

LEGISLATIVE COUNCIL.

No. S. 494.—The following Bills were read a first time at a meeting of the Council held on the 22nd December, 1938:—

[No. 18:—26.9.38.—2.]

A BILL

INTITULED

An Ordinance to amend further the Asiatic Emigration Ordinance, 1915.

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 Asiatic Emigration (No. 2) Amendment Ordinance, 1938.

Amendment of Ordinance No. 30 of 1915, Fourth Schedule, r. 2. 2. The Fourth Schedule to the Asiatic Emigration Ordinance, 1915, is amended by the addition to regulation 2 thereof of the following words: “, nor, where the number of emigrants on board exceeds fifty, unless there are on board a medical officer and interpreter duly approved of by such Emigration Officer.”

Amendment of Ordinance No. 30 of 1915, Fifth Schedule, r. 3. 3. The Fifth Schedule to the Asiatic Emigration Ordinance, 1915, is amended by the addition to regulation 3 thereof of the following paragraph, as condition (4)—

“(4) a medical officer and interpreter duly approved of by the Emigration Officer shall be carried where the number of emigrants on board exceeds fifty.”

Suspending clause. 4. This Ordinance shall not come into operation until His Majesty’s confirmation of the same shall have been proclaimed in Hong Kong by the Governor.

Objects and Reasons.

1. The provisions of the Sixth Schedule to the Asiatic Emigration Ordinance, 1915, requiring a duly approved medical officer and interpreter to be carried, have no counterpart in the case of short voyages, which are regulated by the Fourth and Fifth Schedules to that Ordinance.

2. A British ship carrying a large number of Chinese emigrants recently arrived at Saigon from Hong Kong with a case of smallpox on board.

3. The voyage to Saigon is of less than seven days’ duration, but it is considered that it should be declared by the Governor to be a short voyage for the purposes of the principal Ordinance.

4. The object of the present amendment is to require a doctor and interpreter to be carried by ships having on board more than fifty emigrants, even on short voyages, and thus to assimilate the requirements of the Asiatic Emigration Ordinance to those of section 303 of the Merchant Shipping Act, 1894.

5. Clauses 2 and 3 of this Bill effect this amendment by adding to regulation 2 of the Fourth Schedule and to regulation 3 of the Fifth Schedule to the principal Ordinance which apply to short voyages words requiring a medical officer and interpreter duly approved by the Emigration Officer to be carried where the number of emigrants on board exceeds fifty.

6. Clause 4 of the Bill is the suspending clause required by the proviso to section 2 of the Chinese Passengers Act, 1855, (18 & 19 Vict., c. 104).

C. G. ALABASTER,
Attorney General.

November, 1938.

[No. 26 :—18.11.38.—1.]

C.S.O. 3603/31.

A BILL

INTITULED

An Ordinance to amend the Criminal Procedure Ordinance, 1899.

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 Criminal Procedure Amendment Ordinance, 1938.

Substitution for Ordinance No. 9 of 1899, s. 77A.

2. The Criminal Procedure Ordinance, 1899, is amended by the substitution of the following section for section 77A thereof :—

Offence of infanticide. 1 & 2 Geo. 6, c. 36, s. 1.

77A.—(1) Where a woman by any wilful act or omission causes the death of her child being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, notwithstanding that the circumstances were such that but for the provisions of this section the offence would have amounted to murder, she shall be guilty of felony, to wit of infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of the child.

(2) Where upon the trial of a woman for the murder of her child, being a child under the age of twelve months, the jury are of opinion that she by any wilful act or omission caused its death, but that at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then the jury may, notwithstanding that the circumstances were such that but for the provisions of this section they might have returned a verdict of murder, return in lieu thereof a verdict of infanticide.

(3) Nothing in this section shall affect the power of the jury upon an indictment for the murder of a child to return a verdict of manslaughter, or a verdict of guilty but insane, or a verdict of concealment of birth, in pursuance of section 49 of the Offences against the Person Ordinance, 1865, except that for the purposes of the proviso to that section a child shall be deemed to have recently been born if it had been born within twelve months before its death.

Ordinance No. 2 of 1865.

(4) The said section 49 shall also apply in the case of the acquittal of a woman upon an indictment for infanticide as it applies upon the acquittal of a woman upon an indictment for murder.

Objects and Reasons.

1. Clause 2 of this Bill enacts in section 77A of the Criminal Procedure Ordinance, No. 9 of 1899, the provisions of section 1 of the Infanticide Act, 1938, (1 & 2 Geo. 6, c. 36) in substitution for the provisions of section 1 of the Infanticide Act, 1922, (12 & 13 Geo. 5, c. 18).

C. G. ALABASTER,
Attorney General.

November, 1938.