

LEGISLATIVE COUNCIL.

**No. S. 241.**—The following Bills were read a first time at a meeting of the Council held on the 28th July, 1938 :—

[No. 2 :—12.4.38.—3.]

C.S.O. 2531/21.

A BILL

INTITULED

An Ordinance to amend the Dangerous Drugs Ordinance, 1935.

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 Dangerous Drugs Amendment Ordinance, 1938.

Amendment of Ordinance No. 35 of 1935, s. 17 (2).

**2.** Sub-section (2) of section 17 of the Dangerous Drugs Ordinance, 1935, is amended by the substitution of the words “on indictment” for the words “or indictment” in the first line of paragraph (a) thereof.

New section 21A added to Ordinance No. 35 of 1935.

**3.** The Dangerous Drugs Ordinance, 1935, is amended by the insertion of the following new section immediately after section 21 thereof :—

Special provision for the prohibition of heroin divans, storage places and factories, and for the responsibility of landlords in respect thereof.

21A.—(1) No person shall—

(a) have in his possession any pipe fit and intended for the smoking of heroin: The burden of proof that any pipe fit for the smoking of heroin is not intended for such smoking shall lie on the defendant;

(b) smoke or consume any heroin in any heroin divan;

(c) keep, manage or act or assist in the management of any heroin divan or of any place in which heroin is unlawfully stored or manufactured;

(d) being the tenant, lessee, occupier or person in charge of any place, permit such place or any part thereof to be used as a heroin divan or for the unlawful storage or manufacture of heroin;

(e) being the lessor or landlord of any place, or the agent of such lessor or landlord, let the same with the knowledge that such place or some part thereof is to be used as a heroin divan or for the unlawful storage or manufacture of heroin, or consent to the use at any time of such place or any part thereof as a heroin divan or for the unlawful storage or manufacture of heroin.

(2) In and for the purposes of this section—

(a) “place” means any house, room, agency, boat, vehicle, vessel or any erection movable or otherwise or any spot on land or water;

(b) “lessee” and “tenant” respectively include any sub-lessee or sub-tenant and “tenancy” includes any sub-tenancy;

(c) “lessor” and “landlord” include the holder of any lease or tenancy who has sub-let his holding or any part thereof;

(d) “heroin divan” means any place opened, kept or used—

(i) for the sale of heroin to be smoked or consumed in such place; or

(ii) for the smoking or consumption of heroin where a fee or its equivalent is charged for such smoking or consumption or where any benefit or advantage whatever, direct or indirect, is derived by the keeper of such place in consequence of such smoking or consumption;

(e) whenever two or more pipes fit for the smoking of heroin are found in any place it shall be presumed until the contrary is proved that the place is a heroin divan;

(f) every person found in a heroin divan or found escaping therefrom on the occasion of its being entered under this Ordinance shall, until the contrary is proved, be presumed to be or to have been smoking or consuming heroin therein;

(g) the lessor or landlord of any place or the agent of such lessor or landlord shall be presumed to have consented to the use of such place or of any part thereof as a heroin divan or, as the case may be, for the unlawful storage or manufacture of heroin if it is proved to the satisfaction of the magistrate that he knew of such use and failed forthwith to proceed to put an end to the same by making a report at any police station or by terminating the lease or tenancy.

(h) “unlawful” or “unlawfully” in relation to the storage or manufacture of heroin means otherwise than in accordance with—

(i) the provisions of this Ordinance or any regulations made thereunder; or

(ii) the terms and conditions of any licence or authorization granted in pursuance of the said provisions.

(3) Where it is proved to the satisfaction of a magistrate that an offence under sub-section (1) has been committed with respect to any premises or any part thereof he may order that a notice of the fact shall be served either personally or by registered post upon the landlord or tenant of the premises, or if such landlord or tenant is absent or under a disability upon his attorney, agent or rent collector, or if such landlord or tenant is a corporation upon the secretary or manager thereof.

(4) After service of such notice as is mentioned in sub-section (3) any magistrate may, at the request of any such landlord, tenant, attorney, agent, rent collector, secretary or manager, make an order (which shall be recognized and given effect to in any proceeding in any court) absolutely putting an end to any existing tenancy of such premises or any part thereof as from the date of such order, and thereupon such tenancy shall absolutely cease and determine for all purposes and any tenant or occupier of such premises or such part may thereafter be treated as a trespasser.

