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EXTRAORDINARY

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PART II — LEGAL

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DRAFT ORDINANCES

MINUTE

The following Draft of a proposed Ordinance is published for general information —

L D — O 14/39

An Ordinance to amend the Ordinance intituled “ An Ordinance to amend and consolidate the law relating to the establishment, jurisdiction and powers of Village Tribunals and to make provision for matters connected therewith ”.

BE it enacted by the Governor of Ceylon, with the advice and consent of the State Council thereof, as follows —

1 This Ordinance may be cited as the Village Tribunals Amendment Ordinance No. of 1943

Short title

2 In the event of the Bill intituled “ An Ordinance to amend and consolidate the law relating to the establishment, jurisdiction and powers of Village Tribunals and to make provision for matters connected therewith ” receiving the assent of His Majesty and taking effect as an Ordinance upon the signification of such assent by Proclamation published in the *Gazette*, that Ordinance shall, on and after the date of the publication of such Proclamation, have effect with the amendments specified in the Schedule hereto, and the Clerk of the State Council shall, as soon as may be after that date, cause that Ordinance to be printed by the Government Printer with all the aforesaid amendments duly made therein

Village
Tribunals Bill
to be amended
in the event of
that Bill
becoming law

SCHEDULE

Amendments to the Ordinance referred to in section 2

1 For the Long Title, there shall be substituted the following —

“ An Ordinance to provide for the establishment of Rural Courts to declare existing Village Tribunals to be Rural Courts to define the jurisdiction and powers of Rural Courts and to make provision for all matters connected with or incidental to the aforesaid matters ”

2 In section 1, for the words “ Village Tribunals ”, there shall be substituted the words “ Rural Courts ”

3 In each of the following, that is to say—

- (1) in the headings to the several Parts of the Ordinance,
- (2) in the marginal notes to the several sections,
- (3) in section 2 (1), sections 3 to 10 and sections 12 to 56, and
- (4) in the headings to the First and the Second Schedules, and in the provisions of those Schedules,

wherever the words “ Village Tribunal ” or the word “ Tribunal ” may occur, there shall be substituted the words “ Rural Court ”, and wherever the words “ Village Tribunals ” may occur, there shall be substituted the words “ Rural Courts ”

4 In sections 2 (1) and 6, wherever the words “ Chief Headman's Division ” may occur, there shall be substituted the words “ Revenue Division ”

5, In section 2 (2)—

- (1) for the words “ Village Tribunal ” where they occur for the second time and the third time, there shall be substituted the words “ Rural Court ”, and

- (2) for the words "and shall have," there shall be substituted the words "and shall accordingly adopt that designation and have,".

6 In section 3 (5), for all the words from "Every President" to "deemed to be appointed under this Ordinance", there shall be substituted the words—

"Every President or Additional President of a Village Tribunal, appointed or deemed to have been appointed under any Ordinance repealed by this Ordinance and holding office on the date on which this Ordinance comes into operation, shall be deemed to be the President or Additional President, as the case may be, of the Rural Court of the area for which the Village Tribunal was established,"

7 Section 11 shall be repealed

8 In section 14, for all the words from "The District Judge shall" to "with the decision of the District Judge", there shall be substituted the words—

"The District Judge shall thereupon decide the question as to jurisdiction, and the case shall be tried and determined by the Court specified in his decision"

9 In section 56—

- (1) the definitions of "Chief Headman's Division" and of "Court" shall be omitted,
- (2) in the definition of "local jurisdiction", for the words "Chief Headman's Division", in both places where they occur, there shall be substituted the words "Revenue Division",
- (3) immediately after the definition of "prescribed", there shall be inserted the following new definition —

"Revenue Division" means a Divisional Revenue Officer's Division within the meaning of the Headmen (Change of Designation) Ordinance, No 11 of 1941,

10 In section 58, immediately after sub section (1), there shall be inserted the following new sub section —

"(1A) Every prosecution, action or other proceeding referred to in sub-section (1) may be heard, continued and determined by the Rural Court of the area for which the Village Tribunal was established, in all respects as if such prosecution, action or other proceeding had been instituted in or commenced by such Rural Court"

11 Sections 12 to 58, amended as heretofore provided, shall be re-numbered as sections 11 to 57, respectively, and every reference in the Ordinance to any of those sections shall accordingly be amended by the substitution of the new number of that section for the original number

12 The following new section shall be inserted immediately after the renumbered section 57, and shall have effect as section 58 of the Ordinance —

