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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 relating to Cattle Trespass.

Preamble.

WHEREAS it is expedient to amend "The Cattle Trespass Ordinance, 1876" (hereinafter referred to as "the principal Ordinance"): 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 Cattle Trespass (Amendment) Ordinance, 1909," and shall be read and construed as one with the principal Ordinance.

Substitution of a new section for section 4.

2 For section 4 of the principal Ordinance the following section shall be substituted, namely:

Cattle trespassing on lands may be seized.

4. It shall be lawful for any proprietor or occupier (or any other person by his direction) of any land to seize any animals found trespassing therein or thereupon and to tie up and detain them until the damages, if any, occasioned by such trespass, assessed in manner hereinafter mentioned, and the fair expense of the keep of such animals during their lawful detention, shall be paid or recovered as hereinafter mentioned.

Amendment of section 6.

3 In section 6 of the principal Ordinance the words "if such trespass shall have been committed in the night time" in line 8 thereof are hereby repealed.

- Amendment of section 7. 4 In section 7 of the principal Ordinance the words "in case the trespass shall have been committed in the night time" are hereby repealed, and the words "or some other person in his behalf" shall be inserted immediately after the word "upon" in line 25 of the said section.
- Amendment of section 8. 5 In section 8 of the principal Ordinance the words "ten rupees" shall be substituted for the words "five rupees" in the 5th line thereof.
- Substitution of a new section 10. 6 For section 10 of the principal Ordinance the following section shall be substituted :
- All rights under Ordinance forfeited, unless due notice is given to headman. 10. All right to the benefit of any of the provisions of this Ordinance shall be forfeited, unless the notice required by section 7 shall have been given within forty-eight hours from the time of seizure (if any) or of trespass (if no seizure) to some police constable or local headman having jurisdiction in the district, if any such shall be resident within ten miles, or if no police constable or headman be resident within that distance, then within a reasonable period after such seizure or trespass. Provided always that nothing herein contained shall be held to take away or affect any right which the Crown or any person may have at common law for redress in respect of any damage sustained by trespass of animals.
- Common law rights reserved. 7 For section 12 of the principal Ordinance the following section shall be substituted, namely :
- Substitution of new section 12. (1) Any person without lawful right removing or taking away or attempting to remove or take away or causing to be removed or taken away any cattle from the custody of the person entitled to keep or detain the same under the provisions of this Ordinance shall be guilty of an offence, and shall be liable on conviction to a fine which may extend to twenty rupees, and in default of payment to rigorous imprisonment for a term not exceeding fourteen days.
- Penalty for removing, &c., cattle from lawful custody. (2) Any offence under this section shall be triable by the Village Tribunal of the division in which the offence was committed, and if there is no Village Tribunal, by the Police Court having local jurisdiction. When the offender is not subject to the criminal jurisdiction of a Village Tribunal, the offence shall be tried by the Police Court having local jurisdiction.
- Amendment of section 14. 8 In section 14 of the principal Ordinance the word "garden" shall be substituted for the words "enclosed garden" in the proviso.
- 9 In sections 5, 6, 7, 9, 13, and 14 of the principal Ordinance the words "line of railway or land appertaining thereto" shall be inserted immediately after the words "irrigation works" wherever they occur in the said sections.

By His Excellency's command,

HUGH CLIFFORD,
Colonial Secretary.

Colonial Secretary's Office,
Colombo. January 28, 1909.

Statement of Objects and Reasons.

THE object of the Draft Ordinance is to extend the provisions of the Cattle Trespass Ordinance, No. 9 of 1876, so as to protect the owners of unfenced lands, and to prevent the owners of cattle allowing their animals to stray indiscriminately.

2. The Draft Ordinance accordingly repeals so much of the old Ordinance as restricts its provisions to cases of cattle trespass on fenced lands, and imposes a fine on the owner of the trespassing animals, whether the trespass has taken place by day or night, and whether any damage has been caused or not. Provision is also made for the protection of the railway; and the offence of unlawfully removing seized cattle is made triable by the Village Tribunal.

