



THE
CEYLON GOVERNMENT
GAZETTE

EXTRAORDINARY.

No. 8,170 — WEDNESDAY, NOVEMBER 13, 1935.

Published by Authority.

PART II.—LEGAL.

DRAFT ORDINANCE.

MINUTE.

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

An Ordinance to amend the Prisons Ordinance, 1877. No. 16 of 1877.

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 Prisons Amendment Ordinance, No. of 1935. Short title.

2 Section 4 of the Prisons Ordinance, 1877, (hereinafter referred to as “ the principal Ordinance ”) is hereby repealed and the following new section is substituted therefor :— Substitution of a new section for section 4 of Ordinance No. 16 of 1877.

4 In this Ordinance, unless the context otherwise requires— Interpretation.

“ assault ”, “ criminal force ”, “ hurt ”, and “ grievous hurt ”, respectively, have the same meaning as in the Ceylon Penal Code ; No. 2 of 1883.

“ civil prisoner ” means—

(a) a judgment-debtor committed to prison under the Civil Procedure Code, 1889 ; or No. 2 of 1889.

No. 15 of
1898.

- (b) a person committed to prison under section 280 of the Criminal Procedure Code, 1898, in default of payment of a fine imposed under that section of that Code ; or
- (c) a person ordered to be detained in prison under section 383 of the Criminal Procedure Code, 1898 ; or
- (d) a person committed to prison under section 411 (4) of the Criminal Procedure Code ; or
- (e) a person committed to prison for contempt of court, not being a person sentenced—
 - (i) to rigorous imprisonment for contempt of court ;
 - (ii) to simple or rigorous imprisonment as for a contempt of court under section 440 (I) of the Criminal Procedure Code, 1898 ; or
- (f) a person committed to prison by order of a civil court under any provision of written law which does not authorise a sentence of rigorous imprisonment to be imposed ;

“criminal prisoner” means any prisoner other than a civil prisoner ;

“close confinement” means confinement which deprives a prisoner of all means of communication with other prisoners ;

“court” includes a village tribunal, and a village committee when it is acting judicially ;

“Executive Committee” means the Executive Committee of Home Affairs ;

“Inspector-General” means the Inspector-General of Prisons ;

“prison” includes any prison hospital and any grounds or buildings occupied or used for the purposes of the prison ;

“prison officer” means an officer of the prison staff ;

“punishment cell” means an unfurnished cell used for the purpose of carrying out any punishment ;

“Visitor” means—

- (a) a member of the Board of Prison Visitors or of a Local Visiting Committee, acting individually in any matter in which he is authorised by this Ordinance to act individually, or
- (b) an Additional Prison Visitor.

Amendment of section 5 of the principal Ordinance.

3 Section 5 of the principal Ordinance is hereby amended as follows :—

- (1) by the substitution for the words “any court, Justice of the Peace, or Coroner or Deputy Coroner”, of the words “any court” ; and
- (2) in the proviso to that section, by the omission of the words “with the advice of the Executive Council”.

Amendment of section 8 of the principal Ordinance.

4 Section 8 of the principal Ordinance is hereby amended as follows :—

- (1) by the substitution for the words “Coroner, Deputy Coroner, or Justice of the Peace”, of the words “President of a village tribunal or Chairman of a village committee” ; and
- (2) by the substitution for the words “Coroner, Deputy Coroner, or Justice” wherever they occur therein, of the words “President or Chairman”.

Insertion of new section 12A in the principal Ordinance.

5 The following new section shall be inserted immediately after section 12, and shall have effect as section 12A, of the principal Ordinance :—

Officers to be deemed always to be on duty and prisoners always under discipline.

12A (1) Every prison officer shall, for the purposes of this Ordinance, be deemed to be always on duty.

(2) Every prisoner while being taken to or from any prison or while working outside prison walls or remaining for any other authorised purpose under the custody and control of any prison officer beyond the limits of any prison, shall be deemed to be in prison and to be subject to the discipline prescribed by this Ordinance and the rules made thereunder.

Amendment of section 17 of the principal Ordinance.

6 Section 17 of the principal Ordinance is hereby amended by the substitution for the words “Governor, acting with the advice of the Executive Council”, of the words “the Executive Committee, after consulting the Executive Committee of Health”.

