

LEGISLATIVE COUNCIL.

Draft Bills.

No. S. 497.—The following bills are published for general information:—

[No. 36:—28.11.33.—2.]

A BILL

INTITULED

An Ordinance to amend the Jury Ordinance, 1887.

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 Jury Amendment Ordinance, 1934.

Substitution for Ordinance No. 6 of 1887, ss. 13 and 14.

2. Sections 13 and 14 of the Jury Ordinance, 1887, are repealed and the following sections are substituted:—

Passing over names for panel.

13.—(1) In forming any panel, the Registrar shall pass over the names of all persons drawn who are dead or absent from the Colony, but shall return to the ballot box the names of any temporary absentees.

Ordinance No. 5 of 1888.

(2) In forming a panel under section 9 of the Coroner's Abolition Ordinance, 1888, the Registrar may also pass over and return to the ballot box the names of any persons drawn, if, in his opinion, such persons cannot conveniently be served in sufficient time to secure their attendance as jurors at the inquiry.

Summoning of jurors. Schedule.

14. The Registrar shall issue summonses, according to the form in the Schedule, which shall be served on the persons drawn either personally or by leaving the same at their respective residences or places of business; provided that where personal service is not effected the summons shall be left not less than two clear days before the day appointed for the sitting of the court.

Amendment of Ordinance No. 6 of 1887, s. 23.

3. Section 23 of the Jury Ordinance, 1887, is amended by the substitution of the words "Registrar or clerk of the court, who" for the words "Registrar; and the Registrar" in the fifth line.

*Objects and Reasons.*

1. Section 2 of this Ordinance repeals sections 13 and 14 of the principal Ordinance and re-enacts them with modifications.

2. Section 13 permitted the Registrar of the Supreme Court, in forming any jury panel, to pass over the names of persons drawn who could not be served with summonses by reason of death or absence from the Colony. The substituted section 13 permits him in forming a panel under section 9 of the Coroner's Abolition Ordinance, 1888, to pass over also the names of persons drawn who in his opinion cannot conveniently be served in sufficient time to secure their attendance as jurors. Death inquiries under section 8 of the latter Ordinance have to be held at very short notice.

3. Section 14 of the Jury Ordinance, 1887, required that jurors' summonses should be either served personally or left at the usual place of abode of the persons drawn two clear days before the day appointed for the sitting of the court.

4. The provision requiring two clear days notice is impracticable in cases under section 8 of the Coroner's Abolition Ordinance, 1888, and unnecessary where personal service is effected. Moreover with the expansion of residential districts on both sides of the harbour it has become increasingly difficult to effect service at the residential addresses (c.f. definition of "Abode" in Stroud's Judicial Dictionary Vol. 3 p. 1489) of the persons drawn. For many years it has been the practice to serve the summonses by leaving at the jurors' places of business instead of at their residences.

5. The substituted section 14 requires two days notice only in those cases where personal service is not effected and regularises the practice of leaving the summonses at the places of business of the jurors concerned.

6. Section 3 amends section 23 of the Jury Ordinance, 1887, by allowing the clerk of the court to act as the officer of the court who takes and records verdicts. It is impracticable for the Registrar to be present in court on all occasions when verdicts are given, and the amendment regularises a practice which has prevailed for many years.

C. G. ALABASTER,  
*Attorney General.*

*November, 1933.*

C.S.O. 3654/29.

[No. 38 :—2.12.33.—1.]

A BILL

INTITULED

An Ordinance to amend the Coroner's Abolition Ordinance, 1888.

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 Coroner's Abolition Amendment Ordinance, 1934.

Amendment  
of Ordin-  
ance No. 5  
of 1888,  
s. 8.

2. Section 8 of the Coroner's Abolition Ordinance, 1888, is amended by the addition of the following words at the end thereof :—

At such inquiry the Coroner shall view the body; but it shall not be necessary for the jury to view the body unless it appears to the magistrate or to the greater number of the jurors expedient that the jury should do so.

---

*Objects and Reasons.*

1. In ordinary death inquiries under section 7 of the principal Ordinance it is left to the discretion of the magistrate whether or not there shall be a view of the body.

2. Section 8 which provides for cases of inquiries into deaths in gaol originally required a view of the body in such cases; but section 30 of the Schedule to the Law Revision Ordinance No. 5 of 1924 authorised the deletion of the words "view the body and".

3. It is open to question whether this alteration by a Revision Ordinance had the effect of abolishing the view in cases under section 8; especially as section 4 imposes on magistrates the duties which a Coroner had by law at the commencement of the Ordinance, one of those duties being a view of the body (*The King v. Haslewood* 1926 II K.B. 468).

4. In the Straits Settlements by section 326 (2) of Ordinance No. 121, provision is made for a view of the body where it appears to the greater number of the jury to be expedient. In England by section 14 of the Coroners (Amendment) Act, 1926, a view by the Coroner is still necessary and by the jury also if a majority so desires.

5. In the circumstances it is considered desirable to add to section 8 of the principal Ordinance words which will make it clear that at inquiries under the section the magistrate shall view the body but that a view by the jury shall not be necessary unless it appears to the magistrate or to the greater number of the jurors expedient for the jury to do so.

C. G. ALABASTER,  
*Attorney General.*

*December, 1933.*