

LEGISLATIVE COUNCIL.

No. S. 51.—The following Bills were read a first time at a meeting of the Council held on the 16th February, 1922 :—

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

Police supervision by order of magistrate or judge. 34 & 35 Vict. c. 112, s. 8. Form No. 1. 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 two years in the case of a summary conviction, or seven years in the case of a conviction on indictment.

(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 :—

- (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 Viet. 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 Viet. 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.

Theday 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 crime, 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 amend further the Opium Ordinance, 1914.

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 Opium Amendment Ordinance, 1922, and shall be read and construed as one with the Opium Ordinance, 1914, hereinafter called the principal Ordinance, and with the Opium Ordinance, 1917, and with the Opium Ordinance, 1918, and the said Ordinances and this Ordinance may be cited together as the Opium Ordinances, 1914 to 1922.	Short title and construction. Ordinances Nos. 4 of 1914, 27 of 1917, and 13 of 1918.
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2. Section 30 of the principal Ordinance is repealed and the following section is substituted therefor :—	Repeal of Ordinance No. 4 of 1914, s. 30, and substitution of new section.
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Opium divans and smoking therein prohibited.	30.—(1.) No person shall open or keep any opium divan. (2.) No person shall smoke opium in an opium divan.
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3. Section 31 of the principal Ordinance is repealed and the following section is substituted therefor :—	Repeal of Ordinance No. 4 of 1914, s. 31, and substitution of new section.
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Presumptions (1) as to opium divans, (2) as to smoking opium in an opium divan.	31.—(1.) Where two or more persons are found smoking opium in any place, such persons not being residents in the said place, it shall be presumed, until the contrary is proved :— (a) that the said place is an opium divan, and (b) that the tenant or occupier of the said place is keeping the said place as an opium divan, provided that such tenant or occupier or a servant of such tenant or occupier is present at the time of the finding of such persons. (2.) Every person found in any opium divan or found escaping therefrom on the occasion of its being entered under this Ordinance shall be presumed, until the contrary is proved, to be or to have been smoking opium therein.
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4. Sub-section (5) of section 55 of the principal Ordinance is amended by the addition at the end thereof of the following words :—	Amendment of Ordinance No. 4 of 1914, s. 55.
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“or ten times the market value (whichever may be the greater) of the opium in respect of which the offence was committed.”

5. Section 61 of the principal Ordinance is amended by the insertion of the words “upon summary conviction” between the word “liable” and the word “to” in the ninth line thereof.	Amendment of Ordinance No. 4 of 1914, s. 61.
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Objects and Reasons.

1. The object of this bill is to amend further the Opium Ordinance, 1914.

2. Clause 2 adds a new sub-section to section 30 of the principal Ordinance to the effect that no person shall smoke opium in an opium divan. At present this is not definitely specified as an offence in the Ordinance, and persons found smoking in divans are charged under section 30 with using an opium divan. It is perhaps open to doubt whether the use of this section for this purpose is correct, since the rest of the section is applicable only to opium divan keepers. That the offence of smoking in a divan was contemplated by the framers of the Ordinance seems clear from the present section 31, and it is therefore considered advisable definitely to prohibit such smoking.

3. Clause 3 of the bill authorises additional presumptions in the principal Ordinance. In the majority of prosecutions for keeping opium divans it is necessary to prove an actual sale of opium, and the difficulty of proving this makes it almost impossible to bring home the offence. The first part of clause 3 therefore authorises the presumptions that, where two or more persons are found smoking opium in any place, themselves not being residents there, (a) the place is an opium divan, and (b) the tenant or occupier is keeping an opium divan there, provided that the tenant or occupier or one of his servants is present at the time. The second part of clause 3 merely re-enacts the existing section 31 of the Ordinance.

4. Clause 4 provides an alternative penalty for breaches of section 46 of the principal Ordinance, in conformity with the alternative authorised in section 61.

5. Clause 5 of the bill corrects an obvious error in drafting in section 61 of the principal Ordinance.

J. H. KEMP,
Attorney General.

4th January, 1922.

DRAFT BILL.

No. S. 52.—The following draft bill is published for general information.

A BILL

INTITULED

An Ordinance to make temporary provision for the appointment of solicitors to appear in the Original Jurisdiction of the Supreme Court in certain emergencies.

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 Supreme Court (Original Jurisdiction) Emergency Ordinance, 1922.

Definition. **2.** In this Ordinance:—
“Cause” shall have the meaning assigned to it in the Code of Civil Procedure.