7 Section 23 of the principal Ordinance is hereby amended by the substitution for the words "nearest Coroner or Deputy Coroner of the district", of the words "Police Magistrate having jurisdiction over the area in which the prison is situated".

Amendment of section 23 of the principal Ordinance.

8 Section 32 of the principal Ordinance is hereby repealed and the following section is substituted therefor :—

Substitution of a new section for section 32 of the principal Ordinance.

32 (1) It shall be lawful for the Governor to appoint a Board of Prison Visitors for the purpose of—

Appointment of Board of Prison Visitors, Local Visiting Committees and additional Prison Visitors.

- (a) advising the Inspector-General in matters relating to the general administration of prisons in the Island other than matters relating to the appointment, discipline and control of the prison staff, and
- (b) investigating and reporting on any matter concerning prisons referred to it either by the Inspector-General or the Executive Committee.

(2) The Board shall consist of the Inspector-General who shall be its Chairman and of not less than six other members, four of whom shall be persons who do not hold any public office under the Crown.

(3) It shall be lawful for the Governor to appoint in respect of each prison in the Island a Local Visiting Committee for the purpose of—

- (a) visiting the prison periodically and reporting to the Inspector-General any matter concerning the prison which, in their opinion, requires his attention ;
- (b) investigating and reporting at the request either of the Executive Committee or the Inspector-General on any matter concerning the prison other than matters relating to the control and discipline of the prison staff ; and
- (c) exercising any other power or performing any other duty conferred or imposed by any written law upon a Local Visiting Committee.

(4) Each Local Visiting Committee shall consist of a chairman and three other members and shall meet once at least in every half year within the prison.

(5) At least one member of every Local Visiting Committee shall, unless prevented by illness or other sufficient cause, visit the prison for which that Committee is appointed once at least in each week, and the members of each Local Visiting Committee shall determine among themselves the arrangements to be made for ensuring that such visits are regularly and duly made.

(6) It shall be lawful for the Governor to appoint, as an Additional Prison Visitor to any prison or prisons, any fit and proper person who is not a member of the Board of Prison Visitors or of the Local Visiting Committee, and every such person shall, with reference to the prison or prisons in respect of which he is appointed, be entitled to exercise the rights, and be liable, when called upon by the Superintendent of the prison, to perform the duties of a member of the Local Visiting Committee.

(7) Any person appointed as a Visitor may be removed from office by the Governor at any time.

9 The following new sections shall be added immediately after section 32 of the principal Ordinance and shall have effect respectively as sections 32A, 32B and 32C of that Ordinance :—

Insertion of new sections 32A, 32B and 32C in the principal Ordinance.

32A Every visitor shall, unless earlier removed from office by the Governor, hold office for a period of three years from the date of his appointment as a Visitor.

Term of office of Visitors.

32B (1) Every Visitor shall be entitled to enter a prison at any time and to make any inquiry or investigation therein relating to the treatment of prisoners : Provided that a member of a Local Visiting Committee or an Additional Prison Visitor shall not enter or hold any inspection, inquiry, or investigation, in any prison other than that for which he has been appointed.

Visitors' right of entry into prisons.

(2) Nothing in this Ordinance shall be deemed to abridge or affect the power of any judge of the Supreme Court to visit any prison at any time and to hold therein any inspection, investigation or inquiry which he may consider necessary.

Penalty for obstructing or refusing admittance to authorised officers or Visitors.

32c (1) No jailor or subordinate prison officer shall refuse admittance or offer any hindrance or obstruction to any Visitor, or to any member of the State Council, or to any District Judge, Police Magistrate or Commissioner of a Court of Requests having jurisdiction in the district wherein the prison is situated, or to any person authorised by any rule made under section 76.

(2) A jailor or subordinate prison officer who acts in contravention of this section shall be guilty of an offence and shall be liable to be tried and punished therefor under the provisions of section 69.

Substitution of new section for section 33 of the principal Ordinance.

10 Section 33 of the principal Ordinance is hereby repealed and the following section is substituted therefor :—

Visitors to hear complaints and punish or report under section 67.

