

Draft Bill.

No. S. 179.—The following draft Bill is published for general information:—

A BILL

INTITULED

An Ordinance to make provision for the protection of certain Wild Birds and Game.

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 Wild Birds Short title. Ordinance, 1922.

2. "Game" and "vermin" shall have such meanings Interpretation as may be assigned to them for the purposes of this Ordinance by regulations made under this Ordinance.

3. No person shall:—

- (1) kill, wound or take any bird other than game and vermin;
- (2) take, remove, injure or destroy any nest or egg of any such bird;
- (3) sell or offer for sale, or knowingly have in his possession, any such bird or any part of any such bird, killed, wounded or taken in the Colony after the commencement of this Ordinance, or the nest or any egg of any such bird, taken in the Colony after the commencement of this Ordinance; or
- (4) export the skin or plumage of any such bird killed, wounded or taken, or the nest or any egg of any such bird taken, in the Colony after the commencement of this Ordinance.

Protection of birds other than game and vermin.

4.—(1.) No person shall kill, wound or take any game without having previously obtained a licence from the Captain Superintendent of Police.

Game licences.

(2.) Every such licence shall be subject to any regulations or other enactments in force for the time being.

(3.) Every such licence may be revoked at any time by the Captain Superintendent of Police in his discretion, if the holder thereof commits or attempts to commit any breach of the provisions of this Ordinance, or of any of the regulations made thereunder, or of any of the conditions of the said licence, or shoots to the danger of the public.

5. Within the City of Victoria, as defined by section 39 of the Interpretation Ordinance, 1911, and within the Peak District as defined by section 2 of the Peak District Reservation Ordinance, 1904, and within the Kowloon Peninsula to the south of a line drawn from Kowloon City Police Station to Shamshuipo Police Station, no person shall shoot at any bird from any place situated within two hundred yards of any inhabited house.

Prohibition of shooting at birds in neighbourhood of houses. Ordinance No. 31 of 1911. Ordinance No. 4 of 1904.

6. No person shall take, remove, injure or destroy any nest or egg of any game or knowingly have in his possession any nest or egg of any game taken in this Colony.

Protection of nests and eggs of game.

7. During the close season in any year, no person shall kill, wound or take any such game as may be prescribed by regulations made under this Ordinance, or knowingly have in his possession, or sell, or offer for sale, or purchase, or export, any such game or any part of such game killed, wounded or taken during the said close season.

Close season for certain game.

Presumption in case of person charged with being in possession, etc., of bird, nest or eggs.

8. When any person is charged with selling or offering for sale, or knowingly having in his possession or exporting or attempting to export any bird or any part of any bird or the nest or any egg of any bird, it shall be presumed, until the contrary is proved, that such bird was killed, wounded or taken, or that such nest or egg was taken, within the Colony and after the commencement of this Ordinance, and, in the case of the game mentioned in section 7, that the killing, wounding or taking in question was effected during the close season referred to in the said section

Possession and sale of live partridges and pheasants.

9.—(1.) No person shall at any time have in his possession any live partridge or pheasant taken in the Colony.

(2.) During such period in any year as may be prescribed by regulations made under this Ordinance no person shall sell or offer for sale or have in his possession for the purpose of sale any live partridge or pheasant.

Offender to give name, etc.

10.—(1.) When any offence has been committed against this Ordinance, any person may require the offender to give his name, description and place of abode.

(2.) If such offender does not truly give his name, description and place of abode he shall be guilty of an offence in addition to that which he shall have been found committing.

Penalty.

11. Every person who contravenes or attempts to contravene any of the provisions of this Ordinance, or of any of the regulations made thereunder, or who commits a breach of any condition of any licence issued thereunder shall upon summary conviction be liable to a fine not exceeding fifty dollars.

Compensation for injury to crops.

12. If any injury is done to growing crops by any person, or by his attendants or dogs, while engaged in the pursuit of game, such person shall be liable to pay to the owner of the crops, by way of compensation, such sum of money not exceeding fifty dollars as a magistrate may determine.

Forfeiture.

13. Any bird or any part of any bird or the nest or any egg of any bird in respect of which any person is convicted under this Ordinance shall be forfeited.

Authority for scientific or other purposes.

14. Notwithstanding anything in this Ordinance the Governor may by writing under his hand authorise any person for such time and subject to such conditions as he thinks fit, for scientific or other purposes, to kill, wound or take any wild bird or to take or remove the nest or eggs of any wild bird.

Regulations.