Attorney-General's Chambers,
Colombo, January 8, 1909.

ALFRED G. LASCELLES,
Attorney-General.

MINUTE.

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

An Ordinance to amend Ordinance No. 13 of 1889, intituled
“ An Ordinance amending the Law relating to Indian
Coolies employed on Ceylon Estates.”

Preamble.

WHEREAS it is expedient to amend Ordinance No. 13 of 1889, intituled “ An Ordinance amending the Law relating to Indian Coolies employed on Ceylon Estates,” in certain particulars: 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 and commencement.

1 (1) This Ordinance may be cited as “ The Indian Coolies’ Ordinance, 1909,” and shall be read and construed as one with Ordinance No. 13 of 1889 and the Ordinance amending the same.

(2) It shall come into operation at such date as the Governor, by Proclamation in the *Government Gazette*, shall appoint.

Addition of new section 4 A.

2 The following section shall be added immediately after section 4 of Ordinance No. 13 of 1889, and shall be numbered 4 A:

Limitation of prosecution of labourers for certain offences.

4 A No criminal proceedings shall be instituted against any labourer for any offence under section 11 of Ordinance No. 11 of 1865, as amended by “ The Servants’ and Labourers’ Ordinance, 1905,” after thirty-six months shall have elapsed from the date when such offence is alleged to have been committed.

Substitution of new section 6.

3 The following section shall be substituted for section 6 of Ordinance No. 13 of 1889:

(1) It shall be the duty of every employer to pay the wages of the labourers in his employment monthly within one month from the expiration of the month during which the wages have been earned.

(2) Where wages are payable at a daily rate, the monthly wages shall be computed according to the number of days on which the labourer was able and willing to work, whether the employer was or was not able to provide him with work. Provided that an employer shall not be bound to provide for any labourer more than six days’ work in the week.

(3) When the contract of service is determined by one month’s previous notice or warning by the labourer to the employer or by the employer to the labourer, all wages due to the labourer for his period of service shall be paid in full to him by the employer on the day when such contract is so determined as aforesaid.

(4) In computing the amount of wages due to a labourer for any period of service, the labourer shall be debited with the amount of all advances of money made to him and with the value of all food, clothes, or other articles supplied to him during such period which the employer is not liable in law to supply at his own expense.

(5) The wages of a labourer shall not be deemed to have been duly paid as required by this section unless the full amount thereof, subject only to the deductions allowed by sub-section (4), has been paid either directly to the labourer himself or to some person expressly authorized by the labourer to receive his wages on his behalf or on his account.

(6) Any employer who fails to pay the wages of any labourers in his employment within the period limited by sub-section (1) shall be guilty of an offence, and shall be liable on conviction to a fine which may extend to fifty rupees on a first conviction, and to two hundred rupees on a second or subsequent conviction. If any fine imposed

under this section is not paid within twenty-one days of the date when the same is imposed, the Government Agent may recover the amount thereof in the manner provided by section 23 of "The Medical Wants Ordinance, 1880."

Addition of new sections.

4 The following sections shall be added to the principal Ordinance and shall be numbered from 19 to 30:

Immunity of labourers from arrest on civil process.

19. From and after the day of , 1909, no kangany, subordinate kangany, or labourer shall be liable to arrest under the provisions of "The Civil Procedure Code, 1889," in execution of a decree for money.

Notice to determine contract of service.

20. A notice or warning of the intention of any labourer to determine his contract of service, if given by any other person on behalf of the labourer, shall not be effectual in law, unless and until the labourer has personally signified to his employer his desire to determine his contract of service.

Declarations that labourers have been duly paid.

21. (1) It shall be the duty of every employer to forward to the Government Agent of the Province in every month a declaration under his hand that the wages of the labourers in his employment for the month immediately preceding the month before that in which the declaration is made have been duly paid as required by this Ordinance.

(2) Every such declaration shall be forwarded so as to reach the kachcheri not later than the third day of the month, and shall be in form I. in schedule C hereto.