33 (1) Every Visitor appointed under this Ordinance shall hear all complaints which may be made to him by any prisoner respecting any deficiency in the quantity or quality of the food or respecting any ill-treatment that he may have received in the prison.

(2) Where any complaint appears to be frivolous or malicious, the Visitor hearing it may order the confinement of the prisoner making such complaint in a punishment cell for not more than forty-eight hours, and may direct that during the period of such confinement the prisoner be placed on the most restricted diet prescribed by rules under this Ordinance, and the jailor shall comply with every such order or direction.

(3) Where any complaint is substantiated to the satisfaction of the Visitor—

- (a) if in his opinion the complaint is not of a serious character, he shall make a report thereon to the Inspector-General, and
- (b) if he considers that the complaint discloses the commission of an offence sufficiently serious to require the intervention of a court of justice, he shall immediately report the matter to the Attorney-General and send a copy of his report to the Inspector-General.

Amendment of sections 59, 60 and 69 of the principal Ordinance.

11 Sections 59, 60 and 69 of the principal Ordinance are hereby amended by the substitution in each of those sections for the words "imprisonment, with or without hard labour", of the words "imprisonment of either description".

Insertion of new section 62 in the principal Ordinance

12 The following new section shall be inserted immediately after section 61 of the principal Ordinance and shall have effect as section 62 of that Ordinance :—

Punishment for escape.

62 If a prisoner in any manner whatsoever whether within or without any prison aids or abets any other prisoner in escaping or in attempting to escape from lawful custody, that prisoner and the prisoner escaping or attempting to escape from such custody shall severally be guilty of an offence triable by a tribunal constituted under section 67 and punishable with imprisonment of either description for a period not exceeding five years in addition to the original sentence which each of the prisoners is serving at the time.

Repeal of section 63 of the principal Ordinance.

13 Section 63 of the principal Ordinance is hereby repealed.

Substitution of new section for section 64 of the principal Ordinance.

14 Section 64 of the principal Ordinance is hereby repealed and the following section is substituted therefor :—

List of prison offences.

64 A prisoner shall be guilty of an offence against prison discipline if he—

- (1) mutinies or incites another prisoner to mutiny ;
- (2) assaults or uses criminal force on, or causes hurt or grievous hurt to, a prison officer or another prisoner, or incites a fellow prisoner to commit any such offence ;
- (3) fails or refuses to obey any order of the Superintendent or of any other prison officer or commits a breach of any prison regulation ;
- (4) escapes or conspires to escape from lawful custody ;
- (5) swears, curses, or uses any abusive, insulting, threatening or other improper language or gesture ;
- (6) is indecent in language, conduct, act or gesture ;
- (7) is impertinent, insubordinate or insolent in demeanour to any prison officer or to any Visitor ;
- (8) creates a disturbance or behaves in a disorderly manner ;
- (9) refuses to work, or wilfully mismanages work, or fails to perform his allotted task, or is idle, careless or negligent at work ;

- (10) wilfully evades labour by self-disablement or by refusing to take food or by feigning madness or illness or other incapacity for work ;
- (11) wilfully damages or disfigures any part of the prison, any prison property or any prison clothing or equipment ;
- (12) is in possession of, or keeps in a cell or any other place any article not permitted by the rules of the prison ;
- (13) leaves a cell or other place of work or location without permission ;
- (14) gives to, or receives from, or exchanges with, any other prisoner any article whatever without the permission of the Superintendent ;
- (15) trafficks or has any business dealings with any prison officer or with any other person ;
- (16) without the authority of a prison officer, communicates whether by writing, speech or gesture with any person who is not connected with the administration of the prison ;
- (17) gambles, or possesses any playing cards dice or other instrument or device for gambling ;
- (18) prefers a false charge against a prison officer or another prisoner or incites any other prisoner to do so ;
- (19) makes groundless complaints or incites others to do so ;
- (20) removes food from the place where meals are consumed, or conceals food ;
- (21) commits any nuisance ;
- (22) bathes or washes at unauthorised places or times ;
- (23) writes or receives any unauthorised letter or communication ;
- (24) omits or refuses when called upon to assist a prison officer in quelling a mutiny or disturbance or in capturing any escaped or escaping prisoner, or leaves his seat, working place or other location during a mutiny or disturbance without an order from a prison officer ;
- (25) omits to give a warning or an alarm when it is known that a prisoner is escaping or attempting to escape ;
- (26) omits to give immediate information to the prison authorities when he is aware of a design to commit an offence against the rules ;
- (27) files, cuts or tampers with iron bars, locks or doors ;
- (28) commits a breach of any rule or lawful order ;
- (29) offends in any other way against the good order and discipline of the prison ;
- (30) aids and abets another prisoner in committing or attempting to commit any of the foregoing offences against prison discipline ; or
- (31) attempts to commit any of the foregoing offences other than those specified in paragraphs (3), (5), (7), (8), (9), (12), (19), (24), (25) and (26).