(5) If, within twelve months after service of such notice as is mentioned in sub-section (3), an offence against sub-section (1) is proved to have been committed by the same or any other offender in respect of the same premises or any part of the same premises, the person upon whom service is made (and the landlord or tenant also, if such person be an attorney, agent, rent collector, secretary or manager) shall be guilty of an offence, and liable on summary conviction to a fine not exceeding five hundred dollars, unless he proves to the satisfaction of the magistrate that he neither knew nor had reasonable means of knowing that the premises were being used again in contravention of sub-section (1).

(6) Every person who, after having been previously convicted of an offence punishable under this section or under section 10, subsequently commits any such offence (whether each of the convictions has been in respect of an offence of the same description or not) shall be liable on summary conviction to imprisonment for any term not exceeding twelve months, in addition to any punishment to which he may otherwise by law be liable.

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*Objects and Reasons.*

1. The object of clause 2 of this Bill is to correct a typographical error, the substitution of "on" for "or", in section 17 (2) (a) of the principal Ordinance, No. 35 of 1935.

2. The object of clause 3 of the Bill is to enact special provisions for the prohibition of heroin divans, storage places and factories and for the responsibility of landlords of premises in respect thereof on lines similar to the provisions enacted with respect to houses of ill fame by section 3 of Ordinance No. 25 of 1936 and with respect to opium divans by section 15 of Ordinance No. 7 of 1932, as amended by Ordinance No. 7 of 1934.

3. Paragraph (1) (a) of the new section 21A inserted by clause 3 of this Bill in the principal Ordinance further makes it an offence to possess a pipe fit for heroin-smoking with intent that it shall be so used, and in such a case throws the burden of disproving such intent upon the defendant. Heroin pipes are of special manufacture and distinctive design, resembling opium pipes but easily distinguishable from them.

4. The presumptions raised by paragraphs (e) and (f) of the same new section 21A relating to the finding of two or more heroin pipes and persons found in or escaping from heroin divans are based on provisions of a similar nature in section 16 of Ordinance No. 7 of 1932.

5. Sub-section (5) of new section 21A imposes an additional penalty of 12 months' imprisonment on summary conviction in case of a second or subsequent offence against the provisions of this section or of section 10.

6. The object of new section 21A is to secure at least as great a measure of control over the evil of heroin divans as exists in the case of opium divans.

J. A. FRASER,  
*Attorney General.*

April, 1938.

A BILL

INTITULED

An Ordinance to amend the Sand Ordinance, 1935.

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

1. This Ordinance may be cited as the Sand Amendment Ordinance, 1938. Short title.

2. The words “Controller of Stores” are substituted for the words “Director of Public Works” in the fourth and fifth lines of sub-section (1) of section 2 and in the seventh line of sub-section (1) of section 3 of the Sand Ordinance, 1935. Amendment of Ordinance No. 50 of 1935, ss. 2 (1) and 3 (1).

3. The Sand Ordinance, 1935, is amended by the insertion, immediately after section 3 thereof, of the following new section :— New section 3A for Ordinance No. 50 of 1935.

3A. The Controller of Stores and any public officer authorized by him, either generally or specially, shall have power to arrest and detain any person whom he may have cause to suspect of having committed, or of being about to commit, or of intending to commit any offence against this Ordinance. Arrest.

4. Sections 5 and 6 of the Sand Ordinance, 1935, are repealed. Repeal of ss 5 and 6 of Ordinance No. 50 of 1935.

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*Objects and Reasons.*

1. With the approval of the Secretary of State, in his despatch No. 108 of 28th April, 1938, a new department has been created to control Government stores of all kinds in the Colony, including sand, the collection and sale of which is a Government monopoly under the provisions of the Sand Ordinance, No. 50 of 1935.

2. In order to enable the Controller of Stores effectively to carry out his duties in relation to sand, clause 2 of this Bill substitutes the term “Controller of Stores” for “Director of Public Works” in sections 2 (1) and 3 (1) of the principal Ordinance.