(3) Where an employer has given notice in writing to the Government Agent with regard to any estate under his charge that the duty of forwarding the declaration required by this section has been entrusted to an assistant superintendent, such assistant superintendent shall thereupon be bound to comply with the requirements of this section.

(4) Any employer, or any assistant superintendent who is bound as aforesaid to comply with the requirements of this section, who fails in any month to furnish the declaration required by this section before the prescribed date, shall be guilty of an offence, and shall be liable on a first conviction to a fine which may extend to ten rupees and on a second or subsequent conviction to a fine which may extend to fifty rupees.

(5) Any employer or assistant superintendent bound as aforesaid who knowingly furnishes a declaration which is false or incorrect in any material particular shall be guilty of an offence, and shall be liable on conviction to a fine which may extend to three hundred rupees.

Duty of employer to prepare and keep a complete register of labourers.

22 It shall be the duty of every employer to prepare and keep up to date a complete register of all labourers employed on his estate, whether borne on the check-roll or working on any form of contract. Such register shall be as nearly as material in form II. in schedule C hereto. Every employer shall before the day of , 1909, forward to the Government Agent of the Province a copy of such register certified under his hand to be correct. Any employer who fails to forward a copy of the register certified as aforesaid within the appointed time shall be guilty of an offence, and shall be liable on conviction to a fine which may extend to twenty rupees.

Every employer shall thereafter from time to time enter on the register the names of any labourer whom he shall take into his employment, whether on monthly contract of service or any other form of contract. He shall also, whenever a labourer dies or quits his service, record the fact and the date thereof in the register.

Prohibition of employment of labourers without discharge ticket or certificate.

23. (1) From and after the said day of _____, 1909, no employer shall take into his employment any labourer other than a boy or girl below the age of fifteen who has been born in Ceylon and has not previously been employed on an estate, unless he has received in respect of such labourer—

- (a) A discharge ticket issued and forwarded to him by some other employer in accordance with section 24; or
- (b) In the case of a newly imported labourer, a certificate issued from the cooly depôt at Ragama in accordance with section 25 or
- (c) A certificate issued by a Police Magistrate in accordance with section 26

(2) Any employer who shall take any labourer into his employment in contravention of this section shall be guilty of an offence, and shall be liable on conviction thereof to a fine which may extend to five hundred rupees.

(3) Any employer who takes into his employment any labourer not being a Ceylon-born boy or girl below the age of fifteen who has not previously been employed on an estate without receiving for such labourer the discharge ticket or certificate required by this section shall, if such labourer is bound by any contract of service with any other employer, be deemed to have taken such labourer into his employment without taking reasonable precautions to ascertain whether or not such labourer was so bound, and shall be liable civilly, in case the labourer is under advance to the person to whom the labourer is so bound, to pay to such person as liquidated damages double the amount of such advances.

Duty of employer to issue and forward discharge ticket, and penalty for default.

24. (1) Whenever any labourer quits the service of any employer, having given the notice or warning required by law, or having been authorized to do so by his employer by means of the document known as a *tundu*, it shall be the duty of the employer to prepare a discharge ticket as nearly as material in the form III. in schedule C. If the labourer entered the service of the employer on a discharge ticket, the employer shall file such discharge ticket in his office and shall prepare a new discharge note.

(2) Where the labourer quits the service of his employer in order to take service with some other employer in Ceylon, the former employer shall forthwith forward the discharge ticket to the new employer.

(3) Where a labourer has given the notice or warning required by law, but has not, at the time when he quits the service of his employer, secured any other employment, it shall be the duty of the employer to give him a memorandum in the form IV. in schedule C stating that the labourer has duly given notice, that a formal discharge ticket will be issued to any new employer on application, and also stating the amount of the labourer's unliquidated liability, if any. Upon such application being made, it shall be the duty of the employer to forward to the new employer a discharge ticket within three days of the date of application.

