



THE
CEYLON GOVERNMENT
GAZETTE

EXTRAORDINARY.

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PART II.—LEGAL.

(Separate paging is given to each Part in order that it may be filed separately.)

DRAFT ORDINANCES.

MINUTE.

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

An Ordinance to validate certain proceedings of the District Court, the Court of Requests and the Police Court of Mullaittivu sitting at Vavuniya.

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 Mullaittivu Courts (Validation of Proceedings) Ordinance, No. of 1935.

Short title.

2 No proceedings instituted or taken during the period beginning on the 1st day of November, 1898, and ending on the 6th day of December, 1932, in the District Court of the judicial district of Mullaittivu or in the Court of Requests or the Police Court of the judicial division of Mullaittivu, and no proceedings taken for the purpose of enforcing any judgment, sentence, or order made or pronounced by any of the said courts during that period shall be deemed to be invalid by reason only of the failure to have appointed the town of Vavuniya as a place at which the said courts may have been holden during that period.

Validation of proceedings at Vavuniya between 1st November, 1898, and 6th December, 1932.

Objects and Reasons.

The original schedule to the Courts Ordinance, 1889, recognized Mullaittivu and Vavuniya-Vilankulam as two distinct judicial districts and two distinct judicial divisions each with its own District Court, Court of Requests and Police Court; and the courts of each district and division were to be held at Mullaittivu and Vavuniya, respectively.

2. By a Proclamation dated 4th November, 1898, the area within the judicial district and judicial division of Vavuniya-Vilankulam was added partly to the area within the judicial district and judicial division of Mannar and partly to the area within the judicial district and judicial division of Mullaittivu, and thereby Vavuniya-Vilankulam ceased to be a judicial district or a judicial division and ceased to have its own courts.

3. The courts for the judicial district and judicial division of Mullaittivu have been held at Mullaittivu by virtue of the first proviso to section 55 of the Courts Ordinance. Any other place for the holding of these courts has to be previously appointed for the purpose by the Governor under that section. The Mullaittivu courts sat and took proceedings at Vavuniya from November, 1898, though it was not till December, 1932, that Vavuniya was appointed as a place at which those courts may regularly be held.

4. The validity of the proceedings taken at Vavuniya between November, 1898, and December, 1932, is liable to be questioned by reason of the failure to appoint Vavuniya as a place at which the Mullaittivu courts may sit. This Bill accordingly seeks to validate such proceedings and what has been done in consequence of such proceedings.

J. W. R. ILANGAKOON,
Attorney-General's Chambers, Acting Attorney-General.
Colombo, July 17, 1935.

MINUTE.

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

An Ordinance to declare and define the privileges, immunities and powers of the State Council and of the members thereof to secure freedom of speech and debate or proceedings in the Council; and to give protection to persons employed in the publication of the reports, papers, minutes, votes or proceedings of the Council.

WHEREAS by Article 73 of the Ceylon (State Council) Order in Council, 1931, it is provided that a law may be enacted in accordance with the provisions of that Order defining the privileges, immunities and powers to be held, enjoyed, and exercised by the State Council and by the members thereof, subject, however, to the proviso that such privileges, immunities or powers when so defined shall not exceed those for the time being held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Northern Ireland or the members thereof :

And whereas it is expedient by virtue of the powers so conferred by Article 73 of the Ceylon (State Council) Order in Council, 1931, to define by Ordinance the privileges, immunities and powers of the State Council and of the members thereof :

And whereas it is essential to the due and effectual exercise and discharge of the functions and duties of the members of the State Council and to the making of laws for the peace, order and good government of this Island that the freedom of speech and debate or proceedings in the Council should not be impeached or questioned in any court or place outside the Council and that no obstructions or impediments should exist to the publication of such reports, papers, votes, minutes or proceedings of the Council as the Council may deem fit or necessary to be published :

And whereas it is expedient that such freedom should be secured by law and that all such obstructions or impediments which may arise should be removed :

Be it therefore 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 State Council Powers and Privileges Ordinance, No. of 1935, and shall come into operation on such date as the Governor shall appoint by proclamation in the Gazette.

Short title and commencement.

CHAPTER I.

