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EXTRAORDINARY.

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DRAFT ORDINANCES.

MINUTE.

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

An Ordinance to amend the Law with regard to the Importation, Sale, and Distribution of Opium.

Preamble.

WHEREAS it is expedient for the purpose of restricting the consumption of opium in Ceylon that the importation, sale, and distribution of opium should be placed under the direct control and supervision of the Government: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited as "The Opium Ordinance, 1908," and shall come into force on such date as the Governor shall, by Proclamation in the *Government Gazette*, appoint; and different dates may be appointed for different purposes and provisions of this Ordinance.

Interpretation.

2 In this Ordinance, unless the context otherwise requires—

"Opium" includes every kind, class, and character of opium, whether crude, prepared, or refuse, and all narcotic preparations thereof or therefrom, and all morphine or alkaloids of opium, and all preparations in which opium or its alkaloids enter as ingredients, together with all opium leaves and wrappings of opium leaves, whether such leaves or wrappings are prepared for use or not. But the word "opium" does not include the medicinal preparations specified in the schedule hereto, nor any other medicinal preparations which the Governor may from time to time, by notification in the *Government Gazette*, direct to be added to the said schedule. The Governor may, in manner aforesaid, direct any medicinal preparation, whether originally included in the schedule or subsequently added thereto, to be withdrawn therefrom.

- “Authorized vendor” means any officer or person authorized by the Governor under section 10 of this Ordinance to supply opium.
- “Registered consumer” means any person who has been registered under section 11 of this Ordinance as a consumer of opium.
- Repeal. **3** (1) “The Opium Ordinance, 1899,” and the Ordinances amending the same are hereby repealed as from the commencement of this Ordinance.
- (2) From and after the first day of January, 1909, no license to possess or to sell opium, whether by wholesale or retail, shall be issued under the said Ordinances; but the Governor may, by order in the *Government Gazette*, direct that all or any of such licenses issued for the year beginning the first day of January, 1908, shall be continued in operation after their expiration for a further term not exceeding six months, on payment by the licensees to the proper authority of a proportionate amount of the sum paid for such licenses.
- Limitations on importation and sale of opium. **4** From and after the commencement of this Ordinance it shall be unlawful—
- (a) For any person, other than a public officer specially authorized by the Governor for that purpose, to import any opium into Ceylon; or
- (b) Subject to the exceptions mentioned in this Ordinance, for any person, other than an authorized vendor, to sell, barter, or in any manner dispose of opium to any other person.
- Prohibition of possession of opium. **5** From and after the said date it shall be unlawful for any person to have or to keep in his possession or in or upon premises in his occupation or under his control any opium, except in the following circumstances, that is to say—
- (a) When the opium is in the possession or custody of a public officer authorized by the Governor to import or to have the custody of opium or of any person lawfully acting under the orders of such officer;
- (b) When it is in the possession of any authorized vendor;
- (c) When it is in a public hospital or dispensary under Government control in a quantity not exceeding the quantity issued by the Principal Civil Medical Officer;
- (d) When it is being removed by an authorized person from the lawful custody of any public officer, and is accompanied by the requisite permit or authority;
- (e) When, having been issued by the Principal Civil Medical Officer, it is in the possession of a registered medical practitioner for *bonâ fide* medicinal purposes, or of a veterinary surgeon holding a diploma or certificate of competency for *bonâ fide* veterinary purposes, or of a person registered as a chemist and druggist under any Ordinance for the time being in force.
- (f) When it is in the possession of a registered consumer who has been supplied with the same in accordance with the provisions of this Ordinance.
- Partial repeal of Poisons Ordinance, 1901. **6** So much of “The Poisons Ordinance, 1901,” is hereby repealed as authorizes any person to possess or sell opium in any quantity whatsoever.
- Penalties for unlawful importation and sale. **7** From and after the commencement of this Ordinance, whoever—
- (1) Imports or attempts to import any opium into Ceylon in contravention of section 4 (a), or is concerned in such importation or attempted importation in any manner whatsoever; or

(2) Sells, barter, or offers for sale, or barter, or in any way disposes of to any person whatsoever any opium in contravention of section 4 (b), save in the cases where such sale, or barter, or disposition is expressly by this Ordinance allowed ;

shall be guilty of an offence, and shall be liable on conviction to a fine which may extend to two thousand rupees, or to simple or rigorous imprisonment for a term not exceeding two years, and the opium in respect of which such conviction was had shall be forfeited.

Penalty for unlawful possession.

8 From and after the said date whoever keeps in his possession, or in or upon any premises in his occupation or under his control, any opium, save in the circumstances specified in section 5, shall be guilty of an offence, and shall be liable on conviction to a fine which may extend to one thousand rupees, or to imprisonment of either description for a term not exceeding one year, or to both, and the opium in respect of which such conviction was had shall be forfeited.