3. Clause 3 of this Bill adds a new section 3A to the principal Ordinance empowering the Controller of Stores and any public officer authorized by him to arrest offenders, or intending offenders, against this Ordinance.

4. Clause 4 of this Bill repeals sections 5 and 6 of the principal Ordinance.

J. A. FRASER,  
*Attorney General.*

*July, 1938.*

A BILL

INTITULED

An Ordinance to make better provision for the prevention and punishment of sedition.

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 Sedition Ordinance, 1938.

Definitions.           **2.** In this Ordinance—

“Publication” includes all written or printed matter and everything, whether of a nature similar to written or printed matter or not, containing any visible representation, or by its form, shape, or in any manner capable of suggesting words or ideas, and every copy and reproduction of any publication;

“Seditious publication” means a publication having a seditious intention;

“Seditious words” means words having a seditious intention;

“Import” includes to bring or cause to be brought into the Colony.

Seditious intention.

**3.**—(1) A “seditious intention” is an intention—

(i) to bring into hatred or contempt or to excite disaffection against the person of His Majesty, His heirs or successors, or the Government of the Colony as by law established; or

(ii) to excite His Majesty’s subjects or inhabitants of the Colony to attempt to procure the alteration, otherwise than by lawful means, of any other matter in the Colony as by law established; or

(iii) to bring into hatred or contempt or to excite disaffection against the administration of justice in the Colony; or

(iv) to raise discontent or disaffection amongst His Majesty’s subjects or inhabitants of the Colony; or

(v) to promote feelings of ill-will and hostility between different classes of the population of the Colony; or

(vi) to endeavour to seduce any member of His Majesty’s forces from his duty or allegiance to His Majesty.

But it is not a seditious intention—

(a) to show that His Majesty has been misled or mistaken in any of his measures; or

(b) to point out errors or defects in the government or constitution of the Colony as by law established or in legislation or in the administration of justice with a view to the remedying of such errors or defects; or

(c) to persuade His Majesty's subjects or inhabitants of the Colony to attempt to procure by lawful means the alteration of any matter in the Colony as by law established; or

(d) to point out, with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill-will and enmity between different classes of the population of the Colony :

Provided that none of the acts or things mentioned in provisos (a), (b), (c) and (d) shall be deemed to be lawful if they are done in such a manner as to effect or be likely to effect any of the purposes (i) to (vi) which are declared in this section to be a seditious intention.

(2) In determining whether the intention with which any act was done, any words were spoken, or any document was published, was or was not seditious, every person shall be deemed to intend the consequences which would naturally follow from his conduct at the time and under the circumstances in which he so conducted himself.

**4.—(1)** Any person who—

Offences.

(a) does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act with a seditious intention;

(b) utters any seditious words;

(c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication;

(d) imports any seditious publication, unless he has no reason to believe that it is seditious,

shall be guilty of an offence and liable for a first offence to imprisonment for two years or to a fine not exceeding \$1,000 or to both such imprisonment and fine, and for a subsequent offence to imprisonment for three years; and any seditious publication shall be forfeited to the Crown.

(2) Any person who without lawful excuse has in his possession any seditious publication shall be guilty of an offence and liable for a first offence to imprisonment for one year or to a fine not exceeding \$500 or to both such imprisonment and fine, and for a subsequent offence to imprisonment for two years; and such publication shall be forfeited to the Crown.

**5.—(1)** No prosecution for an offence under section 4 shall be begun except within six months after the offence is committed. Legal proceedings.

(2) A person shall not be prosecuted for an offence under section 4 without the written consent of the Attorney General.

**6.** No person shall be convicted of an offence under section 4 on the uncorroborated testimony of one witness. Evidence.

**7.** If a magistrate is satisfied by information on oath that there is reasonable cause to believe that an offence under this Ordinance has been or is about to be committed he may grant a search warrant authorizing any police officer to enter any premises or place named in the warrant, with such assistance as Search warrant.

may be necessary, and if necessary by force, and to search the premises or place and every person found therein, and to seize anything found on the premises or place which the officer has reasonable ground for suspecting to be evidence of an offence under this Ordinance.

Repeal of  
Ordinance  
No. 6 of  
1914.