(4) Any employer who fails to prepare or forward a discharge ticket, or to give to any labourer a memorandum in any case where he is required by this section to do so shall be guilty of an offence, and shall be liable on conviction thereof to a fine which may extend to one hundred rupees.

Issue of certificates from Ragama.

25. (1) The Superintendent of the cooly depôt at Ragama, or such other officer as may be authorized by the Governor for the purpose, shall prepare certificates in the form V. in schedule C with regard to all labourers despatched from the depôt and shall forward the same to the employers to whom the labourers are despatched.

(2) In the event of any other depôt being established for the reception of Indian immigrant labourers, the Governor may authorize the officer in charge of such depôt to issue certificates for the purpose of this Ordinance; and such certificates

shall for the purposes of this Ordinance be equivalent to certificates issued from the depôt at Ragama.

Certificates issued by Police Magistrates.

26. (1) On the application of any labourer any Police Magistrate, if he is satisfied by affidavit that such labourer has not been employed on an estate in Ceylon for the thirty-six months immediately preceding the date of application, shall issue a certificate to that effect in the form VI., schedule C.

(2) No stamp duty shall be chargeable on affidavits sworn or affirmed for the purposes of this section.

27. (1) Any Police Magistrate, if he is satisfied that any discharge ticket has been lost or destroyed, may, on the application of the labourer to whom the discharge ticket refers or of his employer, order the employer by whom such discharge ticket was given, or, if such employer is no longer in charge of the estate on which the labourer was employed, then the person for the time being in charge of such estate, to prepare and forward to the new employer a duplicate of the lost or destroyed discharge ticket.

(2) Any person refusing to prepare and forward a duplicate discharge ticket on the order of a Police Magistrate, or issuing a duplicate discharge ticket without the authority of such order, shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding one hundred rupees.

Offences in relation to discharge tickets and registers of labourers.

28. Any person who—

- (a) Knowingly prepares or issues a discharge ticket which is false in any material particular; or
- (b) Fraudulently makes use of a genuine discharge ticket; or
- (c) Knowingly makes any false entry alteration in or addition in the register required to be kept by this Ordinance—

shall be guilty of an offence, and shall be liable on conviction thereof to a fine which may extend to one thousand rupees, or to imprisonment of either description for a term not exceeding six months, or to both.

Power of Governor to alter forms.

29. The Governor in Executive Council may from time to time make such alterations as he may deem requisite in any of the forms prescribed in any of the schedules hereto, or may prescribe new forms to be used in substitution for any of such forms.

Sanction to the institution of criminal proceedings.

30. No criminal proceedings shall be instituted in respect of any alleged offence under sections 21, 22, 23, 24, and 28 without the previous sanction in writing of the Colonial Secretary.

Addition of schedule to Ordinance No. 13 of 1889.

5 Schedule C to this Ordinance shall be appended as schedule C to Ordinance No. 13 of 1889.

SCHEDULE C.

Form 1.

(Section 21.)

Declaration.

_____ Estate in the District of _____.

I hereby declare in terms of section _____ of "The Indian Coolies' Ordinance, 1909," that the wages of the labourers employed on the above-named estate for the month ending the _____ day of _____, 19—, have been duly paid in accordance with the requirements of the said Ordinance.

(Signed) _____,
Superintendent.

Dated the _____ day of _____, 19—.

Form II.
(Section 22.)
Register of Labourers.

Name:—
Approximate age:—
Sex:—
Caste:—
Village:—
Taluk:—
District:—
Father's name:—
Mother's name:—
Height, viz., tall, short, or medium:—
Body marks:—
General appearance:—
Date of engagement:—
Whether employed permanently or on contract works:—
Name of kangany:—
Number of Ragama certificate (if any):—

Form III.
(Section 24.)
Discharge Ticket

IN pursuance of section 24 of "The Indian Coolies' Ordinance, 1909," this is to certify that the labourer whose name and description is appended has been duly discharged from my service.