15 Section 65 of the principal Ordinance is hereby amended as follows :—

Amendment of section 65 of the principal Ordinance.

- (1) by the substitution for the words " The Superintendent or in his absence a visitor ", of the words " Save as provided in section 67, the Superintendent or in his absence a Visitor " ;
- (2) by the repeal of paragraph (3) thereof ;
- (3) by the substitution in paragraph (4) thereof, for the words " When the offender is not sentenced to hard labour ", of the words " Where the offender is not serving a sentence of rigorous imprisonment " ;
- (4) by the re-numbering of paragraphs (1), (2), (4) and (5) thereof as paragraphs (5), (6), (7) and (8) respectively ;
- (5) by the insertion of the following new paragraphs (1), (2), (3) and (4) therein immediately before the re-numbered paragraph (5) :—

- " (1) By warning or reprimand ;
- (2) By the forfeiture of any number of remission marks not exceeding 360 for each offence ;
- (3) By reduction to a lower class or detention in any class for a period in respect of each offence not exceeding one month if that class is the prescribed penal stage, or ninety days in any other case ;
- (4) By postponement or forfeiture of any one or more privileges ; "

(6) by the addition of the following proviso thereto :—

“ Provided that—

(1) in all cases where the complaint is made by or on behalf of the Superintendent or the Inspector-General, and in other cases in which the interests of justice may so require, the offences shall be tried and punished only by a Visitor, and

(2) the Inspector-General shall have power—

(a) to call for and revise any proceedings taken under this section by the Superintendent and to confirm, modify or reverse his findings ;

(b) to remit or vary the punishment awarded by the Superintendent ; or

(c) to make such order thereon as justice may require, other than an order increasing the punishment awarded by the Superintendent.”

16 Section 67 of the principal Ordinance is hereby repealed and the following section is substituted therefor :—

Substitution of a new section for section 67 of the principal Ordinance.

Constitution and powers of tribunal for punishment of prisoners.

67 (1) (a) If any prisoner is charged with mutiny or incitement to mutiny, or with causing hurt or grievous hurt or with escaping or attempting to escape from lawful custody, or with an attempt to cause hurt to a prison officer by means of any instrument for shooting, stabbing or cutting, or any instrument which, when used as a weapon of offence, is likely to cause death ; or

(b) if any prisoner is charged with any offence against prison discipline which, in the opinion of the Superintendent or a Visitor acting under section 65, is not adequately punishable by him or is not adequately punishable under that section by reason of the prisoner's record of previous convictions of offences against prison discipline, the Superintendent shall in the former case, and the Superintendent or Visitor may in the latter, cause the offender to be tried by a tribunal consisting of the District Judge of the district in which the prison is situated and two Visitors who shall be members of the Local Visiting Committee, unless for any reason no member of that Committee is able to serve on that tribunal.

(2) (a) Every inquiry into a prison offence under this section shall be held in the prison on such date not later than seven days after the receipt of information of the offence from the Superintendent, as the District Judge may appoint.

(b) Every Visitor summoned for the purpose of acting in a judicial capacity under the provisions of this section shall attend at the prison on the date and at the time specified unless prevented by illness or other sufficient cause : Provided that in the event of either or both of the Visitors summoned failing so to attend, the District Judge and the Visitor who is present or the District Judge alone, as the case may be, may perform all the functions and exercise all the powers of the tribunal.