8. The Seditious Publications Ordinance, 1914, is hereby repealed.

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*Objects and Reasons.*

1. This Bill is based upon a model Ordinance ("B") compiled by direction of the Secretary of State.

2. It repeals and substitutes new provisions relating to sedition for the provisions of the Seditious Publications Ordinance, 1914. The importation of seditious literature is dealt with in a Bill intitled the Prohibited Publications Ordinance, 1938, to be passed at the same time as this Bill.

3. Tables are appended hereto showing the variations between the Model and this Bill and comparing the provisions of the Bill and the law relating to sedition previously in force in the Colony as contained in the Seditious Publications Ordinance, 1914, the regulations under the Emergency Regulations Ordinance, 1922, and the common law.

J. A. FRASER,  
*Attorney General.*

*July, 1938.*

**TABLE OF CORRESPONDENCE**

BETWEEN

Draft Bill and Draft Clauses "B".

Draft Bill.	Draft Clauses "B"	Remarks.
1	—	Short title.
2	1	Definitions. (1) "Periodical publication" omitted because not mentioned in body of Bill.  (2) "Import"—"and (b) to bring within the inland waters of the Colony whether or not the publication is brought ashore and whether or not there is an intention to bring the same ashore" omitted because covered by Interpretation Ordinance, 1911.
3 (1) (i)	2 (1) (i)	—
(ii)	(ii)	—
(iii)	(iii)	—
(iv)	(iv)	—
(v)	(v)	—
(vi)	—	New. Added because of the importance of the naval and military establishments in the Colony.
(a)	(a)	—
(b)	(b)	—
(c)	(c)	—
(d)	(d)	—
Proviso.	Proviso.	(vi) for (v).
3 (2)	2 (2)	—
4 (1).	3 (1)	"\$1,000" for "£100". "The Crown" for "His Majesty".
4 (2)	3 (2)	"\$500" for "£50". "The Crown" for "His Majesty".
5 (1)	4 (1)	"4" for "3".
(2)	(2)	"4" for "3".
6	5	"4" for "3".
7	—	New.
8	—	New.



**TABLE OF CORRESPONDENCE**

BETWEEN

Provisions of this Bill and the law previously in force.

(1) Common Law.

Existing law.	Corresponding matter (if any) in draft Bill.
<p>The classic definition of sedition expounded by Stephen J. may be taken to be an authoritative exposition of the position at common law.</p>	<p>The definitions of "seditious publications", "seditious words" (clause 2) and "seditious intention" (clause 3) follow Stephen J.'s definition very closely. Sub-clause 1 (vi) however is an addition. The question of seducing members of His Majesty's forces from their allegiance, which does not come within the purview of common law definition of sedition, has been recently dealt with by statute in England, (Incitement to Disaffection Act, 1934) and it would appear to be desirable to make similar provisions here.</p>
<p>Seditious libel and seditious utterances.</p>	<p>This matter is dealt with by clause 4. This clause, in addition, makes it an offence to print, publish, import, possess, etc., seditious literature. These offences are ancillary to the crime of sedition and it seems desirable to make statutory provision for them in this Bill.</p>
<p>There are no conditions attached to prosecution at common law.</p>	<p>Under the Bill the prosecution must be commenced within 6 months, the written consent of the Attorney General must be obtained and there must be corroboration (clauses 5 and 6).</p>
<p>There is no search warrant at common law.</p>	<p>Clause 7 makes provision for issuing search warrants.</p>

(2) Seditious Publications Ordinance, 1914.

<p>It is an offence under sections 3A and 4 of this Ordinance to possess, print, publish, sell, distribute, etc., publications containing seditious matter.</p>	<p>Clause 3 of the Bill makes it an offence to possess, print, publish, etc., seditious publications. These provisions supersede the provisions of sections 3A and 4 of the existing Ordinance and render them unnecessary.</p>
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Table of Correspondence,—*continued.*

The Seditious Publications Ordinance, 1914,—(*continued.*)