Privileges, immunities and powers of the State Council and of its members and officers.

- 2 There shall be freedom of speech and debate or proceedings in the Council and such freedom of speech and debate or proceedings shall not be liable to be impeached or questioned in any court or place out of the Council. Freedom of speech and debate.
- 3 No member shall be liable to any civil or criminal proceedings, arrest, imprisonment or damages by reason of anything which he may have said in the Council or by reason of any matter or thing which he may have brought before the Council by petition, bill, resolution, motion or otherwise. Members not liable to action in certain cases.
- 4 Except for a contravention of this Ordinance, no member shall be liable to arrest, detention or molestation in respect of any debt or matter which may be the subject of civil proceedings while proceeding to, or in attendance at, or returning from, any meeting or sitting of the Council :
Provided that any person otherwise entitled to any immunity or privilege under this section who shall be deemed to have committed any act of insolvency may be dealt with under Ordinance No. 7 of 1853 as if he had not such immunity or privilege. Freedom from arrest in civil proceedings.
- 5 No person shall be liable in damages or otherwise for any act done under the authority of the Council and within its legal powers or under any warrant issued by virtue of those powers. Person not liable in damages for acts done under authority of Council.
- 6 At any stage of any civil or criminal proceedings instituted for or on account or in respect of any matter of privilege, upon production to the court or judge by the defendant or accused of a certificate under the hand of the Speaker, or in his absence or other incapacity by the Clerk, stating that the matter in question is one which concerns the privilege of the Council, that court or judge shall immediately stay such civil or criminal proceedings, and thereupon the same and every process issued therein shall be deemed to be finally determined. Stay of process in respect of matters of privilege.
- 7 Save as otherwise expressly provided in this Ordinance, the Council and the members thereof shall hold, enjoy and exercise such and the like privileges, immunities and powers as on the fifteenth day of April, nineteen hundred and thirty-one (being the date on which the Order in Council was proclaimed in Ceylon) were held, enjoyed and exercised by the Commons House of the Parliament of the United Kingdom of Great Britain and Northern Ireland and by the members thereof, and also such privileges, immunities and powers as are from time to time defined by any written law of this Island, but not exceeding those at the commencement of such law enjoyed and exercised by the Commons House aforesaid and by the members thereof, whether such privileges, immunities or powers were so held, possessed or enjoyed by custom, statute or otherwise :
Provided always that no such privileges, immunities or powers shall at any time exceed those at the same time held and exercised by the Commons House of the said Parliament and by the members thereof. Privilege to be the same as that enjoyed by House of Commons.
- 8 All privileges, immunities and powers of the Council shall be part of the general and public law of the Island, and it shall not be necessary to plead the same, but the same shall in all courts of the Island be judicially noticed. Privileges to be noticed judicially.
- 9 For the purposes of this Ordinance, the Council is hereby declared to possess all such powers and jurisdiction as may be necessary for enquiring into, judging and pronouncing upon the commission of any such acts, matters or things as are herein declared to be contraventions of this Ordinance and for awarding and carrying into execution the punishment therefor provided by this Ordinance. Powers of the Council.
- 10 The Council sitting as a court shall have all such rights and privileges of a court of record as may be necessary for the purpose of summarily enquiring into and punishing the acts, matters and things herein declared to be contraventions of this Ordinance. Council to be a court of record.

CHAPTER II.

Contempt of the Council.

- 11 (1) The Council may, for or in respect of the contempts hereinafter mentioned in sub-section (2), whether committed by a member or by any other person, summarily punish the offender by fine as provided by the Standing Orders or by this Council empowered to punish for contempt.

Ordinance ; and, if any such fine so imposed be not immediately paid, the offender shall be committed by warrant under the hand of the Speaker to the custody of the Fiscal or of an officer of the Council in such place as it may direct until payment be made or for a period not exceeding one month.

