong has been released from Quarantine.