

LEGISLATIVE ENACTMENTS

(Consolidated 1980)

Volume - 4

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CHAPTER 110

NOTARIES

Ordinances AN ORDINANCE TO AMEND THE LAW RELATING TO NOTARIES AND TO MAKE FURTHER PROVISION FOR THE PROPER QUALIFICATION OF NOTARIES AND FOR THE MORE EFFICIENT AND FAITHFUL DISCHARGE OF THE DUTIES APPERTAINING TO THE OFFICE OF A NOTARY AND CONSOLIDATE THE LAW RELATIVE THERETO.

Nos. 1 of 1907,
 27 of 1909,
 18 of 1910,
 31 of 1917,
 22 of 1919,
 24 of 1927,
 10 of 1934,
 10 of 1936,
 7 of 1943,
 59 of 1943,
 51 of 1944,
 48 of 1947,

Act
 No. 6 of 1951,

Laws
 Nos.24 of 1973,
 20 of 1976.

[27th March, 1907.]

Short title. **1.** This Ordinance may be cited for all purposes as the Notaries Ordinance.

Appointment of notary by warrant of the Minister. **2.** Every appointment to the office of notary shall be by warrant granted by the Minister, and shall specify the area within which, and the language or languages in which, the person appointed is authorized to practise.

Attorneys-at-law, qualified for admission as notaries- [§3, Law 20 of 1976.] **3.** Every attorney-at-law who has passed the prescribed examination in conveyancing either before or after his admission as such attorney-at-law or has been admitted without examination in virtue of a legal qualification in the United Kingdom or elsewhere, requiring a pass in conveyancing shall be entitled, on application, to a warrant authorizing him to practise as a notary in the language in which he has passed the examination in conveyancing within the judicial zone in which he resides.

Qualifications of other persons for notarial appointment. [§2, Law 24 of 1973.] **4.** (1) The Minister may appoint as notaries persons other than attorneys-at-law ;
 Provided that such persons—

- (a) are of good character and repute ;
- (b) are of the age of twenty years ;

(c) have been articled clerks, licensed as hereinafter provided, of an attorney-at-law and have duly served as such for two years ; and

(d) have passed an examination prescribed by the Minister and are reported to be duly qualified by the Registrar- General.

(2) Every notary appointed under subsection (1) on or after the 1st day of May, 1951, shall be entitled to practise within the judicial zone in which he resides.

4A. Every warrant issued to a notary under the provisions of section 3* or section 4*, authorizing him to practise as a notary in any judicial division in which he resides, shall be deemed to authorize him to practise as a notary in the judicial zone in which he resides.

Notaries practising in Judicial division deemed to practise in judicial zone. [§4, Law 20 of 1976.]

5. A notary, who is authorized by warrant to practise in any particular language, shall be entitled, on passing such examination in any other language as may be prescribed by the Minister, to a warrant authorizing him to practise in that other language.

Condition to be fulfilled before notary authorized to practise in one language can practise in another language.

* This is a reference to sections 3 and 4 prior to their amendment by Law No. 20 of 1976 and Law No. 24 of 1973.

Number of articulated clerks how determined.

6. The number of articulated clerks to be licensed for and in each district shall be limited and determined by an Order to be issued from time to time by the Minister.

Admission of articulated clerks and notaries.

7. The admission of persons to be articulated clerks and notaries shall be subject to the regulations in the First Schedule, which shall be in force until revoked, amended, or altered by regulations made under section 8.

The Minister may make regulations for admission of articulated clerks and notaries.

8. The Minister may from time to time revoke, amend, or alter such regulations, or may make new regulations. All regulations so made, and any revocation, amendment, or alteration of a regulation, shall be published in the Gazette.

Notary bound to have his office within his jurisdiction.

9. Every notary shall be bound to have his office within the area specified in his warrant ; and any notary infringing this provision shall be liable to have his warrant withdrawn by the Minister.

Number and situation of notary's offices.

10. (1) No notary shall have more than two offices.

(2) (a) No notary who is an attorney-at-law shall, for the purposes of his profession as a notary, have any office at any place other than—

- (i) his residence ; or
- (ii) an office maintained and used by him for the purposes of his profession as an attorney-at-law.

(b) Where any notary who is an attorney-at-law has two offices for the purposes of his profession as a notary, one of such offices shall be at his residence :

Provided, however, that any such notary may, if authorized in that behalf in writing under the hand of the Registrar-General, have both such offices at places described in paragraph (a) (ii) of this subsection.

Minister's power to change the zone within which a notary is authorized, to practise. [§5, Law 20 of 1976.]

11. The Minister may on application made in that behalf grant to a notary, having a warrant authorizing him to practise within a judicial zone, a fresh warrant authorizing him to practise within another judicial zone.

12. (1) Every person to whom a warrant has been granted to practise as a notary shall before commencing to practise—

Notary to make declaration and give security.

(a) make and sign before the High Court Judge having jurisdiction over the area specified in the warrant a declaration in the form C in the Second Schedule ;

(b) execute a bond in favour of the Republic in the amount of two thousand rupees, conditioned for the due and faithful discharge of his duties as a notary, which amount shall be secured either by the hypothecation of immovable property or by the deposit of movable property (such immovable or movable property being property belonging to himself or some other person), or by the guarantee of the Insurance Corporation* ; and

(c) file in the High Court holden in such zone an attested copy of his warrant.

(2) Every bond referred to in paragraph (b) of subsection (1) shall be signed in the presence of the High Court Judge having jurisdiction over the area specified in the warrant of the notary :

Provided that the guarantee of the Insurance Corporation* may be signed on behalf of the Corporation in the registered office of the Corporation.

13. If any person shall practise or act as or exercise the office or functions of a notary without having obtained such warrant as aforesaid, or without having made and signed such declaration and given such bond and security as aforesaid, or without having filed an attested copy of his warrant, every such person shall be guilty of an offence, and liable on conviction thereof to a fine not exceeding two thousand rupees, or to simple or rigorous imprisonment for any period not exceeding three years, or to such fine as well as such imprisonment.

Penalty for practising as notary without warrant, &c.

14. (1) Any person who has given security on behalf of a notary by the hypothecation of immovable property or by the deposit of movable property, or the Insurance Corporation bound as surety to a notary, may apply to the High Court Judge having jurisdiction over the area specified in such notary's warrant to be discharged from any liability incurred by such person or such Corporation under section 12.

Discharge of Insurance Corporation.

* The reference to "an approved guarantee company" is replaced by a reference to the Insurance Corporation consequent to the amendment to section 2 (d) of the Public Officers' Security Ordinance by Act No. 4 of 1968.

(2) The High Court Judge to whom any person or such Corporation applies under subsection (1) for a discharge of such person's or such Corporation's liability may, if he is satisfied that such person or such Corporation has given six weeks' notice to the notary of his or its intention to make such application and that such person or such Corporation has good cause for claiming such discharge, endorse on the bond an order discharging such person or such Corporation from any liability in respect of any act of the notary done after the date of the order.

(2) The Registrar of the court shall from time to time, as occasion may require, correct the said list by striking therefrom the names of any notaries who have died or been struck off the roll of notaries, or have left the said zone, or ceased to practise as notaries therein.

(3) The Registrar shall on the thirtieth day of June and the thirty-first day of December in each year forward to the Registrar-General a copy of such list corrected up to date, and to each of the several District Courts, Family Courts and Primary Courts within the zone a corrected list of notaries entitled to practise within the jurisdiction of such District Courts, Family Courts and Primary Courts respectively.

(4) Each District Judge, Judge of the Family Court and Judge of the Primary Court shall cause the list so received by him to be affixed to some conspicuous place on the wall of his court.