Existing law.	Corresponding matter (if any) in draft Bill.
<p>Seditious matter is defined in section 2; it includes in addition to seditious matter properly so called such things as "putting a person in fear, thereby inducing him to hand over property", "conveying threats to a public servant", etc.</p>	<p>The Bill defines in statutory language what has always been understood by that term; it is, in consequence, more limited in its scope than the existing Ordinance, which appears to be wide enough to cover cases of blackmail and other matters far removed from sedition proper. It is proposed to supersede the existing law on this matter by the present Bill.</p>
<p>Power of Superintendent of Imports and Exports and Postmaster General to detain packages containing seditious matter (sections 5 and 6) and search warrant (section 9).</p>	<p>Clause 7 authorizes the issue of search warrants. The Superintendent of Imports and Exports and Postmaster General are given special powers of search under another Bill relating to importation of seditious literature. The combined effect of these two bills should make it unnecessary to retain sections 5 and 6 of this Ordinance.</p>
<p>Power of Governor in Council to declare certain publications forfeit (sec. 3) and appeal to Supreme Court (secs. 7 and 8).</p>	<p>Forfeiture under the Bill is only after a conviction (clause 4). It should be unnecessary to retain these provisions if this Bill and the Bill relating to importation of seditious literature become law.</p>
<p>(3) Emergency Regulations, 1931.</p>	
<p>Reg. 19 makes it an offence to promote a general strike, disorder of any kind or the spread of sedition.</p>	<p>Clause 4 (1) makes it an offence to do any act with a seditious intention. This provision would appear to render regulation 19 unnecessary.</p>

A BILL

INTITULED

An Ordinance to prohibit the importation of undesirable publications.

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 Prohibited Publications Ordinance, 1938.

Definitions.           **2.** In this Ordinance—

“ Publication ” includes all written or printed matter and everything, whether of a nature similar to written or printed matter or not, containing any visible representation, or by its form, shape, or in any manner capable of suggesting words or ideas, and every copy and reproduction of any publication;

“ Periodical publication ” includes every publication issued periodically or in parts or numbers at intervals whether regular or irregular;

“ Prohibited publication ” means any publication or periodical publication the importation of which is prohibited under section 3;

“ Import ” includes to bring or to cause to be brought into the Colony.

Power to prohibit importation of publication.

**3.** If the Governor is of opinion that the importation of any publication would be contrary to the public interest he may, in his absolute discretion, by order in Council prohibit the importation of such publication, and in the case of a periodical publication may, by the same or a subsequent order in Council, prohibit the importation of any past or future issue thereof.

Offences.

**4.—(1)** Any person who imports, publishes, sells, offers for sale, distributes or reproduces any prohibited publication, or any extract therefrom, shall be guilty of an offence and liable for a first offence to imprisonment for two years or to a fine not exceeding \$1,000 or to both such imprisonment and fine, and for a subsequent offence to imprisonment for three years; and such publication or extract therefrom shall be forfeited to the Crown.

**(2)** Any person who without lawful excuse has in his possession any prohibited publication, or any extract therefrom, shall be guilty of an offence and liable for a first offence to imprisonment for one year or to a fine not exceeding \$500 or to both such imprisonment and fine, and for a subsequent offence to imprisonment for two years; and such publication or extract therefrom shall be forfeited to the Crown.

5.—(1) Any person who has in his possession at the time when an Order in Council is made under section 3 any publication to which such Order in Council refers or any extract therefrom or to whom a prohibited publication or any extract therefrom is sent without his knowledge or privity or in response to a request made before its importation was prohibited shall forthwith if or as soon as the nature of its contents is or becomes known to him deliver such publication or extract therefrom to the officer in charge of the nearest police station, and in default thereof shall be guilty of an offence and liable to imprisonment for one year or to a fine not exceeding \$500 or to both such imprisonment and fine, and such publication or extract therefrom shall be forfeited to the Crown.

Delivery of prohibited publications to police station.

(2) A person who delivers or who is convicted for failing to deliver a prohibited publication or extract therefrom to a police officer in accordance with sub-section 1 of this section shall not be liable to be convicted for having imported or for having in his possession such publication or extract therefrom.

6.—(1) It shall be lawful for the Postmaster General, the Superintendent of Imports and Exports or the Commissioner of Police or any person duly authorized by any such officer to detain, open and examine any package or article which is suspected to be or to contain a prohibited publication or any extract therefrom and during such examination to detain any person suspected of committing any offence under section 4 or section 5 in respect of such publication or extract therefrom.

