

LEGISLATIVE COUNCIL.

No. S. 398.—The following Bill was read a first time at a Meeting of the Council held on the 21st November, 1912 :—

A BILL

ENTITLED

An Ordinance to provide punishment for certain persons found guilty of adultery or of harbouring Chinese Married Women.

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 Chinese Marriage Preservation Ordinance, 1912.

Definition. 2. In this Ordinance :—
“ Woman being married according to the laws and customs of China ” means and includes only the first wife (“ Kit Fat ”) or the second wife (“ Tin Fong ”) of any Chinese man.

Penalty for adultery with Chinese married woman. 3.—(a.) Any Chinese person who shall have committed adultery with any Chinese woman, such woman being married according to the laws or customs of China, shall be guilty of an offence and shall be liable upon summary conviction to a penalty not exceeding \$500 and in default of payment thereof to imprisonment with or without hard labour for a period not exceeding six months.

Penalty for adultery by Chinese married woman. (b.) Any Chinese woman married according to the laws or customs of China who voluntarily commits adultery with any Chinese person shall be guilty of an offence and shall be liable upon summary conviction to a penalty not exceeding \$500 and in default of payment thereof to imprisonment with or without hard labour for a period not exceeding six months.

Husband, only, to have power to institute proceedings. (c.) No proceedings shall be capable of being instituted under the provisions of this section except at the instance of the husband of the woman who has committed adultery.

Penalty for harbouring Chinese married woman without reasonable excuse. 4. Any person who without reasonable excuse shall receive or harbour any Chinese woman married according to the laws or customs of China who has left the protection of her husband shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding \$100 or in default of payment thereof to imprisonment with or without hard labour for a period not exceeding three months.

Powers as to award of compensation to injured husband. 5.—(a.) The Magistrate in addition to the penalty provided under the provisions of this Ordinance may order any person convicted of an offence against the provisions of section 3 sub-section (a) or of section 4 of this Ordinance to pay to the husband of any woman with whom such convicted person shall have committed adultery or whom such convicted person shall have received or harboured compensation which :—

(1.) in the case of an offence under sub-section (a) of section 3 of this Ordinance shall not exceed the sum of \$500.

(2.) in the case of an offence under section 4 of this Ordinance shall not exceed the sum of \$200.

Procedure on default of payment. (b.) In default of payment of the whole or any part of the said compensation it shall be lawful for the Magistrate to issue a warrant of distress on the goods and chattels of the person convicted and to appoint any fit person or persons to execute the same.

Sale of property seized. (c.) Any goods or chattels seized under any such warrant of distress may be sold by the person executing the same for the purpose of paying the said compensation and the costs of the execution and sale.

(d.) Where a claim shall be made to or in respect of property, taken in execution under the provisions of this section, by any person other than the party against whom such execution shall have issued, such claim shall be heard and determined by the Magistrate upon a summons calling before him such claimant as well as the party on whose behalf such execution issued and the decision of the Magistrate upon such claim shall be final. Claims in respect of property sized.

6. The receipt by the person in whose favour any order for compensation is made under the provisions of this Ordinance of such compensation shall be a bar to the institution or continuance of any further or other proceedings for damages for adultery against the person by whom such compensation has been paid at the suit of the person to whom such compensation has been paid. Receipt of compensation a bar to action for damages for adultery.

7. It shall be sufficient defence to any charge made under the provisions of section 3 sub-section (a) or of section 4 of this Ordinance if it shall be proved to the satisfaction of the Magistrate that the person so charged had reasonable cause, other than from information supplied by the woman with whom such person is charged with having committed adultery or whom such person is charged with receiving or harbouring, to believe that such woman was a spinster or to believe that she was a widow. Defence to charge.

8. A person who receives or harbours a Chinese woman who has left her husband because of his cruelty to her or because of his failure properly to maintain her shall not be deemed to have received or harboured such married woman without reasonable excuse. "Reasonable excuse" defined.

9. The Magistrates (Amendment) Ordinance, 1903, and the Magistrates Amendment (No. 2) Ordinance, 1910, are hereby repealed. Repeal.

Objects and Reasons.

The object of this Bill is to provide some penalty for (and, by providing a penalty, to prevent as far as may be) cases in which a Chinese married woman is guilty of deliberate adultery with a paramour. Such a practice is unfortunately not unknown and there exist at present no regular means either for the husband to obtain redress or for the punishing of the adulterous parties.

The Bill prescribes punishment for both the erring wife and her paramour and provides for the payment of compensation by the paramour to the wronged husband with whom alone, however, lies the right and power of taking proceedings in connection with the injury done to him.

With the Bill are conveniently welded the provisions of the two existing Ordinances which already touched the fringe of this question by making it illegal to harbour or receive a Chinese married woman who had left her husband for no proper cause.

JOHN A. BUCKNILL,
Attorney General.

NOTICES.

COLONIAL SECRETARY'S DEPARTMENT.

No. S. 399.—Statement of Sanitary Measures adopted against Hongkong.

Place or Port.	Nature of Measures.	Date.	Reference to Government Notification.
Orissa.	Plague Regulations imposed in Orissa Ports against arrivals from Hongkong.	23rd Feb., 1912.	No. S. 54.

CLAUD SEVERN,
Colonial Secretary.

22nd November, 1912.