

LEGISLATIVE COUNCIL.

DRAFT BILLS.

No. S. 13.—The following draft bills are published for general information.

A BILL

INTITULED

An Ordinance to provide for police supervision of certain persons.

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 Police Supervision Ordinance, 1922.

Interpretation. 2. In this Ordinance, "crime" means any felony, or any offence punishable as a misdemeanour under the Coinage Offences Ordinance, 1865, or any offence under sections 46 or 75 of the Larceny Ordinance, 1865, or the offence of conspiracy to defraud.

34 & 35 Vict. c. 112, s. 20. Ordinances Nos. 7 of 1865, and 5 of 1865.

Police supervision by order of magistrate or judge. 3.—(1.) Where any person is convicted summarily or on indictment of a crime, and a previous conviction of a crime is proved against him, it shall be lawful for the magistrate or judge, as the case may be, to make, in addition to any other penalty that he may inflict for the second of such crimes, an order in Form No. 1 in the schedule to this Ordinance, that such person shall be subject to police supervision for a period not exceeding seven years in the case of a summary conviction, or two years in the case of a conviction on indictment.

34 & 35 Vict. c. 112, s. 8. Form No. 1.

(2.) Whenever any such person is not imprisoned on conviction of the second of such crimes, the date of the commencement of the period of police supervision ordered shall be the date of such conviction, and shall be indorsed on the said order by the magistrate or the Registrar of the Supreme Court, as the case may be.

(3.) Whenever any such person is imprisoned on conviction of the second of such crimes, the date of the commencement of the period of police supervision ordered shall be the date of the termination of his imprisonment, and shall be indorsed on the said order by the Superintendent of Prisons.

Ordinance No. 25 of 1917. (4.) If any person against whom a police supervision order has been made under sub-section (1) of this section is ordered by the Governor in Council under the provisions of the Deportation Ordinance, 1917, to be deported, such police supervision order shall be deemed to be of no effect as from the date on which such deportation order takes effect.

Police supervision by order of the Governor in Council. Form No. 2. 4. It shall be lawful for the Governor in Council to make an order in Form No. 2 in the schedule to this Ordinance that any of the following persons shall be subject to police supervision for a period not exceeding seven years, such period to commence from the date on which the order is made:—

- Ordinance No. 25 of 1917.
- (a) any person liable to deportation under section 3 of the Deportation Ordinance, 1917,
 - (b) any person who would be liable to deportation under section 3 of the said Ordinance if he were not a British subject,
 - (c) any person concerning whom a report has been made by the Secretary for Chinese Affairs under section 4 (8) of the said Ordinance.

5. Every person who is ordered to be subject to police supervision under any of the provisions of this Ordinance shall be served by a police officer with a copy of such order together with a card of identification bearing the photograph and finger prints of such person, so soon as conveniently may be after the issue of such order; and an indorsement in Form No. 3 of the schedule to this Ordinance on any such order, signed by a sergeant interpreter or other police officer, shall, until the contrary is shown, be deemed sufficient evidence that the said order was duly served on and explained to the person named in such order as stated therein.

Service and explanation of police supervision order.

Form No. 3.

6.—(1.) Every person against whom a police supervision order has been made under any of the provisions of this Ordinance shall, within 48 hours of being served with a copy of such order, notify the place of his residence to an Inspector or Sergeant on duty at the Central Police Station, who shall then indorse on the said copy the name of the police station at which such person shall report himself.

Notification of place of residence by person subject to police supervision. 34 & 35 Vict. c. 112, s. 8.

(2.) Every such person shall further, whenever he changes his place of residence during the currency of the period of such order, notify such change within 48 hours thereof at the police station indorsed on his copy of the said order, and the officer in charge of such police station shall indorse on the said order the name of the police station nearest to his residence, and such person shall then report himself at the police station directed by the said indorsement.

(3.) Every such person shall further, on the occasion of every such notification or report, produce for inspection his card of identification.

7.—(1.) Subject to any special order that may be made by the Captain Superintendent of Police dispensing in any case with full compliance with the provisions of this section, every male person against whom a police supervision order has been made under any of the provisions of this Ordinance shall, in addition to the notification of residence required from him by section 6 of this Ordinance, report himself personally once in each month at such police station as may from time to time be indorsed on his copy of such order, at such time and place as may be prescribed by the police officer in charge of such police station, and shall on every such occasion produce for inspection his card of identification.