Power to examine packages.

(2) If such package or article is found to be or to contain a prohibited publication or extract therefrom, such package or article may be impounded and retained by the officer examining the same and any person detained during such examination may forthwith be arrested and proceeded against for a breach of the provisions of this Ordinance.

7. If a magistrate is satisfied by information on oath that there is reasonable cause to believe that an offence under this Ordinance has been or is about to be committed he may grant a search warrant authorizing any police officer to enter any premises or place named in the warrant, with such assistance as may be necessary, and if necessary by force, and to search the premises or place and every person found therein, and to seize anything found on the premises or place which the officer has reasonable ground for suspecting to be evidence of an offence under this Ordinance.

Search warrant.

*Objects and Reasons.*

1. This Bill is based upon a model Ordinance ("A") compiled by direction of the Secretary of State.

2. It substitutes new provisions for the provisions of the Seditious Publications Ordinance, No. 6 of 1914, which is repealed by the Sedition Ordinance, 1935, relating to the importation of seditious literature.

3. Tables are appended hereto showing the variations between the Model and the Bill and comparing the provisions of the Bill and the law relating to the importation into this Colony of seditious or undesirable literature as contained in the Seditious Publications Ordinance, 1914, the Importation and Exportation Ordinance, 1915, the Post Office Ordinance, 1926, and the regulations under the Emergency Regulations Ordinance, 1922.

J. A. FRASER,  
*Attorney General.*

*July, 1938.*

**TABLE OF CORRESPONDENCE**

BETWEEN

Bill and Draft Clauses "A".

Draft Bill Clause	Draft Clauses "A"	Remarks.
1	—	Short title.
2	1	Definition of "prohibited publication" added for convenience of drafting; reference to inland waters of Colony omitted in definition of "import" because this is unnecessary under the Interpretation Ordinance, 1911.
3	2	—
4 (1)	3 (1)	"Prohibited publication" for "publication the importation of which has been prohibited under section 2"; "\$1,000" for "£100"; "the Crown" for "His Majesty".
(2)	(2)	"Prohibited publication" for "publication the importation of which has been prohibited under section 2"; "\$500" for "£50"; "the Crown" for "His Majesty".
5	4	Redrafted. The effect is substantially the same. "\$500" for "£50"; "the Crown" for "His Majesty".
6	5	Redrafted, the meaning remaining substantially unaltered.
7	—	New section added providing machinery for detecting offences under the Bill.

## TABLE OF CORRESPONDENCE

BETWEEN

This Bill and the Seditious Publications Ordinance, 1914,  
(repealed by this Bill) and other local legislation.

(1) The Seditious Publications Ordinance 1914.

Existing law.	Corresponding matter in the draft Bill.
Definition of Book, Document, and Newspaper (sec. 2 (a) (b) and (c)).	This matter is dealt with under the headings "Publication" and "Periodical Publication" (clause 2) and introduces no substantial alteration.
Definition of "Seditious matter" (sec. 2 (8)) includes, in addition to those matters coming within the ordinary meaning of sedition, such matters as inciting to murder, threatening a public servant, etc.	The corresponding definition in the Bill is "Prohibited publication" (clause 2) and "prohibited publication" is one which the Governor being of opinion that it is contrary to public interest may in the exercise of his unfettered discretion prohibit. The advantages of the new provision are (i) flexibility (ii) avoidance of difficulties of interpretation.
Offence of "possessing" publications containing seditious matter (sec. 3A). Penalty 2 years and \$500.	Clause 4 (2) makes it an offence to be in possession of a "Prohibited publication"; there is no substantial difference. Penalty 1 year and/or \$500.
Offence of printing, publishing, selling, etc., publications declared to be forfeit by the Governor in Council on the ground that they contain seditious matter. Penalty 2 years and \$500.	The corresponding clause is 4 (1), the only important difference being that "importing" is made an offence whereas it is not so at present. Penalty 2 years and/or \$1,000.
Power of Superintendent of Imports and Exports and Postmaster General to detain packages containing seditious matter (secs. 5 and 6).	The corresponding powers are to be found in clause 6 (1). The powers conferred by the Bill are wider than those existing at present; in addition the officer detaining the package is given a power of arrest.
Search warrant (sec. 9).	Clause 7 is the corresponding clause; there is no substantial difference.
Power of Governor in Council to declare publication forfeit on ground that it appears to contain seditious matter and right of appeal to Supreme Court against such declaration (secs. 3, 7 and 8).	There is nothing to correspond to this in the scheme of the Bill; prohibited publications are only forfeited to the Crown by an order of court after conviction for an offence under 4 (1), 4 (2) and 5 (1).