(2) The contempts referred to in sub-section (1) shall be—

- (a) disobedience to any order made by the Council for attendance or for production of papers, books, documents or records, unless such attendance or production be excused as hereinafter provided in section 20 ;
- (b) refusing to be examined before or to answer any lawful and relevant question put by the Council unless such refusal be excused as provided in section 20 ;
- (c) the wilful failure or refusal to obey any rule, order or resolution of the Council ;
- (d) the offering to or acceptance by any member or officer of the Council of a bribe to influence him in his conduct as such member or officer, or the offering to or acceptance by any member or officer of the Council of any fee, compensation, gift, or reward for or in respect of the promotion of or opposition to any Bill, resolution, matter, rule or thing submitted to or intended to be submitted to the Council ;
- (e) assaulting, obstructing or insulting any member coming to or going from the Council or on account of his conduct in the Council, or endeavouring to compel any member by force, insult or menace to declare himself in favour of or against any proposition or matter depending or expected to be brought before the Council ;
- (f) assault upon, interference with, or resistance to an officer of the Council while in the execution of his duty ;
- (g) sending to a member any threatening letter or challenging a member to fight on account of his conduct in the Council ;
- (h) Creating or joining in any disturbance in the Council or in the vicinity of the Council while the same is sitting, whereby proceedings of the Council are or are likely to be interrupted ;
- (k) tampering with, deterring, threatening, beguiling or in any way unduly influencing any witness in regard to evidence to be given by him before the Council ;
- (l) presenting to the Council any false, untrue, fabricated or falsified document with intent to deceive the Council ;
- (m) prevarication or other misconduct as a witness before the Council ;
- (n) the publication of any false or scandalous libel on any member touching his conduct as a member ;
- (p) any contempt from time to time set forth and declared to be such in any Standing Order of the Council.

CHAPTER III.

Warrants and Arrests.

Speaker to
issue warrants.

12 (1) For the purpose of punishing any of the contempts named in this Ordinance the Speaker is hereby empowered upon a resolution in that behalf of the Council, to issue a warrant under his hand for the apprehension and imprisonment of any person who, having been sentenced to pay a fine, fails to pay the same.

(2) Every warrant issued by the Speaker under sub-section (1) shall, for the purposes of the Fiscal's Ordinance, 1867, be deemed to be a process issued by a court of competent jurisdiction.

Form of
warrant.

13 Every warrant aforesaid shall be addressed to the Fiscal or to an officer of the Council and shall contain a statement that the person therein mentioned has been adjudged guilty of contempt of the Council and shall specify the nature of such contempt ; and every such warrant shall be sufficient if it can be reasonably inferred therefrom that the person mentioned therein has been adjudged guilty of any of the contempts aforesaid and it shall not be necessary to observe any particular form in any such warrant.

Person disturbing
proceedings of the
Council may be
arrested without
warrant.

14 Any person creating or joining in any disturbance in the Council during its actual sitting may be arrested without warrant on the verbal order of the Speaker, and may be kept in the custody of an officer of the Council until a warrant can be made out for the imprisonment of such person in manner aforesaid.

15 Every Fiscal and his deputies and their officers, and all police officers, constables and other persons, are hereby required to assist in the apprehension and detention of any person in pursuance of any such verbal order as aforesaid of the Speaker, and to aid and assist in the execution of any such warrant as aforesaid, and where any such warrant directs that the person mentioned therein shall be imprisoned in any prison or other place, the Superintendent or keeper thereof is hereby required to receive such person into his custody in the said prison or other place and there to imprison him according to the tenor of the warrant.

Fiscals, &c., to assist in execution of warrant or verbal order.

16 It shall be lawful for any person charged with or assisting in the execution of any warrant under the hand of the Speaker to break open in the day time any door or search any premises in which the person for whose apprehension such warrant was issued may be, or may reasonably be suspected of being, concealed.

Doors may be broken open in executing warrant.

CHAPTER IV.

Attendance of witnesses before the Council and matters incidental thereto.

17 The Council may order any person to attend before the Council and to produce any paper, book, record or document in the possession or under the control of such person.

Power to order attendance of witnesses.

18 Any order to attend or to produce documents before the Council shall be notified to the person required to attend or produce documents by a summons under the hand of the Clerk issued by direction of the Speaker; and in every such summons there shall be stated the time when and the place where the person summoned is required to attend and the particular documents which he is required to produce, and the summons shall be served on the person mentioned therein, either by delivering to him a copy thereof or by leaving a copy thereof, at his usual or last known place of abode in the Island, with some adult person, and there shall be paid or tendered to the person so summoned, if he do not reside within four miles of the Council Chamber, such sum for his expenses as may be prescribed by any Standing Order made in that behalf.