Monthly report by persons subject to police supervision. 34 & 35 Vict. c. 112, s. 8.

(2.) In the event of any person against whom a police supervision order has been made being permitted by the Captain Superintendent of Police under the provisions of sub-section (1) of this section to leave the Colony for any period, such permission together with the period for which it is given shall be indorsed on the copy of the said order which has been served upon such person: and every such person shall, failing any reasonable excuse, return to the Colony on or before the expiration of such period, and shall, within 48 hours of his return, report himself at such police station as may from time to time be indorsed on his copy of the said order, and shall further, at the time of so reporting himself, produce for inspection his card of identification.

8. If any person against whom a police supervision order has been made shall at any time undergo a term of imprisonment during the currency of the period of such order, the said order shall be deemed to be suspended while such person is undergoing such imprisonment, and shall be deemed to be in force again on the termination of such term of imprisonment, but no such term of imprisonment shall be reckoned as forming part of the period of police supervision ordered.

Suspension of police supervision order during imprisonment.

Finger prints
in police
supervision
order.

9. In any proceedings under this Ordinance, it shall, until the contrary is shown, be presumed that the finger prints on any police supervision order are those of the person against whom the order was made.

Penalty.

10. Every person who commits an offence against this Ordinance shall upon summary conviction be liable to a fine not exceeding two hundred and fifty dollars or to imprisonment not exceeding six months.

SCHEDULE.

FORM No. 1.

[s. 3.]

(a) (For use in case of summary conviction.)

POLICE SUPERVISION ORDER.

Police Supervision Ordinance, 1922.

HONGKONG.

In the Police Court at

Before *J.P.* Esq., a Magistrate of the said Colony sitting at the Police Court.

The day of, 19.....

C.D., (hereinafter called the defendant) was this day convicted by me of the crime of, and a previous conviction of the crime of was proved against him.

It is hereby adjudged and ordered under section 3 of the Police Supervision Ordinance, 1922, that the defendant shall, in addition to the penalty of this day inflicted by me upon him for the said crime of, be subject to police supervision for a period of

(L.S.) (Signed)

.....
Magistrate.

The above period of police supervision commences from the day of, 19.....

.....
Magistrate or Superintendent of Prisons.

(b) (For use in case of conviction on indictment.)

POLICE SUPERVISION ORDER.

Police Supervision Ordinance, 1922.

HONGKONG.

In the Supreme Court at

The day of, 19.....

C.D., (hereinafter called the defendant) was this day convicted at the Criminal Sessions of the crime of, and was sentenced by, Chief Justice (or a *Puisne Judge*) of the said Court, to and a previous conviction of the crime of was proved against him.

It has this day been adjudged and ordered by the aforesaid..... under section 3 of the Police Supervision Ordinance, 1922, that the defendant shall, in addition to the penalty of..... this day inflicted upon him for the said crime of....., be subject to police supervision for a period of.....

(L.S.) (Signed)

Registrar.

The above period of police supervision commences from the.....day of....., 19.....

Registrar or Superintendent of Prisons.

FORM No. 2.

[s. 4.]

POLICE SUPERVISION ORDER.

Police Supervision Ordinance, 1922.

Council Chamber, Victoria, in the Colony of Hongkong, the.....day of....., 192.....

Whereas it appears to the Governor in Council that..... should be ordered to be subject to police supervision for a period of..... under the provisions of the Police Supervision Ordinance, 1921, from the date hereof upon the grounds hereinafter appearing :

The Governor in Council doth hereby by virtue of section 4 of the said Police Supervision Ordinance, 1922, order that the above named person be subjected and the said person is hereby subjected to police supervision within the meaning of the said Police Supervision Ordinance, 1922, for a period of..... such period to commence from the date of this order.

Statement of grounds upon which this order is made.

That the said person.....

Clerk of Councils.

FORM No. 3.

[s. 5.]

ENDORSEMENT AS TO SERVICE AND EXPLANATION OF ORDER.

Police Supervision Ordinance, 1922.

I, the undersigned police officer, hereby certify that on the..... day of....., 19....., at..... a.m. (or p.m.) I served a copy of the within order on the said.....

....., and that I explained the within order to the said.....in the..... language and that I was satisfied that he understood it.

Dated the.....day of....., 19.....

Sergeant Interpreter.

Objects and Reasons.