When notary to furnish fresh security.

16.* (1) If at any time the security given by or on behalf of any notary shall perish or is lost or if any person who has given security by the hypothecation of immovable property or by the deposit of movable property or the Insurance Corporation bound as surety is discharged under section 14 (2) from liability, the notary shall execute a fresh bond in accordance with the provisions of section 12.

19. (1) Where a notary has been indicted before the High Court, the Minister may, on the application of the Attorney-General, suspend him from the office of notary pending his trial. If the notary shall be acquitted, or shall not be brought to trial within six months after his suspension, the same shall cease to be in force and shall be deemed to be removed.

Suspension of notary from office. [§7, Law 20 of 1976.]

(2) If in any case to which subsection (1) applies any notary shall practise or act as a notary without having executed a fresh bond as provided in that subsection, he shall be guilty of an offence and liable on conviction thereof to the punishment provided in section 13.

(2) Where a notary, who is an attorney-at-law, has been suspended from his office as attorney-at-law, he shall during the period of the suspension be disqualified from discharging the duties of a notary.

Enrolling of notaries in the High Court.

17. Upon a notary making and signing the declaration and giving the security required by section 12 the High Court Judge shall, without fee or reward, enrol his name and the date of his admission as a notary in a roll or book to be provided and kept for that purpose in the High Court holden in the relevant zone, and shall file the said declaration and bond, together with an attested copy of such warrant, of record in the said court.

20. If any notary shall be lawfully convicted of any offence which, in the opinion of the Minister, renders him unfit to be entrusted with any responsible office, or if any such person, being an attorney-at-law, shall be duly removed from the office of attorney-at-law, every such person shall become disqualified for the office of notary, and the warrant granted to him shall be cancelled.

Cancellation of notary's warrant.

List of notaries to be posted in the courts. [§6, Law 20 of 1976.]

18.+ (1) A list of all persons authorized to act as notaries within any zone shall be kept at all times posted in some conspicuous place at the High Court holden in the zone for general information.

Section 15 is omitted consequent to the amendment to section 2 (d) of the Public Officers'(Security) Ordinance by Act No.4 of 1968.

+ The reference to Magistrates' Courts in subsections (3) and (4) of this section is omitted and replaced by reference to Primary Courts, as the civil jurisdiction of Magistrates' Courts was taken over by Primary Courts.

Inquiry into notary's misconduct or incapacity.

21. (1) It shall be the duty of the High Court Judge within whose jurisdiction a notary resides, upon being satisfied, after due inquiry, that such notary -

- (a) has been guilty of any offence, whether in his capacity of notary or otherwise, which in the opinion of the High Court Judge renders him unfit to be entrusted with the duties of a notary ; or
- (b) has grossly misconducted himself in the discharge of the duties of his office ; or
- (c) has so conducted himself by repeated breaches of any of the rules made by or under this Ordinance that he ought not to be any longer entrusted with the performance of the said duties ; or
- (d) has been convicted three times or oftener for a violation or disregard of or neglect to observe the provisions of rule (26) in section 31; or
- (e) has proved himself by reason of incompetence, age, physical or mental infirmity, or otherwise, incapable of discharging the duties of his office with advantage to the public,

to report the same in writing to the Minister with the evidence taken at the inquiry.

(2) Where the report is to the effect that the notary has been guilty of any such offence or misconduct as is mentioned in clauses (a), (b), (c), or (d) of the last preceding subsection, the Minister may cancel the warrant of such notary, or may suspend him from office for such period as may appear just. Where the report is to the effect that the notary is incapable of discharging his duties with advantage to the public, the Minister may cancel his warrant or may require him to resign his office within a specified time, and in default of such resignation may cancel his warrant.

(3) For the purposes of such inquiry the High Court Judge shall have power to require the attendance before himself of the

notary and of any witnesses, and the production of any document that the High Court Judge may deem material, and to examine such witnesses on oath or affirmation, and to examine such notary without oath or affirmation.

(4) Any person required to attend and be examined or to produce a document as aforesaid, who shall without reasonable cause fail to comply with such requirement, shall be guilty of an offence, and liable on conviction to a fine not exceeding one hundred rupees.

(5) No statement made by the notary at the inquiry shall be used in any criminal prosecution instituted against him.

22. (1) If a notary applies to the Registrar-General in writing to resign from and to cease to act in the office of notary, the Registrar-General shall forthwith forward the application to the Minister who may accept such resignation as from the date desired by the notary.

Resignation of office.

(2) When a notary has resigned under this section his warrant shall be deemed to be cancelled for the purposes of sections 23, 24, 25 and 26.

(3) Notwithstanding such resignation a notary shall continue to remain subject to the provisions of this Ordinance and all rules contained therein or made thereunder in respect of all things done or omitted by him in the exercise of his functions as notary prior to the resignation.

23.* (1) Whenever a notary's warrant has been cancelled or a notary has been suspended from office, notice thereof shall be given in the Gazette, and a certificate that such warrant has been cancelled or notary suspended shall be transmitted, by the Secretary to the Ministry, to the Registrar-General and to the High Court Judge and several District Judges, Judges of the Family Courts and Judges of the Primary Courts within whose jurisdiction such notary shall have been authorized to act.

Certificate of cancellation or suspension of warrant to be transmuted to and posted in the local courts. [§8, Law 20 of 1976]

(2) The High Court Judge of the court in which the name of such notary is enrolled shall in the case of the cancellation of the notary's warrant cause his name to be immediately struck off the roll of notaries, and in the case of the notary's suspension from office, shall note the fact in the roll opposite his name.

* See the footnote to section 18.

(3) A copy of such certificate, with a translation in the Tamil and English languages subjoined thereto, shall be kept posted in some conspicuous place at every such High Court, District Court, Family Court and Primary Court for such period as the court may direct.

Penalty on notary practising after notice of suspension, &c.

24. If any person shall act as or exercise the office or functions of a notary after having received notice of any such suspension as aforesaid, and before the same shall have been removed, or after having been convicted of any offence disqualifying him for the said office, or after having been removed from the office of attorney-at-law as hereinbefore mentioned, or after having received notice that the warrant granted to him has been cancelled or withdrawn as aforesaid, he shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding one thousand rupees, or to imprisonment, simple or rigorous, for any period not exceeding three years, or to such fine as well as such imprisonment.

Minister may revoke cancellation of warrant.

25. (1) In any case in which a notary's warrant shall have been withdrawn or cancelled under the provisions of this Ordinance, the Minister may make an order revoking such withdrawal or cancellation, and issue a fresh warrant authorizing him to practise within the area in which he was practising immediately preceding such withdrawal or cancellation or within some other area.

Notice of revocation- [§9. Law 20 of 1976.]

(2)* Notice of such order shall be given in the Gazette, and a copy thereof shall be transmitted, by the Secretary to the Ministry, to the High Court Judge having jurisdiction over the area specified in the fresh warrant issued under subsection (1) of this section, and to the several District Judges, Judges of the Family Courts and the Judges of the Primary Courts having jurisdiction within the said area and to the Registrar-General.

Restoration to, or insertion in, the roll of notaries of the notary's name. &c.

26. (1) Upon receipt of a notice transmitted under section 25 (2) by a High Court Judge, he shall, if the notary's fresh warrant is produced before him, restore to, or insert in, the roll of notaries such notary's name.

(2) The High Court Judge restoring to, or inserting in, the roll of notaries the name of a notary shall require fresh security to be provided by such notary in terms of section 12.

(3) Every notary, whose name has been restored to, or inserted in, the roll of notaries under subsection (1) of this section and who has furnished fresh security in terms of section 12 shall be entitled to execute the office of a notary in conformity with the authority given to him by his fresh warrant.