The Seditious Publications Ordinance, 1914,—(continued).

Existing law.	Corresponding matter (if any) in draft Bill.
Sec. 3B places the onus of proving "innocent possession" on defendant.	In a prosecution under the Bill, the burden of proving guilty knowledge would be on the Crown, and therefore to that extent a defendant would be in a better position than under the existing law. In addition, the Bill provides a <i>locus penitentiae</i> for a person into whose possession a prohibited publication has come innocently which enables him to deliver the publication to a police officer as soon as he is aware of its contents and thus forestalls a prosecution (clause 5 (1) and (2)).

(2) The Importation and Exportation Ordinance, 1915.

"It shall be lawful for the Governor in Council to exercise all or any of the following powers—to prohibit the importation of any article, either generally or from a particular country or place." (sec. 3 (a)).	The Bill proposes to give to the Governor specific powers to prohibit the importation of undesirable literature; it leaves untouched the general powers vested in the Governor in Council to prohibit importation under sec. 3 (a) of the Importation and Exportation Ordinance which no doubt are intended to cover an infinite variety of articles.
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(3) Emergency Regulations, under Ordinance No. 5 of 1922.

Reg. 23 prohibits importation, publishing, etc., of newspapers, pamphlets, etc., tending to persuade persons (1) to boycott (2) to cause a breach of the peace or (3) to interfere with administration of law.	Under the Bill, it will be possible to place such publications as are dealt with under reg. 23 on the "Index" on the general ground that their importation is "contrary to the public interest". On the other hand publications which come into existence within the Colony would not come within the scope of the Bill and therefore it would be undesirable to repeal this regulation while an emergency continues.
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Emergency Regulations, under Ordinance No. 5 of 1922,—(continued).

Existing law.	Corresponding matter in the draft Bill.
<p>Reg. 26. No person shall import newspapers without the permission of the Secretary for Chinese Affairs.</p>	<p>The distinction between this regulation and the Governor's powers under the Bill is that the regulation gives the Secretary for Chinese Affairs a power of dispensation, whereas the Bill gives the Governor a power of prohibition. The powers conferred by the Bill cannot be regarded as a substitute for this regulation, and it would seem desirable therefore to retain it during an emergency.</p>
<p>Reg. 32. This regulation gives the Governor power to appoint an officer to censor or control the transmission of telegrams and reg. 33 gives the Postmaster General similar power with regard to letters.</p>	<p>The Bill gives power to the Postmaster General, Superintendent of Imports and Exports and the Commissioner of Police to open and detain packages suspected to contain prohibited publications, clause 6 (1); the regulation deals primarily with censorship and therefore should be retained during an emergency.</p>

(4) Police Force Ordinance, 1932.

<p>Section 18 (7) gives wide powers to a magistrate to issue a search warrant authorizing a police officer to search for documents.</p>	<p>Clause 7 gives power to issue a search warrant only when there is reasonable ground to suspect there has been a breach of the provisions of the Bill.</p>
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(5) Post Office Ordinance, 1920.

<p>The Postmaster General is authorized to open and delay postal packets which he has reason to believe contain anything which may not legally be sent by post. The Colonial Secretary may issue a warrant for that purpose (secs. 12 and 13).</p>	<p>Clause 6 (1) gives the Postmaster General specific powers to open and delay packages suspected to be or to contain prohibited publications.</p>
<p>Sending seditious matter by post is forbidden by section 32 (1) (i).</p>	<p>The power vested in the Postmaster General by the Post Office Ordinance is a wider power than that created by this Bill and it would seem desirable that it should be left untouched.</p> <p>Clause 4 (1) makes it an offence "to import prohibited publications".</p>