

LEGISLATIVE COUNCIL.

Draft Bill.

No. S. 95.—The following bill, which it is proposed to introduce into the Legislative Council at an early date, is published for general information :—

C.S.O. 2570/24.

[No. 5 :—10.4.24.—2.]

A BILL

INTITLED

An Ordinance to amend further the Summary Offences Ordinance, 1845.

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 Summary Offences Amendment Ordinance, 1924.

Amendment of Ordinance No. 1 of 1845, s. 9. 2. Section 9 of the Summary Offences Ordinance, 1845, is repealed and the following section is substituted therefor :—

Occupying Crown land without licence.

9.—(1) No person shall, except under a licence from the Director of Public Works which has not been withdrawn or cancelled and which has not terminated in any other way, occupy, or continue to occupy, or erect any structure whatsoever upon, or place any thing upon or in, any land which is not held under lease from the Crown.

(2) Upon the conviction of any person of an offence against the provisions of sub-section (1), it shall be lawful for the magistrate, in lieu of or in addition to any penalty which he may impose, by order to authorise the forcible eviction of any person from the land and the demolition of any structure erected thereon and the removal of any thing placed thereon or therein.

(3) If the offender cannot be ascertained, or cannot be found, or does not appear, it shall be lawful for a magistrate, upon proof of any contravention of the provisions of sub-section (1), to make any such order as he might have made upon the conviction of the offender.

Insertion of new section in Ordinance No. 1 of 1845. 3. The following section is inserted in the Summary Offences Ordinance, 1845, immediately after section 19 thereof :—

Alteration of ship with a view to smuggling, etc.

19A.—(1) Every person who alters in any way the construction of any ship, or of any part thereof, or any fittings therein, with a view to the unlawful possession, storage or conveyance of arms, ammunition, opium, dangerous drugs, or any other article or substance, shall upon summary conviction be liable to a fine not exceeding one thousand dollars and to imprisonment for any term not exceeding one year.

(2) Every person who without lawful authority or excuse alters in any way the construction of any ship, or of any part thereof, or any fittings therein, shall, until the contrary is proved, be deemed to have done so with a view to the unlawful possession, storage and conveyance of some article.

(3) It shall be sufficient in any prosecution under this section to allege that the accused altered the construction of the ship, or of some part thereof, or of some fittings therein, with a view to the unlawful possession, storage or conveyance of some article, without specifying any particular article or substance.

Objects and Reasons.

1. Section 9 of the Summary Offences Ordinance, 1845, Ordinance No. 1 of 1845, makes it an offence to occupy Crown land without a licence. The section is, however, defective in two respects. In the first place, it is not clear that a continued occupation after the expiration of a licence is an offence against the section if the first occupation was lawful. In the second place, no procedure is provided for the removal from the land of the offender or his goods or buildings if he refuses to go or to remove them. Clause 2 of the bill repeals section 9 and substitutes a new section in which these two points are met.

2. This bill proposes to make it an offence to alter in any way the construction or fittings of any ship with a view to the unlawful possession, storage or conveyance of arms, ammunition, opium, dangerous drugs, or any other article or substance. The maximum penalty is fixed at a fine of \$1,000 and imprisonment for one year with or without hard labour. The offence is made punishable on summary conviction before a magistrate. The practice aimed at is the construction of secret hiding places for the purpose of exporting, importing, and storing, arms, opium and dangerous drugs. It is obvious that every weapon is required for attacking the unlawful possession, importation and exportation of such things. Further, shipping companies are sometimes exposed to great risks, here and elsewhere, by the unlawful possession of such things by members of the crews of their ships.

3. Practically the only way at present of dealing with cases of this kind is by prosecution under section 42 or section 43 of the Malicious Damage Ordinance, 1865. Section 42 probably affords a sufficient remedy for cases where damage to an amount exceeding \$25 can be proved, but the section does not deal with any damage which does not exceed \$25. The maximum penalty on summary conviction is six months. Section 43 applies to cases where the damage does not exceed \$25, but the maximum penalty in that section is only two months or a fine of \$50. An objection to both sections is that cases may well arise where it may be difficult to say that any damage at all has been done to the ship. The question of damage is really irrelevant in the case of the evil now aimed at.

J. H. KEMP,
Attorney General.

12th February, 1924.