27. (1) It shall be the duty of every Registrar of the High Court holden in every zone, on the application of any person entitled to practise as a notary within the jurisdiction of such court, to issue to him a certificate that such person is a notary and duly authorized to practise as such therein.

Certificates to be granted yearly to notaries by Registrar of the High Court.

(2) All such certificates shall be applied for and granted on or before the first day of March in every year, and shall be in force for one year and no longer :

Provided, however, that if such certificate shall not be applied for within the time limited, and it shall be shown to the satisfaction of the High Court Judge that the delay was due to accident, misfortune or other unavoidable cause, the High Court Judge may direct the Registrar to issue the required certificate notwithstanding such delay as aforesaid.

(3) Such certificate shall be in the form D in the Second Schedule, and shall bear a stamp duty of ten rupees :

Provided that it shall be lawful for the Minister to authorize the issue of any such certificate on unstamped paper in any case in which the circumstances of any zone or place appear to him to render such a proceeding necessary or advisable.

28. (1) For the purpose of obtaining such certificate a declaration in writing, signed by such notary, containing the following particulars :—

Notaries applying for certificates to make declaration.

- (a) his name and place or places of residence ;
- (b3) the exact situation of his office or of each of his offices ;
- (c) the area in which he is authorized to practise ;

* See the footnote to section 18.

(d) whether at any time since the date of the last declaration, if any, made by him under this section, the security given by or on behalf of him has perished or been lost, or any person who has given security by the hypothecation of immovable property or by the deposit of movable property, or the Insurance Corporation has been discharged under section 14 (2) from liability,

shall be delivered to the said Registrar, who shall, as soon as conveniently may be after the delivery of such declaration (unless he shall see cause and have reason to believe that the party applying for such certificate is not upon the roll of notaries or not authorized to practise as such in such zone or has not furnished security as required by this Ordinance), deliver to the said notary such certificate as aforesaid.

(2) Where a notary, who is an attorney-at-law, specifies in the declaration referred to in subsection (1), more than one residence, he shall in addition set out in that declaration which one of those residences he intends to use or uses as an office,

(3) If any person shall make any false statement in any such declaration, he shall be guilty of an offence, and be liable on conviction to a fine not exceeding five hundred rupees.

On refusal by Registrar to grant any certificate, application to be made to the High Court.

29. (1) In case the said Registrar shall decline to issue any such certificate to any notary as aforesaid, the notary may apply to the High Court holden in such zone, which is hereby authorized to make such order in the matter as shall be just.

Appeal to Court of Appeal.

(2)* Any party who is aggrieved by any order made under subsection (1) of this section, or by the refusal of a High Court Judge to direct the issue of a certificate in any case referred to in the proviso to section 27 (2), may appeal against such order or refusal to the Court of Appeal.

Penalty on notaries practising without certificate.

30. If any person shall act as a notary without having obtained such certificate as aforesaid, he shall for or in respect of every deed executed or acknowledged before him

as such notary, whilst he shall have been without such certificate, be guilty of an offence and be liable to a fine not exceeding fifty rupees.

31. It is and shall be the duty of every notary strictly to observe and act in conformity with the following rules, that is to say :—

Rules to be observed by notaries.

(1) He shall not divulge the secrets confided to him or of which he becomes possessed in the execution of his office, unless with the express permission of his employer or when required to do so by law.

Notary not to divulge secrets without permission.

(2) He shall not authenticate or attest a deed or instrument drawn in Sri Lanka by any other person, unless there shall be endorsed thereon a certificate signed by a notary certifying that such deed or instrument has been drawn by himself.

Attestation of documents drawn by any other person.

(3) He shall not require, permit, or suffer any party or any witness to any deed or instrument executed or to be executed before him to sign his name or make his mark to or acknowledge any such deed or instrument or any duplicate or other part thereof or any draft or copy thereof intended to be preserved in his protocol, or to sign his name or make his mark upon any paper or other material intended to be afterwards used for any such purpose, until the whole of such deed or instrument shall have been written or engrossed thereon.

When may the signature of a party or witness to a deed be taken.

(4) He shall not authenticate or attest any deed or instrument written on paper which is not of a reasonably durable description suitable for the purpose of such document, nor shall he attest any deed or instrument written on *ola*.

Material on which deeds may be written.

* Subsection (3) is omitted as under the existing law there is no special procedure for appeals from an interlocutory order of the High Court.

Deeds to be written on undivided sheet or sheets signed by the Registrar of Lands.

- (5) He shall not authenticate or attest any deed or instrument which is written on more than one entire or undivided sheet or piece of paper, parchment, or other material, unless—
 - (a) each of the sheets or pieces used has been previously produced before the Registrar of Lands for the district in which the notary resides, and has been marked or signed or initialled by such registrar in order to prevent the sheets being used for any other purpose ; or
 - (b) the parties executing the same and the notary shall sign every sheet or piece in which any part of the deed or instrument is written.

Insufficiently stamped instrument not to be executed.

- (6) He shall not require, permit, or suffer any person to execute or acknowledge before him any deed or instrument which is insufficiently stamped.

Stamps to be cancelled at the time of execution of deed.

- (7) He shall at the time of the execution or acknowledgment before him of every deed or instrument which is not stamped with an impressed stamp cancel the stamps thereon by writing or marking in ink on or across each stamp his name or initials, together with the true date of his so writing or marking, and shall write upon each stamp with ink the number of the deed or instrument to which such stamp is affixed.

Two witnesses essential for every deed.

- (8) He shall not authenticate or attest any deed or instrument to which at least two witnesses have not subscribed their signatures in letters.

Party executing the deed should be known to notary or to two attesting witnesses.

- (9) He shall not authenticate or attest any deed or instrument unless the person executing the same be known to him or to at least two of the attesting witnesses thereto ; and in the latter case, he shall satisfy himself, before accepting them as witnesses, that they are persons of good repute and that they are well acquainted with the executant and

know his proper name, occupation, and residence, and the witnesses shall sign a declaration at the foot of the deed or instrument that they are well acquainted with the executant and know his proper name, occupation, and residence.

- (10) He shall not authenticate or attest any deed or instrument in any case in which both the person executing the same and the attesting witnesses thereto are unknown to him.
- (11) He shall not authenticate or attest any deed or instrument in any case in which the person executing or acknowledging the same shall be or profess to be unable to read the same, or in which such person shall require him to read over the same, unless and until he shall have read over and explained the same, or caused the same to be explained, in the presence and hearing of such person and, except in the case of wills and codicils, in the presence of the attesting witnesses.

Where both person executing deed and attesting witnesses unknown to notary deed not to be executed. When deed to be read over and explained.

- (12) He shall not authenticate or attest any deed or instrument unless the person executing the same and the witnesses shall have signed the same in his presence and in the presence of one another, and unless he shall have signed the same in the presence of the executant and of the attesting witnesses.

When may deed be attested.

- (13) He shall not authenticate or attest any deed or instrument to which he is a party.

What deeds may not be attested by notary.

- (14) He shall before any party or witness signs any deed or instrument ascertain the full name of such party or witness, and if the signature of such party or witness differs from the name given by such party or witness, the notary shall, in his attestation of such deed or instrument, describe such party or witness by such name and by the name written in the signature.

Full names of parties and witnesses to be ascertained.