Attendance to be notified by summons.

19 The Council may require that any facts, matters, and things relating to the subject of inquiry before the Council be verified or otherwise ascertained by the oral examination of witnesses, and may cause any such witnesses to be examined upon oath which the Speaker is hereby authorized to administer.

Witnesses may be examined on oath.

20 If any person ordered to attend or produce any paper, book, record or document before the Council refuse to answer any question that may be put to him or to produce any such paper, book, record or document on the ground that the same is of a private nature and does not affect the subject of inquiry, the Council may thereupon excuse the answering of such question or the production of such paper, book, record or document, or may order the answering or production thereof.

Objection to answer questions or to produce papers.

21 Any person who, before the Council (and whether or not that person has been sworn or has made a solemn affirmation or declaration), after being duly cautioned as to his liability to punishment under this section, intentionally gives a false answer to any question material to the subject of inquiry which may be put to him during the course of any examination, shall be guilty of an offence under section 190 of the Ceylon Penal Code and shall be liable, on conviction, to the penalties prescribed by that section for that offence.

Penalty for perjury before Council or Committee.

22 The provisions of the Ceylon Evidence Ordinance, 1895, relating to privileged evidence shall apply in the case of evidence given before the Council.

Privileged evidence.

23 (1) Every witness before the Council who shall answer fully and faithfully any questions put to him by the Council shall be entitled to receive a certificate under the hand of the Speaker stating that such witness was upon his examination so required to answer and did answer any such questions.

Certificate issued to witnesses making full disclosure to be a bar to civil or criminal proceedings.

(2) On production of such certificate to any court of law such court shall stay any proceedings, civil or criminal, except for a charge under section 190 of the Ceylon Penal Code for perjury against such witness for any act or thing done by him before that time and revealed by the evidence of such witness, and may, in its discretion, award to such witness such expenses as he may have been put to.

Evidence of proceedings in the Council or Committee not to be given without leave.

24 No member or officer of the Council and no shorthand writer employed to take minutes of evidence before the Council shall give evidence elsewhere in respect of the contents of such evidence or of the contents of any manuscript or document laid before the Council or in respect of any proceedings or examination before the Council without the special leave of the Council first had and obtained. Such special leave may be given after a dissolution or during a recess or adjournment by the Speaker, or, in his absence or other incapacity, by the Clerk.

CHAPTER V.

Miscellaneous.

Commons Journals to be *primâ facie* evidence in inquiries touching privilege.

25 Subject to the provisions of this Ordinance, a copy of the Journals of the Commons House of the Parliament of the United Kingdom of Great Britain and Northern Ireland printed or purporting to be printed by the order or by the printer of the Commons House aforesaid shall be received as *primâ facie* evidence without proof of its being such copy upon any inquiry touching the privileges, immunities and powers of the Council or of any member thereof.

Journals printed by order of the Council to be admitted as evidence.

26 Upon any inquiry touching the privileges, immunities and powers of the Council or of any member, any copy of the journals printed or purporting to be printed by the Government Printer shall be admitted as evidence of such journals in all courts and places without any proof being given that such copy was so printed.

Penalty for printing false copy of Ordinance, journal, &c.

27 Any person who shall print or cause to be printed a copy of any Ordinance now or hereafter in force, or a copy of any report, paper, minutes or votes and proceedings of the Council as purporting to have been printed by the Government Printer or by or under the authority of the Council or by the Speaker, and the same is not so printed, or shall tender in evidence any such copy as purporting to be so printed knowing that the same was not so printed, shall be guilty of an offence and shall be liable upon conviction to imprisonment of either description for a period not exceeding three years.

Protection of persons responsible for publications authorised by the Council.