- (1) This labourer—
 (a) Was one of the coolies on my original register.*
 (b) Came to me with a certificate from the Cooly Depot.*
 (c) Came to me on Discharge Ticket from — — Estate in — — District.*
 (d) Came to me on notice from — — Estate in the — — District.*
 (e) Came to me with a certificate from the Police Magistrate at — —.*
- (2) This labourer has been in my employ since — —, 19—
 (3) The reason for his discharge is — —.
 (4) The amount of his debt to this estate is Rs. — —.

Description of Labourer.

Name:—
Approximate age:—
Sex:—
Caste:—
Number of Ragama certificate (if any):—
Village:—
Taluk:—
District:—
Name of father:—
Name of mother:—
Name of kangany:—
Height, viz., tall, short, or medium:—
Colour, viz., dark, light, or medium:—
Body marks (if any) — —
General physical characteristics:—

Superintendent.

— — Estate — —, District.

Dated — —, 19—

* Strike out the lines which do not apply.

Form IV.
(Section 24 (3)).

Memorandum with regard to Labourer leaving on Notice.
— — Estate, — — District.

MEMORANDUM that the labourer whose name and description are appended hereto left this estate on notice on the — — day of — —, 19—, and that a formal Discharge Ticket will be issued to his employer on application. The amount of his [or her] unliquidated liability is Rs. — —.

Date: — —, 19—

(Signed) — —

Superintendent.

Name and Description of Labourer.

Name:—
Sex:—

Father's name:—
General appearance:—

Form V.

(Section 25.)

Ragama Certificate.

I HEREBY certify that the labourer whose name and description is appended was despatched from the Depôt at Ragama to ——— Estate on the ——— day of ———, 19—.

Name and Description of Labourer.

Name : ———.
 Approximate age : ———.
 Sex : ———.
 Caste : ———.
 Number of Ragama certificate (if any) : ———.
 Village : ———.
 Taluk : ———.
 District : ———.
 Name of father : ———.
 Name of mother : ———.
 Name of kangany : ———.
 Height, viz., tall, short, or medium : ———.
 Colour, viz., dark, light, or medium : ———.
 Body marks (if any) : ———.
 General physical characteristics : ———.

Dated ———, 19—, (Signed) ———, Superintendent.

Form VI.

(Section 26.)

Certificate of Police Magistrate.

Police Court of ———.

I HEREBY certify, in terms of section 26 of "The Indian Coolies' Ordinance, 1909," that I am satisfied that the labourer whose name and description are appended has not been employed on any estate in Ceylon during the thirty-six months immediately preceding the date of this certificate.

Name of labourer : ———.
 Sex : ———.
 Father's name : ———.
 General appearance : ———.

Dated ———, 19—, (Signed) ———, Police Magistrate.

By His Excellency's command,

HUGH CLIFFORD,
 Colonial Secretary.

Colonial Secretary's Office,
 Colombo, January 29, 1909.

Statement of Objects and Reasons.

THE object of the Draft Ordinance is to give effect to the recommendations contained in the Report of the Labour Commission.

2. In form the Ordinance is an amendment of the existing Ordinance (No. 13 of 1889) relating to Indian immigrant labourers.

3. The following are the principal alterations which the Draft Ordinance will effect :—

- (a) After the lapse of 36 months from the commission of the offence prosecutions under section 11 of Ordinance No. 11 of 1865 (for illegally quitting service, &c.) are barred.
- (b) The wages of labourers are payable monthly, within one month of the expiration of the month during which the wages are earned.
- (c) Payment must be made either directly to the labourer himself or to some person expressly authorized by the labourer to receive his wages on his behalf or on his account.
- (d) Failure on the part of an employer to pay wages within the prescribed time is made an offence punishable with a fine, which is leviable on the estate.
- (e) After a specified date the imprisonment of kanganyes and labourers on civil process for debt is abolished.