- (15) If any deed or instrument executed or acknowledged before him be signed by any of the parties or witnesses

Duty of notary in regard to deed signed with a mark.

thereto with a mark, or with a signature in a language other than that in which the notary is authorized to practise, he shall write over such mark or signature in his own handwriting and at the time of execution the words "This is the mark (or signature, as the case may be) of A. B." (here insert the name of the person signing with the mark or signature) ; and in the case of a mark he shall besides require such person to affix to the deed or instrument the impression of his left thumb and shall write over such impression at the time and in the manner aforesaid the words "This is the left thumb impression of A. B." (here insert the name of the person whose thumb impression it is).

Deeds affecting immovable property.

(16) (a) He shall not authenticate or attest any deed or instrument other than a will or codicil affecting land or other immovable property, unless the deed or instrument embodies therein or in a schedule annexed thereto a description of the said land or other property properly showing its boundaries (which shall include whenever practicable the names of the lands adjoining it and of their owners), its probable extent and situation (with respect to the town or village, pattu, korale, administrative district, and province), and its name and assessment number, if any ;

(b) if such property consist of a share of a land or other property, the deed shall state whether it is a divided or undivided share, and the fractional part which it is of the whole. If it be a divided share, such share shall be clearly and accurately defined by its particular boundaries and extent ; if it be an undivided share, the boundaries and extent shall be stated of the land of which it is a share :

Provided, however, that this rule shall not apply to any agreement to transfer, to mortgage, or to lease any such property.

Registers in the land registry to be searched before executing deed affecting land.

(17) (a) Before any deed or instrument (other than a will or codicil) affecting any interest in land or other immovable property is drawn by him, he shall search or cause to be searched the registers in the land registry

to ascertain the state of the title in regard to such land and whether any prior deed affecting any interest in such land has been registered ;

(b) if any such prior deed has been registered, he shall write in ink at the head of the deed the number of the register volume and the page of the folio in which the registration of such prior deed has been entered :

Provided that if the parties to the transaction authorize the notary in writing to dispense with the search, the search shall not be compulsory, but he shall before the deed or instrument is tendered for registration write at the head thereof the reference to the previous registration, if any.

(18) He shall correctly insert in letters in every deed or instrument executed before him the day, month, and year on which and the place where the same is executed, and shall sign the same.

Date of execution of deed to be inserted.

(19) He shall not make any erasure, alteration, or interpolation in any deed or instrument after the same has been signed by the executing party or parties.

Erasures, interpolations, &c., not to be made after execution of deed.

(20) He shall without delay duly attest every deed or instrument which shall be executed or acknowledged before him, and shall sign and seal such attestation. In such attestation he shall state—

Attestation.

(a) that the said deed or instrument was signed by the party and the witnesses thereto in his presence and in the presence of one another ;

(b) whether the person executing or acknowledging the said deed or instrument or the attesting witnesses thereto (and in the latter case he shall specify which of the said witnesses) were known to him ;

(c) the day, month, and year on which and the place where the said deed or instrument was executed or acknowledged, and the full names of the attesting witnesses and their residences ;

- (d) whether the same was read over by the person executing the same, or read and explained by him, the said notary, to the said person in the presence of the attesting witnesses ;
- (e) whether any money was paid or not in his presence as the consideration or part of the consideration of the deed or instrument, and if paid, the actual amount in local currency of such payment;
- (f) the number and value of the adhesive stamps affixed to or the value of the impressed stamps on such deed or instrument and the duplicate thereof;
- (g) specifically the erasures, alterations, and interpolations which have been made in such deed or instrument, and whether they were made before the same was read over as aforesaid, and the erasures, alterations, and interpolations, if any, made in the signatures thereto, in its serial number, and in the writing on the stamp affixed thereto.

(23) He shall number with consecutive integral numbers the documents executed or acknowledged before him, including wills and codicils, according to the order in which they are executed or acknowledged before him. If he shall change his area, as provided by section 11 of this Ordinance, and if the new area be in a different zone from the old area, he shall number consecutively the documents attested by him in the new area, commencing with number " 1 " .

Deeds to be numbered.

(24) He shall carefully preserve as his protocol a draft or copy of every deed or instrument executed or acknowledged before him, to which shall be attached his signature and those of the party and witnesses to the original deed or instrument, and he shall keep a register thereof with a convenient index for the purpose of easy reference ; and every such register shall be substantially in the form F in the Second Schedule, but in the case of wills and codicils only the number and date of the instrument shall be inserted in the register.

Protocol to be preserved by notary.

(25) Where any deed or instrument is executed or acknowledged before more than one notary—

Deeds executed before more than one notary.

(a) the notary who first attests such deed or instrument shall comply with all the requirements of rule (20), and every other notary attesting such deed or instrument shall comply with the requirements of paragraphs (a) to (e) of the aforesaid rule and the provisions of paragraph (g) in respect of erasures, alterations and interpolations made in the signatures attested by him or in his serial number ;

(b) every notary attesting the deed or instrument shall number such deed or instrument in accordance with the provisions of rule (23) ;

Form of attestation.

(21) Every such attestation shall be substantially in the form E in the Second Schedule, and shall be legibly signed by him in the language in which the deed or instrument is written, and also with his usual signature if the language or form of that signature be different from that in which such deed or instrument is written. Every erasure, alteration, or interpolation in the attestation shall be authenticated by the notary With the initial letters of his name.

Deed not to be attested outside notary's jurisdiction or in language other than that in which he is authorized to practise.

(22) He shall not authenticate or attest any deed or instrument in any area other than that in which he is authorized to practise, nor in any language other than that in which he is authorized to practise nor authenticate or attest any deed or instrument drawn in any language other than that in which he is authorized to practise.

(c) the notary who first attests such deed or instrument shall preserve as his protocol the draft or copy referred to in rule (24), and shall comply with the requirements of that rule, and every other notary attesting such deed or instrument shall supply himself with a certified copy of the deed or instrument, which shall be deemed to be his protocol for the purposes of that rule ; and

(d) every notary attesting such deed shall, in addition, as far as possible, comply with the other provisions of section 31.

Duplicates of deeds to be transmitted to Registrar of Lands.

(26) (a) He shall deliver or transmit to the Registrar of Lands of the district in which he resides the following documents, so that they shall reach the registrar on or before the fifteenth day of every month, namely, the duplicate of every deed or instrument (except wills and codicils) executed or acknowledged before or attested by him during the preceding month, together with a list in duplicate, signed by him, of all such deeds or instruments, which list shall be substantially in the form F in the Second Schedule :

Provided, however, that in the case of wills and codicils only the number and date of the document shall be inserted in such list ;

(b) if no deed or instrument has been executed before any notary in any month, the notary shall, unless he is absent from Sri Lanka, furnish a nil list for that month on or before the fifteenth day of the following month ;

(c) (i) where any deed or instrument which is to be executed or acknowledged by two or more parties is signed during any month by one or more, as the case may be, of such parties, the notary shall, notwithstanding that the deed or instrument has not been signed by all such-parties, include such deed or instrument in the list required to

be delivered or transmitted under paragraph (a), and shall, if called upon so to do by written notice served on him personally or by registered post and signed by the Registrar of Lands of the district in which the notary resides, produce the duplicate of such deed or instrument for inspection at the office of the registrar on or before such date as may be specified in the notice ;

(ii) where any such deed or instrument is not signed by all the parties thereto before the expiry of a period of three months from the date on which it is first signed by one of such parties, the notary shall, if called upon so to do by written notice served on him personally or by registered post and signed by the Registrar of Lands of the district in which the notary resides, deliver or transmit to the registrar the duplicate of such deed or instrument; and where any such duplicate has been so delivered or transmitted, the notary shall, at any time during the period of two years succeeding the date of such delivery or transmission, be entitled on demand to the return of the duplicate for the purpose of the completion of the deed or instrument.