28 Any person, being a defendant in any civil or criminal proceedings instituted for or on account or in respect of the publication by such person or by his servant, by order or under the authority of the Council of any reports, papers, minutes, votes or proceedings, may, on giving to the plaintiff or prosecutor (as the case may be) twenty-four hours' written notice of his intention, bring before the court in which such civil or criminal proceedings are being held a certificate under the hand of the Speaker or of the Clerk stating that the reports, papers, minutes, votes or proceedings in respect whereof such civil or criminal proceedings have been instituted were published by such person or by his servants by order or under the authority of the Council together with an affidavit verifying such certificate, and such court shall thereupon immediately stay such civil or criminal proceedings and the same and every process issued therein shall be deemed to be finally determined.

Publication of proceedings without malice.

29 In any civil or criminal proceedings instituted for publishing any extract from or abstract of any such report, paper, minutes, votes or proceedings as in the preceding section mentioned, if the court or jury (as the case may be) be satisfied that such extract or abstract was published *bona fide* and without malice, judgment or verdict (as the case may be) shall be entered for the defendant or accused.

Members not to receive compensation for promotion or opposition of Bills, &c.

30 (1) No member shall accept or receive either directly or indirectly any fee, compensation, gift or reward for or in respect of the promotion of or opposition to any Bill, resolution, matter or thing submitted or intended to be submitted for the consideration of the Council.

(2) Any person acting in contravention of this section shall be liable to a penalty not exceeding fifteen thousand rupees, and, in addition, to repay the amount of the value of the fee, compensation, gift or reward accepted or received by him.

Attorney-General may sue for recovery of penalties.

31 The Attorney-General may sue for and recover in any civil court of competent jurisdiction in the Island any penalty incurred by any person under this Ordinance as though such penalty were a debt due to the Crown.

No person to be prosecuted for breach of Ordinance except by Attorney-General.

32 No prosecution for any contravention of or offence under this Ordinance shall be instituted in any criminal court in this Island except at the instance of the Attorney-General.

- 33 All fines imposed for contraventions of or offences under this Ordinance and all penalties and other moneys payable under this Ordinance shall, when recovered, be credited to the general revenue of the Island. Fines, &c., to be credited to general revenue.
- 34 (1) Every person guilty of a contravention of this Ordinance may, in addition to any other penalty to which he is liable by this Ordinance or by any other law, be sentenced by the Council to simple imprisonment for such period not exceeding one month as the Council shall determine: provided that such imprisonment shall be finally determined by the dissolution of the Council whether by effluxion of time or otherwise. Council empowered to impose sentence of imprisonment.
- (2) No person upon whom a sentence has been imposed under sub-section (1) shall be committed to prison except upon a warrant given under the hand of the Speaker.
- (3) Every warrant issued by the Speaker under this section shall for the purposes of the Fiscals Ordinance, 1867, be deemed to be a process issued by a court of competent jurisdiction.
- 35 For the purposes of this Ordinance, the person who fills the office of the Speaker at the time of any dissolution of the Council shall be deemed to be the Speaker until a Speaker has been elected in accordance with the provisions of the Order in Council. Speaker to act notwithstanding dissolution of Council.
- 36 Notwithstanding anything in any other written law to the contrary, no process issued by any court of this Island in the exercise of its civil jurisdiction shall be served or executed within the Council Chamber or through the Speaker, the Clerk or an officer of the Council. Civil process not to be served in Council Chamber.
- 37 (1) In this Ordinance, unless the context otherwise requires,— Interpretation.
- “ Clerk ” means the Clerk of the Council appointed under Article 27 of the Order in Council ;
- “ committee ” means any executive, standing, select or other committee of the Council, and includes the Board of Ministers ;
- “ Council ” means the State Council of Ceylon constituted under the Order in Council and, except in sections 5, 9, 10, 11 (1), 11 (2) (c), 12 (1), 14 and 34, includes a committee ;
- “ journals ” means the minutes of the Council or the official record of the votes or proceedings thereof ;
- “ member ” means a member of the Council whether elected or nominated, and includes an Officer of State ;
- “ Order in Council ” means the Ceylon (State Council) Order in Council, 1931 ;
- “ officer of the Council ” means any person who may from time to time be appointed to the staff of the Council, whether permanently or temporarily, and includes the Clerk and any police officer on duty within the precincts of the Council Chamber ;
- “ Speaker ” includes the person for the time being presiding over the Council ;
- “ Standing Order ” means a Standing Order made in accordance with Article 26 of the Order in Council.
- (2) In the interpretation of this Ordinance—
- (a) any reference to the Speaker in a section in which the expression “ Council ” is defined to include a committee shall, for the purpose of the application of that section to a committee, be construed as a reference to the Chairman of the committee or other member for the time being presiding over the committee ;
- (b) any reference to a Board, Committee or person mentioned in the Order in Council by name, designation, or office, shall be construed as a reference to the Board or Committee which for the time being is entitled to function under that name under the Order in Council, or to the person for the time being holding that office or entitled to that designation under the Order in Council, as the case may be.
- 38 It is hereby expressly declared and enacted that nothing in this Ordinance contained shall be deemed directly or indirectly by implication or otherwise to diminish the rights, privileges or powers of the Council whether such rights, privileges or powers are held by custom, statute, or otherwise in any manner whatsoever. Saving of rights, powers and privileges of the Council.