- (f) A notice to quit service if given by any other person on behalf of the labourer is invalid, until the labourer has personally signified to his employer his desire to determine his contract of service.
- (g) Employers are required, under pain of criminal proceedings, to forward to the Government Agent in every month a declaration that they have paid their labourers the wages which are then due
- (h) The employer is required to prepare and keep up to date a complete register showing all labourers employed by him, including those working on contract. A certified copy of the initial register must be forwarded to the Government Agent
- (i) After a specified date it is made a punishable offence for an employer to take into his employment a labourer (except a Ceylon born boy or girl under the age of 15 not previously employed in estate labour) without—
- (1) A discharge ticket ; or
 - (2) In the case of newly imported labour, a Ragama certificate ; or
 - (3) A certificate issued by a Magistrate that the labourer has not been employed for 36 months on an estate in Ceylon
- (j) An employer who takes a labourer into his employment without a discharge ticket or certificate is punishable with a fine. If the labourer is in fact an absconder and is under advance, the employer is liable to pay the lawful employer double the amount of such advances.
- (k) Provision is made for the issue of discharge tickets ; memoranda to this effect that discharge tickets will be issued on application, Ragama certificates, duplicates of lost discharge tickets, and other details relating to the system of discharge tickets.
- (l) Penalties are provided for the various offences created by this Ordinance.
- (m) As a check against vexatious or indiscreet prosecutions, the previous sanction of the Colonial Secretary is required before criminal proceedings can be instituted.

Attorney-General's Chambers,
Colombo, January 20, 1909.

ALFRED G. LASCELLES,
Attorney-General.

MINUTE.

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

An Ordinance to amend " The Courts Ordinance, 1889," in certain particulars.

Preamble.

WHEREAS it is expedient to amend " The Courts Ordinance, 1889," hereinafter referred to as " the principal Ordinance," as regards the provisions there made for the rank and precedence of the Chief Justice and Puisne Judges of the Supreme Court : 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.

This Ordinance may be cited as " The Courts (Amendment) Ordinance, 1909," and shall be read and construed as one with the principal Ordinance.

Addition of new section 12 A.

2 Immediately after section 12 of the principal Ordinance the following section shall be added and shall be numbered 12 A :

Rank and precedence of future Chief Justices and Puisne Judges.

12 A Provided that the rank and precedence of any Chief Justice and Puisne Judge who shall be hereafter nominated and appointed shall be as follows :

Every Chief Justice so nominated and appointed shall have rank and precedence above and before all persons whomsoever within the Island excepting the Governor or the officer for the time being Administering the Government the Lieutenant-Governor (if any), the Officer in Command of His Majesty's Naval Forces on the station if of the rank of an Admiral, and the Senior Officer in command of His Majesty's Troops if of the rank of a General, and excepting such persons as by law or usage in England take place before the Chief Justice of England.

Every Puisne Judge so nominated and appointed shall have rank and precedence above and before all persons whomsoever within the Island excepting the Governor or the officer for the time being Administering the Government, the Lieutenant-Governor (if any), the Officer in Command of His Majesty's Naval Forces on the station if of the rank of an Admiral, the Senior Officer in Command of His Majesty's Troops if of the rank of a General, the Chief Justice and the Members of the Executive Council, and excepting such persons as by law or usage in England take place before the Puisne Judges of the High Court of Justice in England.

By His Excellency's command,

HUGH CLIFFORD,
Colonial Secretary.

Colonial Secretary's Office,
Colombo, January 29, 1909.

Statement of Objects and Reasons.

This Ordinance is introduced on the instructions of the Secretary of State that the law with regard to the precedence of future Chief Justices and Puisne Judges should be assimilated to that which prevails in other Crown Colonies.

2. The substantive changes made by the Ordinance are that any future Chief Justice will take place after the Officer in Command of His Majesty's Naval Forces on the station if of the rank of an Admiral and the Senior Officer in Command of His Majesty's Troops if of the rank of a General. Future Puisne Judges will take place after Members of the Executive Council.

3. The rank and precedence of the present Chief Justice and Puisne Judges as laid down by the Courts Ordinance is not disturbed.

Attorney-General's Chambers,
Colombo, January 19, 1909.

ALFRED G. LASCELLES,
Attorney-General.