(27) He shall deliver or transmit to the Registrar of Lands of the district within which he resides, so as to reach the registrar on or before every Wednesday, a list of the work done by him as notary in the week ending the previous Saturday. Every such list shall be substantially in the form G in the Second Schedule :

Weekly list of work done to be transmitted to Registrar of Lands.

Provided that in the case of a will or codicil the names of the person or persons executing or acknowledging the instrument shall not be inserted.

(28) Where any deed or instrument other than a will or codicil shall be executed or acknowledged by two or more parties before more than one notary, the duplicate of such deed or instrument shall be

Transmitted to the Registrar of Lands of deeds executed before different notaries.

delivered or transmitted by the notary who first attests such deed or instrument to the Registrar of Lands of the district in which he resides ; and it shall not be necessary for the other notary or notaries employed in the execution of such deed or instrument to deliver or transmit any duplicate thereof to such registrar.

Transmission to the Registrar of Lands of deeds affecting lands situated outside district in which notary resides. [§10, Law 20 of 1976.]

(29) If a deed or instrument other than a will or codicil affects a land situated in a district other than that in which the notary before whom it is signed, and by whom it is attested, 'shall reside, such notary, or in case such deed or instrument is attested by two or more notaries, then the notary upon whom is cast the duty of transmitting to the Registrar of Lands the duplicate of such deed or instrument, shall on or before the fifteenth day of the month next following that in which the same was executed (besides transmitting the duplicate in manner aforesaid) deliver or transmit to the Registrar of Lands of the district in which such land shall be situated a copy thereof certified by him as correct, together with a list in duplicate in the form F in the Second Schedule, signed by him, of all such deeds or instruments as relate to lands in such last-mentioned district.

Procedure in regard to deed executed by an attorney.

(30) If he attest any deed or instrument executed before him by means of an attorney, he shall preserve a true copy of the power of attorney with his protocol, and shall forward a like copy with the duplicate to the Registrar of Lands.

Notice of intention to change office or to discontinue practice to be given to High Court Judge.

(31) He shall give one month's notice to the High Court Judge in the judicial zone in which he is authorized to practise, and also to the Registrar-General, of his intention to change his office or to discontinue his practice, and shall affix a written notice to that effect, signed by him, on the outside door or wall of the High Court holden in the zone,

Notice on change of office.

(32) Whenever he shall change his office he shall without delay give notice of such change to the Registrar of

Lands of the district and the High Court Judge in the judicial zone and the Government Agent of the administrative district in which his new office is situated.

(33) When a deed transferring any immovable property is executed or acknowledged before a notary, he shall use his best endeavours to obtain the title deed, if any, of such property, and make an endorsement thereon stating the number and date of the deed executed before him and the nature of the transaction and attach his signature thereto,

Title deed of immovable property to be obtained wherever possible.

(34) He shall, in regard to any irregularity, error, or omission discovered or alleged to have been discovered in the discharge of his duties as notary, and which appears to the Registrar-General to be a violation of the law, give an explanation in writing when required by the Registrar-General or by the Registrar of Lands under the order of the Registrar-General, but such explanation shall in no case be called for after the expiry of twenty-four months from the date of the commission of such irregularity or error, or of such omission.

Notary bound to furnish Registrar-General with explanation whenever called upon.

(35) He shall cause his name, with the addition " Notary Public", to be painted or affixed in legible characters in the Sinhala language and the language in which he is authorized to practise in a conspicuous place at or near the entrance to his office or place of business, or, if he has more than one office or place of business, at the entrance to each such place.

Name to be affixed at entrance to office.

(36) It shall be the duty of every notary, not being an attorney-at-law, strictly to observe and act in conformity with the following additional rules, that is to say:—

Additional rules applicable to notary who is not an attorney-at-law.

(a) He shall live and hold office at such places as he may elect, subject to the approval of the Minister.

Notary to hold office at approved place.

Records to be kept at notary's office. [§10, Law 20 of 1976.]

When notary bound to be present in office.

Notary to produce records when required.

Provisions as to application of rules in section 31 in special cases.

(b)* He shall keep his records at his office or if he has more than one office, at such office as may be approved of by the Registrar-General and shall at all reasonable times permit the Registrar-General, the Government Agent of the administrative district, High Court Judge, District Judge, Judge of the Family Court, or Judge of the Primary Court within the zone, within which such notary resides to inspect such records at such office.

(c) He shall, unless prevented by sickness or other good cause, be present between the hours of 10 a.m. and 1 p.m. on Mondays and Thursdays, or, if such day be a public holiday, on the following day, at the office in which he keeps his records. The taking of instructions for or signature to a deed or instrument shall not be a good cause for absence from office, unless the person whose instructions or signature is to be taken is believed to be on the point of death.

(d) He shall at all reasonable times, when required by any of the officers named in the rule (b), produce before him at the nearest land registry, kachcheri, court, resthouse, or other public place such records as may be specified in a notice to be served on such notary. The notice shall be deemed duly served if left at his residence or office.

(iv) a transfer of stock, shares, or debentures of any company or corporation not having its registered office in Sri Lanka ;

(v) a notice of protest by a ship's officer but not an extended protest.

(2) In the case of any deed or instrument which is to be executed by two or more parties, both or all of whom, as the case may be, do not sign the deed or instrument at the same time and place—

(i) the deed or instrument shall, for the purposes of the application of rules (6), (7), (23) and (25) set out in section 31, be deemed to be executed or acknowledged at the time when it is first signed by a party, or by two or more parties at the same time and place ;

(ii) the deed or instrument shall, for the purposes of the application of rules (18) and (20) set out in section 31, be deemed to be executed or acknowledged whenever it is signed by a party, or by two or more parties at the same time and place ; and

(iii) the provisions of rule (19) set out in section 31, shall apply after the deed or instrument is first signed by a party, or by two or more parties at the same time and place.

33. No instrument shall be deemed to be invalid by reason only of the failure of any notary to observe any provision of any rule set out in section 31 in respect of any matter of form :

Instruments not to be invalid for non-compliance with section 31 in any matter of form.

Provided that nothing hereinbefore contained shall be deemed to give validity to any instrument which may be invalid by reason of non-compliance with the provisions of any other written law.

32. (1) The provisions of rules (20), (23), (24), (25), and (26) set out in section 31, and of rule (16) as to the statement of the boundaries, shall not apply to any of the following deeds or instruments :—

- (i) a power of attorney for use out of Sri Lanka ;
- (ii) a deed solely affecting property not situated in Sri Lanka ;
- (iii) a transfer of stock of any Government ;

34. (1) If any notary acts in violation of or disregards or neglects to observe any of the rules set out in section 31 or any rule made, approved and published in accordance with the provisions of section 36, binding upon him, he shall be guilty of an offence, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred rupees, in addition to any civil liability he may incur thereby :

Provided, however, that where any notary acts in violation of or disregards or neglects to observe the provisions of rule (26) set out in section 31 the Registrar-General may, by

* See the footnote to section 18.

a written notice served on him personally or sent by registered post, call upon such notary to comply with the requirements of the said rule within such further time as he may specify for such purpose, and any notary who fails to comply with the terms of such notice shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees.

(2) If any notary has been convicted under the proviso to subsection (1) of this section for non-compliance with the terms of a notice calling upon him to comply with the requirements of rule (26) set out in section 31 relating to the delivery of certain documents to the Registrar of Lands of the district in which the notary resides, and the notary fails within a week of such conviction to deliver the documents specified in the notice to that registrar, the Minister may, on application made in that behalf by the Registrar-General, suspend the notary from his office as notary for such period as the Minister may deem fit.

Power to compound offences.