(3) The tribunal shall have power to inquire into the offence upon oath or affirmation and by a majority verdict to punish the offender—

(a) with confinement in a punishment cell for any time not exceeding one month ; or

(b) with any one of the several punishments a Superintendent is authorised to impose under section 65 ; or

(c) with imprisonment of either description for a term not exceeding five years in the case of the offence of escaping or attempting to escape from lawful custody or the abetment of any such offence, and not exceeding six months in any other case ;

(d) with corporal punishment not exceeding 24 lashes with a whip or 24 strokes with a rattan in the following cases :—

(i) mutiny or incitement to mutiny,

(ii) causing hurt or grievous hurt to a prison officer, or attempting to cause hurt to any such officer by means of an instrument for shooting, stabbing, or cutting or any instrument which, when used as a weapon of offence, is likely to cause death ; or

(e) with a combination of any two of the above-mentioned punishments.

(4) Nothing in this section shall authorise the infliction of corporal punishment on any female prisoner or on any civil prisoner or on any person remanded by a court pending inquiry or trial.

(5) In any case where the whole or any part of a sentence of corporal punishment cannot for any reason be carried into execution, the Superintendent shall report the fact to the District Judge who, with the concurrence of the other members of the tribunal which inquired into the offence, may order that in lieu of corporal punishment or in lieu of so much of the corporal punishment as was not carried out, the offender be punished with imprisonment of either description for any term which the tribunal is competent to impose, any imprisonment so imposed being in addition to any other punishment already imposed on the offender for that offence: Provided that if for any reason the report of the Superintendent under this sub-section cannot be considered by the tribunal which originally inquired into the offence, it shall be competent for another tribunal duly constituted under this section to consider such report and to make order thereon as hereinbefore provided.

(6) A term of imprisonment imposed under this section shall not run concurrently with, but shall be in addition to, any term of imprisonment or of preventive detention which the offender may be undergoing at the time of the inquiry.

(7) Any term of imprisonment imposed under any other written law on an offender at any time while he is serving a term of imprisonment imposed under this section, shall commence on the expiry of the term of imprisonment imposed under this section.

17 The following sections shall be inserted immediately after section 67 of the principal Ordinance and shall have effect respectively as sections 67A, 67B, 67C and 67D of that Ordinance:—

67A Any prisoner undergoing a sentence of imprisonment of either description or of preventive detention, or any prisoner sentenced to hard labour for an offence against prison discipline, who—

- (a) wilfully refuses to work or perform hard labour, or
- (b) wilfully disables himself so as to be incapable of work or hard labour, or
- (c) evades work or hard labour by malingering, or refusing to take food or otherwise,

shall, on conviction either under section 65 or 67 of this Ordinance or under any other written law, be liable, in addition to any other punishment which may be awarded, to imprisonment of either description for a further period equal to the period during which he so evaded work or hard labour.

67B Every prisoner found guilty by a court of law, or by the authority or tribunal specified in section 65 or section 67, either of assaulting or using criminal force on or causing hurt or grievous hurt to a prison officer or of an escape or an attempt to escape, shall, if the Inspector-General by order in writing so directs, in addition to any other punishment—

- (1) forfeit all or any of the remission marks previously earned by him;
- (2) be classed and treated in all other respects as a prisoner commencing a new sentence;
- (3) wear, for such period as may be specified in the order, such distinctive clothing as may be prescribed by rules made under section 76.

67C There shall be no appeal from a conviction or sentence under section 65 or section 67.

67D Nothing contained in sections 65, 67A, 67B and 67C shall be deemed to deprive any competent court in the Island of its jurisdiction to hear and determine any charge in respect of an offence punishable under the Ceylon Penal Code or any other written law: Provided, however, that no person shall be punished both under the aforesaid sections and by a court for the same offence.

18 Sections 70, 71, 72, 73, 74, and 75 of the principal Ordinance are hereby repealed and the following sections are respectively substituted therefor:—

70 No prisoner shall be put under mechanical restraint as a punishment.

Insertion of new sections 67A, 67B, 67C and 67D in the principal Ordinance.

Evasion of labour by malingering, &c., liable to result in extension of term of imprisonment.

Additional penalties for prisoners guilty of escape or of assaulting prison officers.

No appeal from convictions under section 65 or section 67.

Ordinary criminal courts to retain jurisdiction.

No. 2 of 1883.