1. The object of this bill is to provide for police supervision of certain persons. It is highly desirable that, for the prevention of crimes, the police should be able to keep track both of persons who have been convicted of serious offences, and also of persons who are known to be bad characters.

2. The bill is based mainly on section 8 of the Prevention of Crimes Act, 1871, (34 and 35 Vict. c. 112).

3. Clause 2 defines "crime" for the purposes of the bill, as any felony, or any misdemeanour under the Coinage Offences Ordinance, 1865, or certain offences under the Larceny Ordinance, 1865, or the offence of conspiracy to defraud. This definition is based on the definition contained in section 20 of the Prevention of Crimes Act, 1871. Persons who are twice convicted of any of these offences may be dealt with under clause 3 of the bill.

4. Clause 3 empowers a magistrate or judge to order the police supervision of any person who is convicted of a crime after a previous conviction of another crime. The maximum period of such supervision is two years in summary cases and seven years on indictment.

5. Clause 4 gives the Governor in Council power to order the police supervision for a period not exceeding seven years of certain classes of persons. The object of the clause is to make it possible for the police to watch and control the movements of persons who are known to be bad characters, but who do not come under the provisions of clause 3 of the bill. In some cases supervision will probably take the place of deportation.

6. Clause 5 provides for the service and explanation of supervision orders, and authorises a form of certificate to be given by the police officer entrusted with these duties.

7. Clause 6 requires every person under police supervision to notify his residence or change of residence to the police.

8. Clause 7 enacts that male persons subject to police supervision shall further report personally once in each month to the police as ordered. In order to allow more freedom of movement in special cases, the Captain Superintendent of Police is authorised to make a special order dispensing in any case with full compliance with this rule. Sub-clause (2) provides for cases in which the Captain Superintendent of Police may give permission to leave the Colony.

9. Clause 8 enacts that police supervision orders shall be suspended during any term of imprisonment.

10. Clause 9 provides that the finger prints on any police supervision order shall be presumed to be those of the person against whom the order was made.

11. Clause 10 provides a penalty of two hundred and fifty dollars or six months imprisonment for offences against the Ordinance.

12. In the schedule to the bill, two alternative forms of Form No. 1 are given, for use in summary cases, and on indictment respectively.

J. H. KEMP,
Attorney General.

27th October, 1921.

A BILL

INTITULED

An Ordinance to regulate exchanges.

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

1. This Ordinance may be cited as the Exchanges Ordinance, 1922. Short title.

2. In this Ordinance:—

Interpreta-
tion.

(a.) "Exchange" means any place whatsoever kept for the purpose of any dealings whatsoever in any class or classes of things or rights whatsoever, between persons (hereinafter called the clients) resorting to such place or using such place as the medium of their dealings, and kept by a person who receives deposits from the clients in respect of the contracts entered into by the clients in or through the medium of such place, and who collects from the clients commission on such contracts.

(b.) "Keep" means to provide or maintain or manage.

3.—(1.) It shall be lawful for the Governor in Council in his absolute discretion to grant or to refuse to grant a licence to keep an exchange. Licence to
keep an
exchange.

(2.) Any licence granted under this section may be granted so as to have a retrospective effect to any date whatsoever, for all purposes whatsoever, and whether any pending action be thereby affected or not.

(3.) Any licence issued under this section may be in the form in the schedule to this Ordinance, and may be issued subject to any limitations and conditions which the Governor in Council may see fit to impose, and shall be subject to any regulations which may from time to time be in force under this Ordinance.

(4.) Any licence issued under this section may at any time be cancelled by the Governor in Council in his absolute discretion.

4. It shall be lawful for the Governor in Council to make regulations for any of the following purposes:— Regulations.

(a.) For prescribing the making of any deposits or the payment of any fees by the keepers or the clients of exchanges.

(b.) For prohibiting exchanges from dealing in any particular classes of things or rights.

(c.) For authorising the searching of exchanges and of places suspected of being used as exchanges, and for providing for the taking of copies of any accounts kept in connection with such exchanges or places, and for making such accounts and copies admissible in evidence for any purpose specified.

(d.) For regulating or restricting in any manner whatsoever the conduct of exchanges and the contracts entered into in or through the medium of exchanges.