35. (1) In any case where the Registrar-General has reasonable grounds for believing that any notary has committed any offence referred to in section 28 (3), section 30, section 34, section 37 or section 41, the Registrar-General may, if he thinks fit, instead of instituting criminal proceedings against such notary, accept from him such sum of money as he may consider proper in composition of the offence ; and where the Registrar-General has accepted any sum of money from any notary in composition of any alleged offence—

- (i) criminal proceedings shall not be taken, or if already taken shall not be continued in respect of such offence ; and
- (ii) such composition shall not have the effect of discharging any person who has given security on behalf of a notary by the hypothecation of immovable property or by the deposit of movable property, or the Insurance Corporation bound as surety from any liability incurred under section 12.

(2) All moneys received by the Registrar-General in composition of any offence shall be paid into the Treasury.

36. (1) The Minister may make rules for the conduct of notaries, not being attorneys-at-law, in the discharge of their notarial duties.

Power to make rules.

(2) No rule made under subsection (1) of this section shall have effect until that rule has been approved by Parliament, and until the rule has been published in the Gazette.

(3) Every rule made, approved and published in accordance with the preceding provisions of this section shall be as valid and effectual as if it were herein enacted.

37. Whenever a notary has received instructions to register, and a sufficient sum to meet the necessary expense of registering, any deed drawn or attested by him, and shall in such case fail to use due diligence in effecting such registration, he shall be guilty of an offence, and liable on conviction to a fine not exceeding one thousand rupees, in addition to any civil liability which he may incur by reason of his default.

Notary to use diligence in registering deeds.

38. (1) It shall be the duty of every notary to endeavour to ascertain the true and full consideration for the execution of any deed, and to insert and set forth the same in such deed.

Notary to try to ascertain true consideration.

(2) Any notary who shall knowingly and wilfully insert or set forth in or upon any such deed any other than the full and true consideration or money directly or indirectly paid or secured, or agreed to be paid or secured for the same, or the actual value of the same, or shall abet the doing thereof, respectively, shall be guilty of an offence, and liable to a fine not exceeding one thousand rupees for every such offence, in addition to any civil liability which he may incur thereby.

39. If any notary—

Penalty on notary acting fraudulently.

(a) shall attest any fraudulent deed, knowing the same to be fraudulent ; or

(b) shall knowingly and wilfully, with intent to prejudice or defraud any person, insert in any deed or instrument whatsoever any word, letter, figure, matter, or thing which ought not to have been inserted therein, or omit to insert therein any word, letter, figure, matter, or thing which ought to have been inserted therein ; or

- (c) shall attest any deed without the person whose signature or mark he attested and the attesting witnesses having appeared personally before him at the time when such deed was executed or acknowledged ; or
- (d) shall knowingly and wilfully make any false statement in the attestation to any deed executed or acknowledged before him ; or
- (e) shall wilfully, maliciously, or fraudulently misstate or misrepresent to any party thereto the contents or effect of any deed executed or acknowledged before him ; or .
- (f) shall by any other wilful act, either of commission or omission, commit or attempt to commit any fraud in the execution of his office ; or
- (g) shall wilfully, maliciously, or fraudulently deface, mutilate, injure, destroy, or make away with any deed or any draft, minute, or copy of any deed which had been in his charge or custody, or which he was bound to preserve,

all times posted in some conspicuous place at the High Court holden in every zone and at every District Court, Family Court and Primary Court, and at every Land Registry and kachcheri, and by every notary in each of his offices.

(3) Any notary, if required by the client, shall give a written receipt for money paid to him as fees.

41. (1) If any person being removed, from or ceasing to act in the office of notary, or, in case of the death of any such notary, if any of his heirs, executors, or administrators, or any other persons, into whose possession the same shall have come—

Delivery to registrar of documents of notary dying, &c.

(a) shall wilfully lose or injure or destroy, or shall without just and lawful cause wilfully neglect or refuse to deliver over, as soon as conveniently may be, to the Registrar of Lands of the district in which such notary was resident, any drafts, minutes, or copies of any deeds executed or acknowledged before such notary, or any instruction book, register, index, deed, or document whatever possessed by such notary in right of his said office ; or

(b) shall wilfully neglect or refuse to deliver over to the Registrar of Lands of the district the seal of office of such notary to be defaced and returned,

every such notary shall in any of such cases be guilty of an offence, and shall be liable on conviction thereof to imprisonment, simple or rigorous, for any period not exceeding five years.

every such person shall be guilty of an offence, and shall on conviction thereof be liable to simple or rigorous imprisonment for any period not exceeding twelve calendar months, or to a fine not exceeding two hundred rupees, or to both.

Fees of notaries.

40. (1) The several fees specified in the Third Schedule shall and may be lawfully demanded and taken by notaries for the performance of the duties of their office as therein expressed :

Provided that—

- (a) it shall be competent to any notary or client to agree to a higher or lower fee than that prescribed in the Third Schedule ;
- (b) such agreement, unless reduced to writing and signed by the parties, shall not be enforceable in a court of law.

(2) Where two or more notaries carry on a notarial business in partnership which has been notified to the Registrar-General, and one of the partners dies or retires from the business, the continuing partner may retain during the continuance of the business the documents specified in paragraph (a) of subsection (1). But a list of the documents shall be furnished to the Registrar-General by the continuing partner, who shall be responsible for their safe custody and for their delivery to the Registrar-General.

[§11, Law 20 of 1976-] (2)* A correct copy of the Third Schedule in the Sinhala, Tamil and English languages of the fees chargeable by notaries shall be at

* See the footnote to section 18.

[§12, Law 20 of 1976.]

(3) Where a notary who is an attorney-at-law has engaged for the purposes of his business an assistant who is also a notary and such assistant practises as a notary under such an engagement for the purposes of the business of the said notary who is an attorney-at-law, and the terms of such engagement have been notified by the parties to the Registrar-General, upon such assistant dying or leaving the service of his principal, the Registrar-General may (subject to the terms of the engagement) empower the said principal to retain the documents specified in paragraph (a) of subsection (1), and all such documents shall thereupon, for the purposes of this Ordinance, be deemed to be documents executed or acknowledged before such principal, or possessed by him in right of his office. But a list of the said documents shall be furnished to the Registrar-General by the principal who shall be responsible for their safe custody and for their delivery to the Registrar-General.

(4) Where the Registrar-General is satisfied that any notary has purchased the goodwill of the notarial business of another notary who carried on business in a place in the area within which the purchaser is authorised to practise, but who has since died or who has ceased to act in the office of notary otherwise than by reason of the cancellation or suspension of his warrant, the Registrar-General may empower the heirs, executors, or administrators of the deceased notary, or the notary so ceasing to act, to transfer to the notary so purchasing the goodwill of the said business the documents specified in paragraph (a) of subsection (1) (not being wills or codicils, or drafts, minutes, or copies of the same), or if such documents have been already delivered to the Registrar-General, may himself transfer the said documents as aforesaid, and the said documents shall thereupon, for all the purposes of this Ordinance, be deemed to be documents executed or acknowledged before the notary purchasing the goodwill or possessed by him in right of his office. But a list of the said documents shall be furnished to the Registrar-General by such notary, who shall be responsible for their safe custody and for their delivery to the Registrar-General.

(5) It shall be lawful to the Registrar-General to extend the application of the

provisions of subsections (3) and (4) of this section—

- (a) to any case in which an assistant has died or left the service of his principal within five years prior to the 27th day of October, 1917, notwithstanding that no notice of the terms of the engagement of such assistant has been given to the Registrar-General ; or
- (b) to any case in which any notary has died, or has ceased to act in the office of notary within the said period otherwise than by reason of the cancellation or suspension of his warrant :

Provided that the Registrar-General is satisfied that such a course has been assented to by all persons interested.