Objects and Reasons.

Article 73 of the Ceylon (State Council) Order in Council, 1931, provides that a law may be enacted to define the privileges, immunities and powers to be held, enjoyed and exercised by the State Council and by the members thereof. The exercise of the power conferred by Article 73 is subject to the restriction that the privileges, immunities and powers so defined and assumed by law shall not exceed those for the time being held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Northern Ireland or the members thereof.

The object of this Bill is to give effect by Ordinance to the powers conferred by Article 73 subject to the restrictions referred to in that Article.

2. The general scheme of the Bill is to assume specifically those powers, privileges and immunities which have been defined by Parliamentary decisions and statutes, inveterate usage, judicial interpretation and contemporary Dominion or Colonial legislation and, in addition, to take by a general Clause all such other powers and privileges which are exercised and enjoyed by Members of Parliament by virtue of that body of customary law known as the *lex et consuetudo parliamenti*.

3. The provisions of Article 73 of the Order in Council are identical with those of Article 25 of the Letters Patent providing for the constitution of responsible government in the Colony of Southern Rhodesia, and much assistance in the preparation of this Bill has been derived from reference to the Southern Rhodesia Powers and Privileges of Parliament Act, 1924, which, in turn, appears to have been modelled on the Transvaal Powers and Privileges of Parliament Act, 1907. It appears to be well established that, in England, the privileges of the House attached to a committee of the House, but some difficulty has been experienced in the application of this principle to the Board of Ministers and to Executive Committees under our constitution. This Bill defines a committee to include the Board of Ministers and an Executive Committee but care has been taken to vest the punitive powers of the Council in the whole assembly and not in a committee of the Council. The definition of "Council" accordingly excludes a committee in every section which relates to the exercise of the punitive powers of the Council.

4. Clause 3 asserts the freedom of speech and debate or proceedings in the Council. The phraseology of this Clause is derived from the Bill of Rights, 1688 (1 William and Mary, Session 2, Chapter 2). As a necessary corollary to this declaration of freedom of speech, Clause 3 sets out the immunity of members from civil or criminal action or process in respect of any speech made or resolution moved in the Council or in a committee.

5. Clause 4 provides that a member shall not be arrested in the execution of civil process while proceeding to, or in attendance at, or returning from any meeting or sitting of the Council and affirms the original privilege of freedom from arrest extended to Members of Parliament "*eundo, morando, et exinde redeundo*". The proviso that this privilege shall not extend to proceedings in insolvency has been inserted in order that the privilege conferred should not exceed that of a member of Parliament who, if he commits an act of bankruptcy, can by section 128 of the Bankruptcy Act, 1914, be dealt with under that Act in like manner as if he had no parliamentary privilege.

6. Clause 6 empowers the Speaker to decide whether a matter of privilege is involved in a civil or criminal case. This power has been conferred on the Speaker in recognition of the principle that the Council is the sole judge on all matters affecting its own privileges and can delegate to the Speaker all the powers vested in it for such purpose.

7. Clause 7 assumes generally all the privileges, immunities and powers of Parliament not otherwise expressly defined in the Bill. Clause 8 provides that all privileges, immunities and powers should be judicially noticed by the courts. The object of this provision is to ensure the recognition of the privileges of the Council and its members even though such privilege is not claimed or pleaded by an individual member of the Council. The principle underlying the Clause is that waiver of privilege affects the dignity of the House and should not be permitted in any circumstances.