Importation of opium by Government.

9 The Governor may by writing under the hand of the Colonial Secretary from time to time specially authorize one or more officers to purchase and import on behalf of the Government such quantity of opium as may be necessary for the medicinal requirements of the Colony, and to supply opium to registered consumers. The opium so imported shall be kept in such stores, and shall be in charge of such officers, and subject to such regulations as the Governor shall from time to time appoint.

Sale of opium by authorized vendors.

10 (1) For the purpose of supplying registered consumers, the Governor may from time to time appoint a sufficient number of officers or other persons to sell opium on behalf of the Government in convenient places in the Island, and may cause such officers or persons to be supplied by the Principal Civil Medical Officer with such quantities of opium as may be necessary.

(2) A list of the officers or persons so appointed shall be published from time to time in the *Government Gazette*.

(3) The Governor may, whenever he thinks fit, withdraw from any authorized vendor the authority to sell opium.

Registration of consumers.

11 Any adult person who desires to be supplied after the commencement of this Ordinance with opium for his own consumption may apply, not later than a date to be hereafter notified by publication in the *Government Gazette*, at the kachcheri of the district or to the chief headmen of the division to be registered as a consumer of opium, and shall adduce proof to the satisfaction of the Government Agent, Assistant Government Agent, or chief headman of the amount of opium which he is accustomed to consume, the place from which he has obtained such opium, and the manner and form of the use of it to which he is addicted.

(2) The applicant may thereupon be registered as a consumer of opium ; and a certificate may be issued to him stating that he has been registered as a consumer of opium, the manner and form of its use, and the quantity of opium which he shall be allowed to consume daily.

(3) The certificate so issued shall be printed in triplicate, and shall be consecutively numbered. One of the triplicates shall be retained by the officer issuing the same, one shall be forwarded to the Principal Civil Medical Officer, and one shall be delivered to the person registered.

(4) It shall be lawful for the Governor in his discretion to authorize the registration of persons under this section, notwithstanding that they have not applied within the period limited for that purpose.

**Regulations for
authorized
vendors.**

12 It shall be the duty of every authorized vendor to comply with all rules made by the Governor under this Ordinance, and also with the following regulations with regard to the sale of opium :

- (a) No opium shall be supplied to any person other than a registered consumer who produces his certificate.
- (b) Whenever any opium is supplied, the amount supplied and the date on which it is supplied shall, at the date when the opium is delivered, be endorsed on the certificate.
- (c) A greater amount than thirty days' supply, according to the amount allowed by the certificate, shall not be supplied at any one time to a registered consumer, and no further supply shall be given him until the period for which the last supply was given has elapsed.
- (d) No opium shall be sold or supplied between the hours of eight at night and six in the morning.
- (e) Opium shall not be consumed on the premises.
- (f) Opium shall not be adulterated or deteriorated in any way.
- (g) Daily accounts shall be kept in a form to be prescribed by the Governor of the quantities of opium received, sold, or supplied, and remaining on hand at the end of each day.
- (h) No opium shall be sold or delivered except for ready money paid on the spot at the time of sale or delivery.

**Penalty for
contravention
of rules by
authorized
vendors.**

13 Any authorized vendor who wilfully acts in contravention of any rule made by the Governor under this Ordinance, or of any of the regulations mentioned in the last preceding section, shall be guilty of an offence, and shall be liable on conviction to a fine which may extend to five hundred rupees, and to imprisonment of either description for a term not exceeding twelve months, or to both.

**Power of
Governor to
make rules.**

14 (1) The Governor in Executive Council may make, and when made may revoke, amend, or vary rules for regulating the importation, storage, distribution, consumption, and sale of opium.

(2) In particular and without prejudice to the generality of the powers conferred by the preceding sub-section such rules may—

- (a) Regulate the purchase of opium on behalf of Government ;
- (b) Regulate the amount of opium which may be imported or kept in any Government store at any one time ;
- (c) Prescribe the books and forms which shall be kept and filled in by the officers entrusted with the importation, storage, or distribution of opium ;
- (d) Prescribe the quantities in which opium may be issued from Government Stores, and the receptacles in which it shall be contained ;
- (e) Provide for the issue of permits authorizing the transport or removal of opium ;
- (f) Prescribe the books to be kept and the returns to be made by authorized vendors ;
- (g) Provide for the periodical inspection of stocks, sales, and balances in the hands of authorized vendors ;
- (h) Fix the price at which opium shall be sold by authorized vendors.
- (i) Prescribe the evidence which shall be required in support of applications to be registered as consumers of opium, and the form of applications, registrations, and certificates to be used.

- (j) Fix a date after which the daily allowance of opium specified in the certificate of registered consumers shall be reduced each month by an amount equal to five per centum of the original allowance.