Substitution of new sections for sections 70, 71, 72, 73, 74 and 75 of the principal Ordinance.

Prohibition of mechanical restraint as punishment.

Means of restraint for purposes of extra-mural security.

71 (1) A prisoner may, when confined in an insecure place or whenever he is outside prison walls, be put in handcuffs solely as a measure of precaution against violence, disturbance, mutinous conduct, escape, or rescue and, where the number of such prisoners being males exceeds two, they may for the same reason, be secured by a gang chain and wrist-cuffs.

(2) A male prisoner, when confined in an insecure place or whenever he is outside prison walls, may, with the approval of a medical officer, be put in body-belt with side-cuffs to prevent violence, disturbance, mutinous conduct, escape or rescue, but only on the orders of a prison officer not below the rank of Jailer.

Means of restraint for purposes of intra-mural discipline.

72 When, in order to prevent any prisoner from injuring himself or others, or damaging property or creating a disturbance, or using violence, or in any case of insubordination or mutiny, it is necessary, in the interests of discipline, to place him under mechanical restraint, a prison officer not below the rank of Jailer (or in the case of a prisoner mentally deranged, the medical officer) may order him to be placed under mechanical restraint. The use of restraints under this section shall forthwith be reported to the Superintendent, who shall inquire into the matter, give such orders as appear to be necessary and report the circumstances to the Inspector-General for final decision.

Duration of restraint.

73 No prisoner shall be kept under mechanical restraint for a longer period than is necessary, and in no case for more than 24 consecutive hours unless an order approving such restraint and specifying the cause and duration thereof is made by the Inspector-General. Such order shall be preserved by the Superintendent as his authority for the employment of restraint.

Register of Restraints.

74 Particulars of every case in which any mechanical restraint is used shall be forthwith recorded by the Superintendent in a "Register of Restraints" which shall be kept in every prison in such form as may be prescribed by rules under section 76.

Means of restraint to be approved.

75 No handcuffs, body-belts or other mechanical means of restraint shall be used except of such patterns and in such manner and under such conditions as may be approved by the Governor.

Amendment of section 76 of the principal Ordinance.

19 Section 76 of the principal Ordinance is hereby amended as follows:—

- (1) by the substitution for the words, "the Governor, acting with the advice of the Executive Council", of the words "Executive Committee";
- (2) in paragraph (11) thereof, by the substitution for the word "convicts" wherever it occurs therein, of the word "prisoners";
- (3) in paragraph (14) thereof, by the substitution for the words "visitors of prisons" of the words "the Board of Prison Visitors, Local Visiting Committees and Additional Prison Visitors";
- (4) by the repeal of paragraph (15) thereof, and the substitution of the following new paragraph for that paragraph:—

"(15) For prescribing for the purposes of section 75 the approved patterns of hand-cuffs, body-belts, and other mechanical means of restraint and the manner in which and the conditions under which they may be used; and

- (5) by the repeal of the proviso thereto, and the insertion of the following new proviso:—

"Provided that no rule made under this Ordinance shall have effect until it is approved by the State Council and ratified by the Governor and notification of such approval and ratification is published in the Gazette."

Repeal of section 77 of the principal Ordinance.

20 Section 77 of the principal Ordinance is hereby repealed.

Amendment of sections 78, 81 and 84 of the principal Ordinance.

21 Sections 78, 81, and 84 of the principal Ordinance are hereby amended by the omission of the words "Coroner, Deputy Coroner, or Justice of the Peace", and of the words "Coroner, Deputy Coroner, or Justice", wherever they occur therein.

22 Section 79 of the principal Ordinance is hereby amended as follows :—

- (1) by the omission of the words “ Coroner, Deputy Coroner, or Justice of the Peace ”;
- (2) by the substitution for all the words from “ it shall be lawful ” to “ under his hand ”, of the following :—
“ it shall be lawful for such court in its discretion, if it considers the presence of such prisoner necessary for the ends of justice, by an order in writing ”; and
- (3) by the omission of the words “ Coroner, Deputy Coroner, or Justice ”.

Amendment of section 79 of the principal Ordinance.