42. Whenever the duplicate of any deed shall be transmitted to the registrar by any notary under any rule in section 31 of this Ordinance, or whenever any document shall be delivered up to any registrar under section 41, such notary or other person transmitting or delivering the same shall tender to the registrar two lists thereof, and the said registrar shall, after ascertaining the correctness thereof, sign the said lists, and return one of them to the said notary or other party, and file the remaining list, and securely keep and preserve the same and the documents specified therein with the other records of his office :

Notary to deliver to the registrar lists of duplicate deeds filed.

Provided, however, that any document, other than a draft or copy of a will or codicil, which is delivered to the registrar under the last preceding section, may be destroyed by him at any time after the expiry of a period of two years from the date on which the document was delivered to him, if, after inspection duly made, he is satisfied that the duplicate of that document is preserved in the records of his office.

43. In this Ordinance, unless the subject Interpretation. or context otherwise requires—

" High Court Judge " shall mean a Judge of the High Court ;

" Registrar-General " includes a Deputy Registrar-General. [§§ 2 & 3, Law 23 of 1978.]

FIRST SCHEDULE

A

[Section 7.]

REGULATIONS FOR THE ADMISSION OF ARTICLED CLERKS UNDER SECTION 7

1. Every person intending to be an articulated clerk with a view to qualifying himself for the office of a notary shall be required to sit for a competitive examination. At every such examination the Registrar-General may reserve—

- (a) not less than fifty *per centum* of the number of vacancies, for notaries' clerks who, at a date to be fixed by the Registrar-General from time to time in respect of each such examination, have been so employed for a continuous period of not less than five years ; and
- (b) the first four places out of the aforesaid fifty *per centum* for notaries' clerks with not less than 15 years (continuous or non-continuous) service at the aforesaid date ;

if the notaries' clerks referred to in the aforesaid provisions of this regulation obtain qualifying marks at the examination.

2. Every application by a candidate to sit for the examination referred to in regulation 1 shall—

- (a) be sent to the Registrar-General;
- (b) be substantially in form A 1 set out in the Second Schedule ;
- (c) be accompanied by at least two certificates of character, one of which shall be not more than three months old ;
- (d) be accompanied by the birth certificate of the candidate or such other authentic proof of age as may be, acceptable to the Registrar-General ; and
- (e) in the case of a notary's clerk, be accompanied by a certificate or certificates from the notary or notaries under whom he is employed or has been employed in proof of his eligibility under regulation 1.

3. Every application shall be made in the language in which the candidate proposes to practise, and shall be in his own handwriting.

4. No person shall be permitted to sit for the examination unless he has reached the age of eighteen years on the date of the commencement of the examination.

5. The examination shall be conducted by the Commissioner of Examinations, who shall send a report to the Registrar-General, setting out the results of the examination in order of merit.

6. (1) On the receipt of the report referred to in regulation 5 from the Commissioner of Examinations, the Registrar-General shall make inquiries, regarding the character, repute and suitability of such number of the candidates named in the report as he may deem necessary.

(2) The Registrar-General shall, after due consideration of the results of the examination and the information obtained in consequence of the Inquiries made under paragraph (1), select the required number of candidates to be articulated clerks, and shall inform by registered letter each candidate so selected that he has been selected to be an articulated clerk on the results of the examination, and that he is required within three months from the date of the letter, to nominate in writing the attorney-at-law with whom he proposes to enter into articles of agreement.

(3) Every candidate who has within the time specified furnished the written nomination required under paragraph (2) shall be issued a licence for the purpose of entering into articles of agreement with the attorney-at-law named by him.

7. Every candidate to whom a licence has been issued shall, within six months of the date of the issue of such licence—

- (a) enter into articles of agreement with the attorney-at-law named in the licence and commence apprenticeship ; and
- (b) send a copy of such articles of agreement to the Registrar-General.

8. No person shall be an articulated clerk unless he has obtained a licence from the Registrar-General.

9. Every articulated clerk shall serve his articles for a term of not less than two years.

[§3, Law 24 of 1973.]

[§3, Law 24 of 1973.]

10. If the attorney-at-law under whom the articulated clerk is serving is not a notary practising in the language in which the clerk proposes to practise, he shall serve for one year as a clerk of such attorney-at-law, and for one subsequent year as a clerk in the office of a notary practising in the language in which he intends to practise and

shall, in such a case, obtain a fresh licence from the Registrar-General and enter into fresh articles of agreement with the notary named in such licence. A copy of such articles of agreement shall be sent to the Registrar-General.

11. In the event of the attorney-at-law to whom any person is articulated dying or discontinuing to practise in the zone in which he practised when such articles were entered into, or for any other good and sufficient reason, the Registrar-General may permit such articulated clerk to transfer his articles to some other attorney-at-law, in which case the time during which he shall have served under his original articles shall be reckoned as part of the term of his apprenticeship, notwithstanding such transfer.

12. In proof of service under regulations 9 and 10, the clerk shall, on or before the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December, in each year, forward to the Registrar-General a certificate in form B in the Second Schedule to this Ordinance from the attorney-at-law or notary under whom he is serving.

13. Any articulated clerk failing to furnish the certificate referred to in regulation 12 shall not be allowed, unless he explains such failure to the satisfaction of the Registrar-General, to count the period during which he shall have so failed as part of the period of his apprenticeship.

14. For the purposes of these regulations, the expression " notary's clerk " means a clerk employed by a notary for the purposes of his professional work as a notary.

REGULATIONS FOR THE ADMISSION OF NOTARIES UNDER SECTION 7

[Section 7.]

1. Every articulated clerk who has served his articles for a term of not less than two years and is desirous of qualifying as a notary shall be required to sit for the final examination for notaries, for which he shall make a written application to the Registrar-General. Such application shall be substantially in form A2 in the Second Schedule to this Ordinance, and shall be supported by the documents mentioned in paragraph 9 of that form.

2. Every articulated clerk who intends to make the application referred to in regulation 1 shall cause the notice of his intended application in Sinhala and in the language in which he intends to practise, to be affixed in some conspicuous part of the High Court holden in the Judicial /one in which he resides and to be published at least once in the Gazette and in a local newspaper in the language in which he intends to practise. Such notice shall be published at least one month before the date of the application to the Registrar-General.

3. No articulated clerk shall be eligible to sit for the examination referred to in regulation 1 after the expiry of two years from the date of the completion of his articles :

Provided that in any particular case the Minister may exempt an articulated clerk from the operation of this regulation.

4. The Registrar-General shall, on the receipt of the application referred to in regulation 1, transmit such application, if it is in order, to the Council of Legal Education for the purpose of holding the examination mentioned in that regulation. The Council of Legal Education shall hold the examination and send a report to the Registrar-General setting out the results of the examination.

5. On the receipt of the report referred to in regulation 4, the Registrar-General shall, if he considers the applicant duly qualified, make a recommendation to the Minister that the applicant is fit to be appointed a notary public.

SECOND SCHEDULE

Form A1

APPLICATION FOR PERMISSION TO SIT FOR THE COMPETITIVE EXAMINATION FOR THE SELECTION OF
ARTICLED CLERKS

[Regulation 2,
First Schedule
-A.]

Date :

The Registrar-General,
Colombo.

Sir,

I intend to become an articulated clerk with a view to qualifying myself for the office of notary and hereby apply for admission to the competitive examination to be held on for the selection of articulated clerks.

2. My full name is :

3. My place of residence is :in the district of

4. I shall be not less than 18 years of age on the date of the commencement of the examination. My birth certificate (or other authentic proof of age being) is attached marked (A).