Power of Government to take over opium from licensed vendors at expiration of current licenses.

15 (1) It shall be the duty of all persons who at the date of the commencement of this Ordinance are licensed to sell opium, whether by wholesale or retail—

- (a) To make, on forms to be supplied for the purpose, a true declaration showing the amount of opium which is in their possession, custody, or control at 8 P.M. on a date to be notified by publication in the *Government Gazette*.
- (b) To hand over to the person appointed by the Government Agent to receive the same the full amount of opium which was in their possession, custody, or control on the day and at the hour aforesaid.

Every person who makes a full and complete declaration as required by this section and duly hands over all opium in his possession shall be entitled to compensation therefor, which shall be ascertained as hereinafter provided.

(2) The compensation to be paid shall be determined by the Government Agent of the Province, and shall consist of (a) the cost price of the opium as nearly as the same can be ascertained, (b) the Customs duty thereon, (c) an allowance for interest on capital at the rate of nine per centum per annum, calculated on the aggregate of the cost price and Customs duty.

(3) Any person who is dissatisfied with the Government Agent's determination of the compensation payable to him may appeal to the Governor in Executive Council, whose decision shall be final and conclusive.

Penalty for failure to comply with the requirements of section 15.

16 Any person who being licensed at the commencement of this Ordinance to sell opium, whether by wholesale or retail—

- (a) Fails to make the declaration required by section 15 (1) (a), or makes a declaration which is false in any material particular ;
- (b) Fails to hand over at the appointed time the full amount of opium which was in his possession, custody, or control on the day and hour mentioned in section 15 (1) (b) ;

shall be guilty of an offence, and shall be liable on conviction to a fine which may extend to two thousand rupees, or to simple or rigorous imprisonment for a term not exceeding two years, and the opium which ought, under this Ordinance, to have been handed over shall be forfeited without payment of compensation to the person so convicted.

Powers of search.

17 It shall be lawful for any Police Magistrate or for any police officer not below the rank of sergeant, or for any headman not below the rank of korala, vidane arachehi, or udaiyar, at any hour between sunrise and sunset, to enter any premises where there is reasonable suspicion that opium is kept or possessed or sold in contravention of this Ordinance and to seize any opium which may be found therein, and to take into custody the persons suspected to be keeping, possessing, or selling the same.

Hypodermic syringes.

18 (1) It shall be unlawful for any person other than a registered medical practitioner or a licensed consumer to make or possess any hypodermic syringe or other apparatus for injecting opium.

(2) Whoever, not being a registered medical practitioner or a licensed consumer, makes or possesses any hypodermic syringe or other apparatus for injecting opium shall be guilty of an offence, and shall be liable on conviction to a fine not

exceeding one hundred rupees, and in default of payment to imprisonment of either description which may extend to three months.

Bhang and ganja.

19 (1) Subject to the exception hereinafter contained with regard to persons licensed to sell poisons under "The Poisons Ordinance, 1901," it shall be unlawful for any person to possess, transfer, give, sell, or offer for sale, or suffer, or permit to be sold, given, or transferred, any bhang or ganja or any substance containing bhang or ganja.

(2) Whoever possesses, transfers, gives, sells, or offers for sale, or suffers, or permits to be sold, any bhang or ganja or any substance containing bhang or ganja, shall be guilty of an offence, and be liable on the first conviction to a fine not exceeding fifty rupees, or to simple or rigorous imprisonment not exceeding three months, or to both; and on every subsequent conviction to a fine not exceeding one hundred rupees, or to simple or rigorous imprisonment for a term not exceeding six months, or to both.

(3) The power given by section 17 to Police Magistrates, police officers, and headmen, with regard to searching premises where opium is suspected to be kept and with regard to the seizure thereof and the arrest of persons suspected to be keeping or selling opium, shall extend to premises where bhang or ganja is suspected to be kept, possessed, or sold.

(4) The Police Court having jurisdiction in any place where bhang or ganja or any substance containing bhang or ganja is seized may cause the bhang or ganja or substance to be destroyed.

Exceptions with regard to licensed dealers in poisons.

20 Nothing in the last preceding section shall extend to render unlawful the importation, possession, sale, or exposure for sale of Indian hemp or any substance containing Indian hemp by any person licensed to sell poisons under "The Poisons Ordinance, 1901," if such importation, possession, sale, or exposure for sale is in accordance with the regulations for the time being in force under the provisions of the said Ordinance.

Burden of proving exception or justifying circumstances.

21 In any proceedings under this Ordinance the burden of proving that the possession or sale of any opium or the importation, sale, or possession of any bhang or ganja was not unlawful by reason of any exception contained in this Ordinance or on account of any special circumstances therein provided for shall lie on the person alleging the same in his defence.

Informant's share of fine.