23 Section 80 of the principal Ordinance is hereby amended as follows :—

- (1) by the substitution for the words “ Coroner or Deputy Coroner ”, of the words “ Police Magistrate or Inquirer ”, and
- (2) by the substitution for the word “ juror ”, of the word “ assessor ”.

Amendment of section 80 of the principal Ordinance.

24 Section 83 of the principal Ordinance is hereby amended as follows :—

- (1) by the substitution for the words “ civil prisoners ” of the words “ judgment-debtors ”; and
- (2) by the substitution for the words “ the 68th section of ‘ The Fiscals Ordinance, 1867 ’ ”, of the words “ section 315 of the Civil Procedure Code, 1889 ”.

Amendment of section 83 of the principal Ordinance.

25 Section 85 of the principal Ordinance is hereby amended by the substitution for the words “ civil prisoners ” wherever they occur therein, of the words “ judgment-debtors ”.

No. 2 of 1889.
Amendment of section 85 of the principal Ordinance.

26 Section 86 of the principal Ordinances is hereby repealed.

Repeal of section 86 of the principal Ordinance.

27 All rules made under the principal Ordinance subsequent to the date of the commencement of the Prisons (Amendment) Ordinance, No. 17 of 1916, shall, if otherwise in conformity with the provisions of the principal Ordinance, have the same force and effect in law as though the Prisons (Amendment) Ordinance aforesaid had not been passed.

Savings for existing rules.

28 The principal Ordinance may be reprinted from time to time by order of the Governor with all amendments, additions, alterations, or modifications which may have been or may be made thereto by any written law; and any copy of that Ordinance so reprinted shall be deemed for all purposes to be a correct copy of the principal Ordinance as amended, added to, altered, or modified at the date of such reprinting.

Reprinting of the principal Ordinance.

Objects and Reasons.

The object of this Bill is to amend the Prisons Ordinance, 1877, so as to enable prisons in Ceylon to be administered in accordance with modern principles and practice. The recommendations contained in the report of the Prisons Inquiry Commission (Sessional Paper I. of 1932) were considered by the Executive Committee of Home Affairs, and the decisions of the Committee were set out in its report which was published as Sessional Paper II. of 1933. Those decisions have since been approved by the State Council and ratified by the Governor and form the basis of the principal amendments proposed in this Bill.

2. Clause 8 substitutes a new section for section 32 of the principal Ordinance, and Clause 9 introduces three additional sections, which make provision for the appointment of a Board of Prison Visitors, Local Visiting Committees and Additional Prison Visitors. The Board of Prison Visitors will function as an advisory body in the general administration of all prisons throughout the Island. Local Visiting Committees and Additional Prison Visitors will similarly assist in the administration of individual prisons or groups of prisons.

3. Clause 14 substitutes for section 64 a new section which enumerates the acts or omissions which are declared to be prison offences, and Clause 16 substitutes for section 67 a new section which makes provision for the investigation and punishment of such offences by special tribunals, each consisting of a District Judge and two Visitors. Clause 15 amends section 65 and provides disciplinary measures for the punishment of minor prison offences. Under these new provisions, corporal punishment can be imposed only by a special tribunal and only in respect of the offences of mutiny

or incitement to mutiny and assault upon or violence to prison officers; and no such punishment is to be inflicted unless a medical officer certifies that the offender is fit to undergo corporal punishment.

4. The new sections contained in Clause 18 are to be substituted for sections 70 to 75 of the principal Ordinance and their purpose is to prohibit the use of mechanical restraints as a form of punishment and to restrict the use of hand-cuffs, body-belts, gang-chains and wrist-cuffs to cases where the prisoner's conduct or the possibility of his escape render the use of such appliances necessary.

5. The opportunity has been taken to include a number of minor amendments which are calculated to simplify the interpretation and administration of the Ordinance and to adapt it to the requirements of the new Constitution. Clause 2 inserts in the principal Ordinance a new interpretation Clause which includes a comprehensive definition of the expression "civil prisoner".

6. The Executive Committee of Home Affairs is authorised to make rules for the purposes of the Ordinance; but no rule will be operative unless it has been approved by the State Council and ratified by the Governor.

Ministry of Home Affairs,
Colombo, November 12, 1935.

D. B. JAYATILAKA,
Minister for Home Affairs.