8. Clauses 9 and 10 enable the Council to function as a Court of Record in the exercise of its punitive powers. This jurisdiction is reserved to the entire assembly and cannot be exercised by a committee of the Council.

9. Chapter II. enumerates a variety of acts and matters which have by judicial interpretation and parliamentary practice been regarded as contempts of the authority of a legislative assembly. The definition of "Council" restricts the application of Clause 11 (2) (c) to cases in which a rule, order or resolution of the entire Council has been disobeyed.

10. Chapter III. provides the necessary ancillary procedure for the enforcement of orders made by the Council in the exercise of the powers to punish contempts of its authority. Warrants for arrest and commitment are issued by the Speaker and may be entrusted either to the Fiscal or to an officer of the Council for execution. Clause 16 is a codification of the decision of the House of Lords in the case of Sir Francis Burdett (1810) where it was held that the Sergeant-at-Arms could break open an outer door in the day time for the purpose of arresting a person on a warrant issued by the Speaker.

11. Chapter IV. contains miscellaneous provisions relating to the right of the Council or a committee of the Council to summon witnesses, to take evidence and to require the production of documents. The provisions of the Evidence Ordinance, relating to privileged evidence in the courts will apply equally to evidence given before the Council and witnesses are by Clause 23 protected against civil action or criminal prosecution in respect of matters revealed by the evidence so given by them before the Council.

12. Clause 25 provides that the Journals of Parliament may be used as *prima facie* evidence upon any inquiry touching the privileges, immunities and powers of the Council without special proof of the matter recorded in such Journals. Clauses 28 and 29 protect persons who have published documents on the authority of the Council against civil action or criminal prosecution.

13. A member who accepts any fee or reward for or in respect of or opposition to a Bill is by Clause 30 made liable to a penalty not exceeding Rs. 15,000 which the Attorney-General is authorised to recover by civil action in a court of competent jurisdiction (Clause 31). Clause 34 empowers the Council to impose a sentence of simple imprisonment for a term not exceeding one month as punishment for the contravention of any of the provisions of the Bill. Such imprisonment will be in addition to any other penalty prescribed in the Bill or by other written law.

J. W. R. ILANGAKOON,
Acting Attorney-General.

Attorney-General's Chambers,
Colombo, July 22, 1935.

MINUTE.

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

M. L. A. 124

An Ordinance to amend the Whaling Ordinance, 1928.

No. 30 of 1928.

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 Whaling Amendment Ordinance, No. of 1935.

Short title.

2 The Schedule to the Whaling Ordinance, 1928, is hereby amended by the substitution, for the form of licence set out therein, of the form set out in the Schedule to this Ordinance.

Amendment of Schedule to Ordinance No. 30 of 1928.

SCHEDULE.

Form of Licence.

(S. 3.)

Whaling Ordinance, 1928.

No. —.

Subject to the provisions of the Whaling Ordinance, 1928, and of the regulations made thereunder, licence is hereby granted to _____ of _____ (hereinafter called "the licensee") to kill, hunt, and take whales in the colonial waters of Ceylon within the following limits :—

And to fench, render, boil down, treat, or manufacture the blubber or any part of the carcase of any whales so taken,

For a period of five years from the date of this licence :

And (1) to establish—

*(a) A floating factory at _____ on the following vessel :—
ss. " _____ ".

*Strike out whichever is inapplicable.

*(b) A land factory at _____ ; and

(2) To employ the following vessel as a whale-catching vessel :—

ss “ _____ ”.

This licence is also subject to the following terms and conditions :—

1. This licence is not transferable without the approval of the Governor first obtained.

2. The licensee shall, within one year from the date of this licence, establish the floating (*or* land) factory referred to above.

3. (1) The licensee shall not establish any additional factory or employ any additional whale-catching vessel until the payment of the additional fee prescribed in that behalf and the particulars of such factory or vessel are duly endorsed on this licence by the Marine Biologist.

(2) The licensee shall not be entitled to have this licence endorsed for the use of more than three additional whale-catching vessels.