Construction and amendment of other laws containing references to Village Tribunals	"58 With effect from the appointed date every reference to a Village Tribunal contained in any written law other than this Ordinance shall, unless the context otherwise requires, be read and construed as a reference to a Rural Court, and at the next subsequent reprinting of such law every such reference shall be amended by the substitution of the words "Rural Court" for the words "Village Tribunal" or any grammatical or other variation thereof"
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Objects and Reasons

Since the introduction of the Village Tribunals Bill in the State Council it has been found that it would be preferable to do away with the provisions of that Bill which exclude certain categories of persons from the jurisdiction of the Tribunals. The object of the present Bill is to make provision for the repeal of Clause 11 of the Village Tribunals Bill (item 7 of the Schedule)

2 The opportunity is also taken to change the designation "Village Tribunal" to that of "Rural Court" as the former will cease to be appropriate. The necessary amendments to secure this change have also been set out in the Schedule

3 As the Village Tribunals Bill has passed the committee-stage and is awaiting the third reading, it has been thought best to proceed with that Bill and to take steps to have both Bills, after they receive His Majesty's assent, promulgated on the same date. Power is, therefore, taken in this Bill to print the principal Bill, after it becomes law, with all the amendments which will be made by this Bill

J H B NIMHILL,
Legal Secretary

Colombo, 18th November, 1943

MINUTE

The following Draft of a proposed Ordinance is published for
general information —

L D — O 28/43

**An Ordinance to amend certain provisions of the
Notaries Ordinance**

Cap 91,
Vol III,
p 33

BE it enacted by the Governor of Ceylon, with the advice
and consent of the State Council thereof, as follows —

1 This Ordinance may be cited as the Notaries Amend-
ment Ordinance, No of 1943

Short title

2 Section 26 of the Notaries Ordinance (hereinafter
referred to as "the principal Ordinance") is hereby amended
in the Proviso to sub-section (2) thereof by the substitution,
for the words "that such default was not due to any negligence
on the part of the notary," of the words "that the delay
was due to accident, misfortune or other unavoidable
cause,"

Amendment of
section 26 of
Chapter 91

3 Section 28 of the principal Ordinance is hereby amended
by the repeal of sub section (2) and the substitution therefor
of the following new sub-section —

Amendment of
section 28
of the
principal
Ordinance

"(2) Any party who is aggrieved by any order made
under sub section (1) of this section, or by the refusal of
the District Judge to direct the issue of a certificate in
any case referred to in the Proviso to section 26 (2), may
appeal against such order or refusal to the Supreme Court"

4 Section 30 of the principal Ordinance is hereby amended
in rule (25) of that section as follows —

Amendment of
section 30
of the
principal
Ordinance

(1) in paragraph (a) of that rule by the substitution, for
all the words from "Second Schedule" to "Registrar
General", of the words "Second Schedule",
and

(2) in paragraph (c) (i) of that rule, by the substitution
for the words "lists required" of the words "list
required"

Objects and Reasons

Section 26 of the Notaries Ordinance requires that the application of a notary for his annual certificate should be made to the Secretary of the District Court on or before the first day of March in each year. Under the Proviso to sub-section (2) of that section, however, power is conferred on the District Judge to direct the issue of a certificate notwithstanding delay in making the application, if the District Judge is satisfied that the "default was not due to any negligence on the part of the notary". It has been pointed out that the words cited above are not applicable in the generality of cases where there has been delay since it is impossible to prove that the default was not due to negligence. The object of Clause 2 of this Bill is to amend the Proviso to section 26 (2) so as to authorise the issue of a certificate if the District Judge is satisfied that the delay was due to accident, misfortune or other unavoidable cause.

It was held by the Supreme Court in a case reported at page 74 of Volume 38 of the New Law Reports that no appeal lies against the refusal of the District Judge to direct the issue of a certificate in cases referred to in the Proviso to section 25 (2) (now section 26 (2)) of the principal Ordinance. The object of Clause 3 of this Bill is to amend section 28 of the principal Ordinance in order to allow a right of appeal to the Supreme Court in cases coming within the Proviso to section 26 (2).

2 The object of Clause 4 of this Bill is to amend rule (25) of section 30 of the principal Ordinance by the omission of the provisions in that rule which require a notary to furnish to the Registrar-General monthly lists of deeds or instruments executed before or attested by him.

G C S COREA,

Minister for Labour, Industry and Commerce

Colombo, November 11, 1943