

VAGRANCY BILL.

EXPLANATORY PAPER.

The purpose of this Bill is to establish a separate Act in accordance with the recommendation of the Statute Law Revision Committee in its Report of 1963.

Accordingly, this Bill mainly comprises provisions contained in Part III. of the existing Police Offences Act and deals with—

- Vagrancy ;
- Insufficient means of support ;
- Prostitution and disorderly houses ;
- Fortune Telling ;
- Miscellaneous matters.

This Bill also is in substance and effect virtually the same Bill as that introduced in the last Session and reported on by the Statute Law Revision Committee in its Report of the 14th April of this year. Although substantively the same the form and expression of the terms of the Bill have been altered considerably to meet the wishes of the Committee in relation to the statement of offences, the expression of penalties and a few other minor matters raised in the Report.

The previous Bill would have required so much detailed alteration that the Government felt that the better course was to allow the Bill to be re-drawn in the desired form and presented again in this Session.

The Committee which reported on the Police Offences Bill 1963 first raised the suggestion of better expressing offences and penalties and recommended the adoption in the Bill then under consideration of the simple form used in some regulations of following the statement of an offence by the expression of the maximum penalty in the form "Penalty : One hundred pounds, &c." The Committee on the Vagrancy Bill this year echoed the sentiments of its predecessor in this regard and the suggestion has been incorporated in the Bill.

The Government sees considerable merit in adopting this form of expressing penalties in all future Acts and will pave the way by introducing a Bill to amend the *Acts Interpretation Act* 1958 to permit the practice to be followed generally. The provision contemplated is in effect that the penalty expressed in or at the foot of a provision creating an offence shall be the maximum penalty for that offence. The Bill proceeds on the assumption that the Acts Interpretation Act will be so amended.

Repeal of Section 45 of the *Children's Court Act* 1958 is considered desirable in order to avoid absurdities arising in regard to young persons under the present operation of the Act. This situation is referred to by the Statute Law Revision Committee in Paragraphs 5 to 11 of its Report D. No. 8 of 14th April, 1965.

The effect of the repeal of Section 45 of the Children's Court Act is that any child-vagrant may be brought before the Children's Court, except that, where the alleged offence concerns insufficient lawful means of support, the child shall be dealt with under Section 16 (c) of the *Children's Welfare Act* 1958 and be deemed to be in need of protection.

Accordingly, Clause 3 of the Bill excludes the provisions of Clause 5 from applying to any person under the age of seventeen years.

There are only a few monetary penalties expressed in this Bill but Clause 22 provides a scale of imprisonment in default of payment of fine that indicates in round terms of decimal currency a rate now roughly equivalent to £1—per day.

With the approval of the 1963 Committee the terms “idle and disorderly person”, “rogue and vagabond” and “incorrigible rogue” have been abandoned—the terms had their origin in the Poor Laws against the background of which they had some significance which has long since been lost.

A Comparative Table showing how the existing provisions of the *Police Offences Act* 1958 have been dealt with in the Bill is appended.

COMPARATIVE TABLE.

Clause of Bill.	Section of <i>Police Offences Act</i> 1958.	Comment.
1	..	Short title, &c.
2	..	Repeal and savings.
3	..	Supersedes section 45 of the <i>Children's Court Act</i> 1958 which creates inequalities between children under 15 years and children 15–17 years in relation to certain vagrancy offences. The Bill follows the Statute Law Revision Committee's views by exempting “children” only from the insufficient means provisions of clause 5.
4	3, 29	The definition of “public place” is a combination of the definitions in sections 3 and 29 of the 1958 Act as suggested by the 1963 Committee at page 9 of its Report. The definition has been extended to include universities.
5	70, 71	The constitution of courts of petty sessions is now governed by section 66 of the <i>Justices Act</i> 1958—most of section 71 is therefore inapt but there will still be need for justices to deal with offenders “out of sessions” where courts do not sit frequently. Sub-section (4) provides the only exception in the Bill to the general requirement that offenders be dealt with by a fully constituted court.
6	69	Para. (a) of sub-section (1) of the current section is omitted from the Bill—the offences will be dealt with in the Summary Offences Bill which proposes to supersede Part I. of the 1958 Act. For clarity para. (b) of the existing sub-section (1) is split into two paras.—paras. (a) and (b) in the Bill. Para. (d) in sub-clause (1) of the Bill omits the words “Every person wandering abroad or placing himself in any place to beg”—the provision is felt to be too wide and unduly oppressive. Para. (e) in sub-clause (1) of the Bill would only require a defendant to show cause for being armed—the existing provision would also require him to give a good account of his lawful means, &c., which appeared to the 1963 Committee to be unduly burdensome. Under the Bill prior convictions may double the initial penalty but under the current Act a persistent offender may have the penalty trebled on the “promotion scheme” operating under sections 72 (1) (a) and 73 (1) (b). The “trebling” provisions are omitted as harsh together with sections 72 (1) (n) and 73 (1) (c) which could earn an offender an extra twelve month's gaol for resisting arrest.
7	72	Para. (f) of sub-section (1) of the current section (playing at an unlawful game) is omitted—the penalties for “gaming” as such appear to be adequate without deeming gaming to be “vagrancy”. The reference in the present para. (1) to “wearing felt or other slippers or being dressed . . . with an unlawful intent” is omitted from para. (h) in the Bill. In para. (i) of the Bill the words “in the precincts of” have been adopted as suggested by the 1963 Committee in relation to being found near buildings, &c., without lawful excuse.

COMPARATIVE TABLE—*continued.*

Clause of Bill.	Section of <i>Police Offences Act 1958.</i>	Comment.
8	73	The offence under para. (a) of being found armed with a firearm, &c., is considered to be of sufficient gravity to warrant a higher penalty than the two years imprisonment presently provided under section 72 (1) (j) of the current Act. Section 73 (1) (a) of the current Act seems now to involve that the escapee has been convicted and is serving a sentence and would not apply to persons on remand escaping from lock-ups, prison vans and escorts. Para. (b) in the Bill covers these contingencies in the light of the provisions of Part IV. of the <i>Gaols Act 1958</i> with respect to convicted persons escaping.
9	74	No substantive change.
	75-78	These sections appear to be unnecessary and never used—they are not reproduced in the Bill.
10	79	Amendments suggested by the 1963 Committee have been adopted to make the provisions again living off the earnings of prostitution apply to females as well as males.
11	80	No substantive change.
12	81	Sub-clause (3) (b) of the Bill is wider than the current sub-section to catch up additions made in the section by the <i>Prostitution Act 1961</i> .
13	82	Monetary penalty increased.
14	202	No change.
15	190	Reference to officer of the Department of Health omitted.
16	191	No change.
17	192	Under the Bill for police instructions to exonerate an accomplice from complicity in an offence the instructions must be "given in writing in relation to a particular case"—this is in accord with the views of both the 1963 Committee and the 1965 Committee.
18	195	No change so far as applicable—the <i>Justices Act 1958</i> covers the omitted provisions.
19	204	No substantive change.
20	83	Bill provision omits reference to offence against section 5 which will be covered in the Summary Offences Bill.
21	198	Bill provision omits reference to want of distress and requires court to fix default when imposing a fine. Scale indicates default term to be roughly one day for each pound of penalty.
22	..	This is a new provision conferring power on police to be on private property which is a "public place" within the meaning of the Act.
23	..	This is simply a constructional provision to convert references appearing in other Acts.
24	163, 178	No substantive change—the purpose of this provision is to protect police against vindictive actions for acts done in the course of their duty.