4. The licensee shall pay to the Marine Biologist a fee of Rs. 300 per annum in respect of the factory and one whale-catching vessel, and a fee of Rs. 150 per annum for every additional factory or whale-catching vessel established or employed by him.

5. The licensee shall in every year during the period for which this licence is granted pay to the Principal Collector of Customs an export duty of one rupee per 40 gallons for the first 160,000 gallons exported from Ceylon during the year, and of two rupees for each quantity of 40 gallons in excess of that number.

6. The proportion which the production of press oil shall bear to the total production of oil shall be not less than one gallon of press oil to two and a half gallons of blubber oil.

7. The licensee shall not take or kill—

(a) any sperm whale of a length less than 25 feet, or such other length as the Governor may specify at the end of two years from this date in revision of this condition ; or

(b) any whale calf or immature whale, or any female whale when it is accompanied by a calf ; or

(c) any blue whale of a length less than 60 feet, the term “ blue whale ” being deemed to include Sibbald’s rorqual and sulphur bottom ; or

(d) any fin whale of a length less than 50 feet, the term “ fin whale ” being deemed to include common finback, common finner, common rorqual, fin back, herring whale and razorback ; or

(e) any right whale, the term “ right whale ” being deemed to include North Cape whale, Greenland whale, southern right whale, Pacific right whale and southern pigmy right whale.

8. A close season for whales may be imposed by the Governor and shall be observed by the licensee.

9. The licensee shall pay as compensation in respect of any damage to any fishing vessel or fishing appliance at any time resulting from his operations such amount as shall be assessed by the Government Agent or Assistant Government Agent of the district within which the owner or lessee of such vessel or appliance resides.

10. The licensee shall from time to time supply the Governor with any information he may require, and on or before January 31 in each year shall render to the Governor an annual report on his operations during the previous year. Such reports shall state *inter alia* the following particulars :—

(1) The number and description of whales taken during each month of the year ;

(2) In respect of each whale taken by him details as to—

(a) Date of taking.

(b) Place of taking.

(c) Species.

(d) Sex.

(e) Length—measured, from tip of the snout to the notch between the flukes of the tail, if whale is taken out of the water ; estimated, if cut up in the water.

(f) Length and sex, if ascertainable, of any foetus present.

(g) Contents of stomach, if ascertainable.

(3) The number of gallons of oil of various grades produced during each month of the year ;

(4) The quantity of baleen obtained ;

(5) The quantity of guano (which term shall include all fertilizers obtained from the whale) manufactured.

11. The licensee shall permit an authorized representative of the Department of Fisheries to inspect his records at all reasonable times.

12. The licensee shall at all times during the continuation of this licence have a duly appointed agent resident in the Island to represent him.

13. The licensee shall make adequate arrangements for utilising all residue left after the extraction of the oil.

14. The licensee shall not engage gunners or crew for any of his whaling vessels on such terms as are likely to make their remuneration depend solely upon the mere number of whales taken.

15.*

Licence fee Rs. 300 paid.

(Sgd.) _____

Marine Biologist.

* Here insert any additional terms and conditions to which this licence is subject.

Forms of Endorsement.

1. The licensee is hereby permitted to establish an additional floating (or land) factory at _____ (If a floating factory, *continue* and to use the following vessel for that purpose :—

ss. " _____ ").

Fee paid Rs. 150.

(Sgd.) _____,

Marine Biologist.

2. The licensee is hereby permitted to use the following vessel as an additional whale-catching vessel :—

ss. " _____ ".

Fee paid Rs. 150.

(Sgd.) _____,

Marine Biologist.

Objects and Reasons.

The object of this amendment of the Whaling Ordinance, 1928, is to insert in the form of the licence set out in the Schedule to that Ordinance additional conditions that have to be included in order to enable effect to be given to the terms of an International Convention for the Regulation of Whaling signed at Geneva on the 24th September, 1931. It was found necessary to alter the order of the existing conditions in order to give the new conditions their proper context. A new form of licence containing all the conditions rearranged in their proper sequence has accordingly been substituted for the existing form.

CHAS. BATUWANTUDAWA,
Minister for Local Administration.

Colombo, July 19, 1935.