5. The following shall be deemed to be offences against this Ordinance:— Offences.

(a) keeping an exchange in an unlicensed place;

(b) failure on the part of a licensee to observe any term or limitation or condition of his licence;

- (c) buying or selling or entering into any contract whatsoever in or through the medium of any exchange kept in an unlicensed place;
- (d) contravention of any regulation for the time being in force under this Ordinance;
- (e) aiding, abetting, counselling or procuring any of the offences specified in paragraphs (a), (b), (c) and (d) of this section, whether the principal offender be ascertained or not.

Penalty.

6. Every person who commits any offence against this Ordinance shall be liable upon summary conviction to a fine not exceeding ten thousand dollars.

SCHEDULE.

[s. 3.]

LICENCE.

Exchanges Ordinance, 1922.

Name of licensee

Licensed premises.....

Period of licence to

Date of issue

.....
Clerk of Councils.

NOTE.—This licence may at any time be cancelled by Governor in Council in his absolute discretion and will be subject to any regulations which may from time to time be made under the Exchanges Ordinance, 1922.

Objects and Reasons.

1. The object of this bill is to deal with the exchange movement. The evils feared are the encouragement of gambling, the raising of the price of essential commodities, the diversion of capital from legitimate trade, and the manipulation of the shares of exchange companies in the interests of the promoters. The attitude of the Government to the threatened extension of the movement to this Colony is not yet settled, but, in view of the dangers anticipated and of the evils which have actually been experienced elsewhere, the policy decided upon may be one of complete prohibition except in possible rare cases where the promoters can prove satisfactorily to the Government that the intended exchange is really desirable in the interests of legitimate commerce. It seems unlikely that any proprietary exchanges will be licensed, *i.e.*, exchanges conducted for the profit of the promoters, as distinguished from exchanges provided by a number of persons in the same trade or occupation and conducted for their mutual benefit.

2. Clause 2 of the bill takes the receipt of deposits and the collection of commission as the essential features of an exchange, but if it should be found in practice that the definition adopted is not wide enough the Government will be quite prepared to amend it.

3. Clause 3 gives the Governor in Council power to register and license exchanges. It also gives him absolute power to refuse to license any exchange, and it gives him absolute power to cancel any licence issued. Any licence which is issued will be subject to any

conditions which the Governor in Council may impose, and will also be subject to any regulations which may from time to time be in force under the Ordinance.

4. Sub-clause (2) of clause 3 requires a special explanation. Power to grant licences with a retrospective effect is taken for the following reason. It will be an offence to keep an exchange in unlicensed premises, and it will also be an offence to enter into contracts in or through the medium of any unlicensed exchange. It is possible that some places which are not aimed at by this legislation at all may come so near to the borderland of the definition of the term exchange that doubt may exist as to whether they do not fall within the definition. It may even happen that some particular form of business may unintentionally have been brought within the definition. In such a case, an innocent party might find himself met in an action with the defence that the contract was illegal because it had been contracted in contravention of this Ordinance. It seems desirable, therefore, to have power to grant a retrospective licence in such a case.

5. Clause 4 gives the Governor in Council power to make regulations and to impose fees.

6. Clause 5 specifies what are to be deemed to be offences against the Ordinance.

7. Clause 6 fixes the penalty at \$10,000.

8. The schedule contains the form of licence.

J. H. KEMP,
Attorney General.

19th November, 1921.

A BILL

INTITLED

An Ordinance to amend further the Volunteer Ordinance, 1920.

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

1. This Ordinance may be cited as the Volunteer Amendment Ordinance, 1922, and shall be read and construed as one with the Volunteer Ordinance, 1920, and with the Volunteer Ordinance, 1921, and the said Ordinances and this Ordinance may be cited together as the Volunteer Ordinances, 1920, to 1922.

Short title and construction. Ordinances Nos. 2 of 1920 and 2 of 1921.

2.—(1.) Without prejudice to the provisions of section 16 of the Volunteer Ordinance, 1920, every member of a volunteer corps who in the opinion of the administrative commandant fails to make himself efficient in any year shall forfeit a sum of twenty-five dollars, which shall be paid into the general fund of the corps.

Failure to become efficient. Ordinance No. 2 of 1920.

(2.) For the purpose of this section the year shall be deemed to commence on the 16th day of April.

Objects and Reasons.

The object of this bill is to secure a greater percentage of efficiency in the Hongkong Volunteer Defence Corps. At present there is no penalty provided for inefficiency, and some members of the corps have failed to carry out the minimum of training which they undertook to do on enrolment.

J. H. KEMP,
Attorney General.

12th December, 1921.