15.—(1.) It shall be lawful for the Governor in Council to make regulations for the following purposes :—

- (a) defining "game" and "vermin" for the purposes of this Ordinance ;
- (b) determining the form and conditions of the licence referred to in section 4 and the fee to be paid therefor ;
- (c) prescribing the close season referred to in section 7, and specifying such game as shall be protected thereby ;
- (d) prescribing the period referred to in sub-section (2) of section 9, during which the sale, offer for sale and possession for the purpose of sale of live partridges and pheasants shall be prohibited, and extending the application of such prohibition to any other birds.
- (e) prohibiting the shooting or taking of game or any particular kind of game within certain specified areas, and varying the boundaries of any such areas ; and
- (f) generally for carrying this Ordinance into effect.

(2.) The regulations in the Schedule shall be in force until altered or amended by regulations made under this Ordinance.

(3.) All regulations made under this Ordinance shall be laid on the table of the Legislative Council at the first meeting thereof held after the publication in the Gazette of the making of such regulations, and if a resolution be passed at the first meeting of the Legislative Council held after such regulations have been laid on the table of the said Council resolving that any such regulation shall be rescinded or amended in any manner whatsoever, the said regulation shall, without prejudice to anything done thereunder, be deemed to be rescinded or amended as the case may be, as from the date of publication in the Gazette of the passing of such resolution.

16. The Wild Birds and Game Preservation Ordinance, 1914, is repealed. Repeal of Ordinance No. 18 of 1914.

SCHEDULE.

Regulations.

[s. 14.

1. For the purposes of the Wild Birds Ordinance, 1922 :—

“Game” means snipe, woodcock, plover, curlew, teal, wild duck, wild geese, partridges, quail, pigeons, and doves. “Game” and “vermin.”

“Vermin” means magpies, kites and hawks of all descriptions.

2. The close season for the purposes of section 7 of the said Ordinance shall be the period extending in any year from the first day of February to the fifteenth day of October, both days inclusive, and the game that shall be protected thereby shall be the following :—

partridges, quail, pigeons, doves. Close season.

3. The period referred to in sub-section (2) of section 9 of the said Ordinance, during which the sale, offer for sale, and possession for the purpose of sale, of live partridges and pheasants is prohibited, shall be the period extending in any year from the first day of April to the last day of September, both days inclusive. Period during which sale, etc., of live partridges and pheasants is prohibited.

4. No bird of any description other than vermin shall be killed, wounded or taken in the following area :— Prohibited areas.

That part of the New Territories situate at or near Fanling which is bounded by a line drawn from the cross roads near Tai Tau Ling village south-eastwards to the Chinese Urn Cemetery and continued up the hills to the seven hundred foot level, thence following this level westwards to the end of the ridge and down to the village of Lin Tong Mi, thence to the village of Tong Kung Ling thence to Kam Tsin Village and thence along the motor road to the said cross roads.

5. Game licences, the fee for which and the conditions of which shall be as stated therein, shall be in the following form :— Game licences.

The Wild Birds Ordinance, 1922



Hongkong.

GAME LICENCE.

Subject to the provisions of the Wild Birds Ordinance, 1922, and of the regulations made thereunder, permission is hereby granted to Mr. of..... to kill and take the following birds at the times specified:—

Snipe	} at any time.	Partridges	} from 16th October to 31st January, both days inclusive.
Woodcock		Quail	
Plover		Pigeons	
Curlew		} at any time.	Doves.
Teal			
Wild Duck			
Wild Geese.			

CONDITIONS.

1. This licence is not transferable.

2. The licensee must carry this licence with him when engaged on or setting out for, or returning from any shooting expedition, and must produce it when required to do so by any magistrate, Justice of the Peace or police officer.

3. This licence is valid from the 1st September, 19... to the 31st August, 19... but may be revoked at any time by the Captain Superintendent of Police in his discretion, if the said commits or attempts to commit any breach of the provisions of the said Ordinance, or of any of the regulations made thereunder or of any of the conditions of this licence, or shoots to the danger of the public.

Fee \$10.

Received the fee of \$10.

.....
Colonial Treasurer.

.....
Captain Superintendent
of Police.

Hongkong,....., 19.....

NOTE:—1. No birds of any description, other than those specified in the above licence, and magpies, kites and hawks, which, being vermin, may be shot at any time without a licence, may be killed, wounded or taken without a special licence from the Governor. This prohibition includes PHEASANTS.

NOTE:—2. No shooting at birds is permitted within two hundred yards of any inhabited house in Victoria, the Peak District, and the Kowloon Peninsula south of a line drawn from Kowloon City Police Station to Shamshui Police Station.