22 It shall be lawful for any court before which any person shall be convicted of any offence under this Ordinance to direct a portion of the fine actually recovered and realized, not exceeding one-half, to be paid to the informant.

Jurisdiction of District Court.

23 It shall be lawful for a District Court to try offences under sections 7 and 16 of this Ordinance; and to award therefor any punishment authorized by the said sections, notwithstanding that such punishment may not be within the ordinary jurisdiction of a District Court.

Certificate of Government Analyst.

24 Whenever, in any proceedings under this Ordinance, any question arises with regard to any substance alleged to be opium, bhang, or ganja, the production of a certificate signed by the Government Analyst with regard to such substance shall be sufficient *prima facie* evidence of the facts therein stated, and no proof need be given of the signature or official character of the person signing the certificate.

Amendment of "Customs Ordinance, 1869."

25 Ordinance No. 17 of 1869, intituled "An Ordinance for the General Regulation of Customs," is hereby amended as from the commencement of this Ordinance, as follows, that is to say:

(1) In schedule B relating to import duties, the reference to opium shall be deleted.

- (2) To schedule C containing the table of prohibitions and restrictions inwards, the following words shall be added at the end thereof, namely, "Opium unless imported by an officer expressly authorized by the Governor."

SCHEDULE (Section 2).

Medicinal Preparations not included in the Definition of Opium.

British Pharmacopœia Official Preparations.

Emplastrum Opii (Opium Plaster).
 Linimentum Opii (Liniment of Opium).
 Pilula Saponis Composita (Compound Pill of Soap).
 Pulvis Opii Compositus (Compound Powder of Opium).
 Tinctura Opii Ammoniatæ (Ammoniated Tincture of Opium).
 Pilula Ipecacuanhæ cum Scilla (Powder of Ipecacuanha with Squills).
 Pilula Plumbi cum Opio (Pill of Lead with Opium).
 Pulvis Cretæ Aromaticus cum Opio (Aromatic Chalk Powder with Opium).
 Pulvis Ipecacuanhæ Compositus (Compound Powder of Ipecacuanha).
 Pulvis Kino Compositus (Compound Powder of Kino).
 Suppositoria Plumbi Composita (Compound Lead Suppository).
 Tinctura Camphoræ Composita (Compound Tincture of Camphor or Paregoric).
 Unguentum Gallæ cum Opio (Ointment of Galls with Opium).
 Suppositoria Morphine (Morphine Suppository).
 Trochiscus Morphine (Morphine Lozenge).
 Trochiscus Morphine et Ipecacuanha (Morphine and Ipecacuanha Lozenge).

Non-official Preparations.

Aqua Opii (Water of Opium).
 Trochiscus Opii (Opium Lozenge).
 Unguentum Opii (Ointment of Opium).
 Linimentum Opii Ammoniatum (Ammoniated Liniment of Opium).
 Narcotina (Narcotina).
 Stypticin (Stypticin).
 And any preparation of opium or morphine in the pharmacopœias of foreign countries representing the above preparations of the British Pharmacopœia.

Proprietary Patent Medicines.

Bow's Liniment.
 Powell's Balsam.
 St. Jacob's Oil.
 Winslow's Soothing Syrup.
 Ferris' Mistura Bismuthi Composita Aromatica, vel Liquor. Bismuthi Sedativa.
 Hewletts' Mistura Pepsinæ Composita cum Bismutho.
 Glycerole of Nephente.

By His Excellency's command,

HUGH CLIFFORD,
 Colonial Secretary.

Colonial Secretary's Office,
 Colombo, October 13, 1908.

Statement of Objects and Reasons.

THE object of the Draft Ordinance is to place the importation, sale, and distribution of opium under the direct control of the Government with the view of restricting the consumption of the drug.

2. The definition of "opium" is comprehensive; but a number of medicinal preparations containing more or less opium is exempted from the definition.

3. The main provisions of the Bill are as follows:—

- (1) The importation of opium, except by Government, is entirely prohibited.
- (2) The sale or barter of opium is restricted, with certain exceptions in favour of medical practitioners and others, to "authorized vendors."
- (3) The possession of opium is forbidden, except in certain specified cases.
- (4) Provision is made for the importation by Government of the necessary quantity of opium and for the appointment of authorized vendors.
- (5) Authorized vendors will supply opium only to registered consumers, and then only in the quantity in respect of which the consumer is registered; and power is taken to pass regulations for gradually reducing the quantity supplied to registered consumers.
- (6) Provision is made for taking over all opium from the present licensees at a valuation on the expiration of their licenses.
- (7) The possession of hypodermic syringes and similar apparatus is prohibited.
- (8) The Opium Ordinance now in force is repealed.

Attorney-General's Chambers,
Colombo, October 16, 1908.

ALFRED G. LASCELLES,
Attorney-General.