NOTE:—3. No birds of any description, except magpies, hawks and kites may be killed, wounded or taken in the following area:—

This part of the New Territories situate at or near Fanling which is bounded by a line drawn from the cross roads near Tai Yau Ling village south-eastwards to the Chinese Urn Cemetery and continued up the hills to the seven hundred foot level, thence following this level westwards to the end of the ridge and down to the village of Lin Tong Mi, thence to the village of Tong Kung Ling thence to Kam Fsin village and thence along the motor road to the said cross roads.

NOTE:—4. This licence is subject to any regulations or other enactments in force for the time being.

NOTE:—5. This licence may be revoked at any time by the Captain Superintendent of Police in his discretion, if the holder thereof commits or attempts to commit any breach of the provisions of the Wild Birds Ordinance, 1922, or of any of the regulations made thereunder, or of any of the conditions of this licence, or shoots to the danger of the public.

Objects and Reasons.

1. The object of this bill is to consolidate and revise the existing law on the subject of the protection of birds and game. The Wild Birds and Game Preservation Ordinance, 1914, Ordinance No. 18 of 1914, is somewhat unsatisfactory and obscure: certain of its provisions have never been enforced, while others are not in accordance with local conditions. The present bill therefore repeals this Ordinance and replaces it with a clearer and more intelligible enactment, protecting game and harmless wild birds and at the same time withdrawing protection from noxious birds and from one destructive animal, the deer.

2. The arrangement of the bill is somewhat different from that of the Ordinance to be repealed. The definitions of "game" and "vermin", the form of game licences, the close season and certain other matters are, for the sake of convenience, assigned to regulations which take the form of a schedule to the bill.

3. It is now clearly stated in the licence, authorised by Regulation 5, which birds may be shot and at what times. The definition of "vermin" is new, the effect of it being that kites and hawks are added to the list of birds that may be shot all the year round. Pheasants have been omitted from the list of birds which may be shot because it is proposed, owing to the lack of pheasants in the Colony, to lay down a stock of Yangtze pheasants shortly near Fanling, and it is desired that these should be absolutely protected for the present. Deer may now be shot at any time without a licence, the reason being that the destructive habits of this animal are a constant source of danger and damage to crops and vegetation of all kinds.

4. Clause 2 authorises a definition of "game" and "vermin" by regulations.

5. Clauses 3, 4, 10, 11, 13 and 14 reenact in a slightly modified form the provisions of sections 4, 5, 9, 10, 11 and 12 of the existing Ordinance.

6. Clause 5 prohibits shooting at birds within two hundred yards of inhabited houses in Victoria, the Peak District, and part of the Kowloon Peninsula.

7. Clause 6, taken from a portion of section 6 of the existing Ordinance, protects the nests and eggs of game.

8. Clause 7 provides for the protection of certain game during the close season. Regulation 2 in the schedule maintains the same close season as now exists, and gives to partridges, quail, pigeons and doves the protection of this season. Quail are given this benefit solely in the interests of the partridge and in order to permit the successful breeding of the latter. Doves, which may not be shot under the existing law, have increased in large numbers, and are now included in the birds that may be shot in the open season only. It is not considered necessary that plover, wild duck and teal which now receive the protection of the close season, should be so protected in the future.

9. Clause 8 is based on section 7 of the existing Ordinance.

10. Clause 9 deals with the possession, sale, etc., of live partridges and pheasants, enlarging and altering section 8 of the existing Ordinance. It will in future be an offence at any time in the year to possess partridges and pheasants taken in the Colony, and (*vide* regulation 3 in the Schedule) to sell, offer for sale or possess for the purpose of sale any live partridges or pheasants, between the 1st April and the 30th September. The prohibited season proposed is roughly that during which the birds mate, breed and become fully fledged. Our local close season is made much larger simply to reduce the number of birds shot, our good communications making the number of guns per acre excessive. The local open season corresponds roughly with the period in which the cock partridge ceases to utter his piercing call and in which therefore finding birds is a matter of hard work and good dogs.

11. Clause 12 provides that compensation shall be paid to the owner of crops injured by persons, their attendants or dogs, engaged in the pursuit of game.

12. Clause 15 empowers the Governor in Council to make regulations for various purposes, and provides also that the regulations in the schedule shall be in force until altered or amended, and that all regulations made shall be laid before the Legislative Council.

13. Clause 16 repeals the Wild Birds and Game Preservation Ordinance, No. 18 of 1914.

J. H. KEMP,
Attorney General.

9th February, 1922.