5. I intend to serve as an articulated clerk under Mr.,Aterney-at-Law of the Supreme Court.

6. The zone and the language in which I propose to practise are(zone) and(language), respectively.

7. (a) I attach the originals of two testimonials of character and suitability given to me by.....ofandof marked (B)and (C).

*(b) I have served as a Notary's clerk under the under-mentioned notary/notaries/during the period/periods noted against his/their names.

+ Under notary.....ofduring the period fromto

*(c) I attach certificate/certificates from the notary/notaries referred to above in proof of my employment as clerk to a notary during the period/periods referred to above.

8. I request that I may be granted permission to sit for the competitive examination for the selection of articulated clerks.

..... Signature of Applicant.

Postal address:

*Strike out inapplicable words.
* Repeat as often as may be necessary.

Form A2

[Regulation I, First Schedule -B.]

APPLICATION FOR PERMISSION TO SIT FOR THE NOTARIAL FINAL EXAMINATION AND FOR ADMISSION AS A NOTARY PUBLIC

Date :

The Registrar-General, Colombo.

Sir,

I hereby apply for permission to sit for the Notarial Final Examination and for eventual admission as a Notary.

2. My full name is:

3. My place of residence is in the district of

4. I intend to practise in thezone.

[§4, Law 24 of 1973.]

5. I have attained the age of twenty years.

6. I served my articles under Mr. Attorney-at-Law of the Supreme Court, and Mr Notary Public, the date of entering into articles being and the date of completion being

7. I propose to draw, authenticate or attest deeds in thelanguage.

8. The nature of the security I intend to offer is as follows :—

9.1 attach—

(a) the licence granted to me by the Registrar-General to be an articulated clerk marked (A) ;

(b) proof that ihe notice referred to in regulation 2 was affixed in some conspicuous part of the High Court holden in the zone marked (B) ;

(c) a copy of, or an extract from, the Gazette, and the local newspaper in which the notice referred to in regulation 2 was published marked (C) ;

(d) a certificate from the attorney-at-law and the notary (if any), to whom I had been apprenticed that I have duly served my term of articles and thai. in the opinion ot such attorney-at-law and notary, I am a fit and proper person to be appointed a notary marked (D) ; and

[§4, Law 24 of 1973.]

(e) my birth certificate or such other authentic evidence of age to prove I have attained the age of twenty years marked (E).

Postal address:

..... Signature of Applicant.

NOTARIES

[Cap.110

Form B

CERTIFICATE BY ATTORNEY-AT-LAW OR NOTARY

[Regulation
12 First
Schedule -A.]

I, Attorney-at-Law of the Supreme Court of the Republic of Sri Lanka (or Notary Public, *as the case may be*), certify that the articulated clerk named in the schedule hereto annexed has during the quarter ended well and truly served me as clerk, and diligently discharged his duties as such and pursued his studies for the notarial profession.

(Signature).....

Date

Schedule referred to

| Name of Articled Clerk | Address | Date of Articles | Zone in which Clerk intends to practise | Language in which Clerk intends to practise |
|------------------------|---------|------------------|---|---|
| | | | | |

Form C

DECLARATION TO BE MADE BEFORE JUDGE OF HIGH COURT

[Section 12
(1).]

I, *A. B.*, do sincerely promise and declare that I will iruly and faithfully and to the best of my ability execute the office of a notary in pursuance of and in conformity with the authority given to me by warrant of the Minister bearing date the day of

Form D

CERTIFICATE BY REGISTRAR, HIGH COURT

[Section 27.]

I, *A. B.*; Registrar of the High Court holden in the zone of do hereby certify that *C. D.*, of hath this day delivered and left with me the declaration in writing signed by him required by the Notaries Ordinance, and I further certify that the said *C. D.* is duly enrolled as a notary and authorized to practise as such in the language in the judicial zone of within the district of

In witness whereof I have this day of at , set my hand on this stamped certificate.

(Signed) *A. B.*, Registrar.

Form E

FORM OF ATTESTATION

[Section 31
(21).]

I, *A. B.*: Notary Public, do hereby certify and attest that the foregoing instrument having been read over by (or, read and explained by me, the said notary, to) the said [*Vahalafertrige Juanis Fernanda*, who has signed this deed as *Juanis* (or with a mark, *as the case may be*), and who is known to me (if the case be so), in the presence of (insert the names of the witnesses in full, with their residence'; or, if the name of a witness differs from the signature, describe him as above by both his name and the name given in the signature), the subscribing witnesses hereto, bulh of whom are known to me (if the case be so), the same was signed by the said *Wahalatantrige Juanis Fernando* and also by the said witnesses in my presence and in the presence of one another, all being present at the same time, on the day of at

And I further certify and attest that in line of page the word or letter " " was erased, and in line of page the word or letter " " was altered to the word or letter " " and in line of page the word or letter " " was interpolated. before the foregoing instrument was read over as aforesaid by me, the said notary, to the said Vahoinaiurige Juan^ f-i.rnuiio. and that on page the letter " " was erased in the signature of by him. and on page the figure " " on the serial number of the deed was altered by me to " - ", and on page the date " " on the stamp of the value of and bearing vendor's number was altered by me to " ", and that Rs., the consideration (or part consideration, or no consideration, as the case may be), was paid in my presence, and that the original of this instrument bears stamps of the value of Rs. and the duplicate stamps of the value of Rs.

Notary Public.

Seal ;
Date of attestation

Form F

REGISTER AND MONTHLY LIST OF DEEDS

[Section 31 (24), (26) and (27)]

| 1 No. | 2 Date | 3 Nature of Instrument | 4 Names of Parties | | 5 District of Registration | 6 Name of Land affected by Deed, first land only, if more than one | 7 Consideration | 8 Stamps on Duplicate |
|----------|-----------|---------------------------|-----------------------|---------|-------------------------------|---|--------------------|--------------------------|
| | | | Grantor | Grantee | | | | |
| | | | | | | | | |

Form G

WEEKLY LIST

[Section 31 (27).]

| 1 Date and Place of Execution | 2 No. of Deed | 3 Nature of Deed | 4 Names of Parties |
|----------------------------------|------------------|---------------------|-----------------------|
| | | | |

THIRD SCHEDULE

TABLE OF NOTARIES' FEES

[Section 40.]

1. For drawing, engrossing, and attesting any deed of transfer of property, movable or immovable, and any mortgage or bond in common form, wherein the value or consideration is expressed, or any lease in common form without special covenants, wherein the rent value or consideration is expressed :
Where such value or consideration (or in the case of a lease the rent comprised during the whole term)—

| | | Rs. c. |
|--|------------|--------|
| Does not exceed Rs. 75 | | 1 0 |
| Exceeds Rs. 75 and does not exceed Rs. 200 | | 2 0 |
| Do. 200 | do. 350 | 3 0 |
| Do. 350 | do. 500 | 3 75 |
| Do. 500 | do. 750 | 4 50 |
| Do. 750 | do. 1,000 | 5 25 |
| Do. 1,000 | do. 1,500 | 6 75 |
| Do. 1,500 | do. 2,000 | 8 25 |
| Do. 2,000 | do. 3,000 | 9 75 |
| Do. 3,000 | do. 4,000 | 12 0 |
| Do. 4,000 | do. 5,000 | 13 50 |
| Do. 5,000 | do. 10,000 | 15 0 |

Rs. 10,000 and upwards an additional 50 cents on every Rs. 1,000 of consideration :

Provided that where the term of lease exceeds five years, the fees payable on a lease in common form shall not exceed such as would be payable on a lease for five years.

| | | Rs.c. |
|--|---|-------|
| 2. | For drawing, engrossing and attesting any deed of transfer, mortgage, or lease, or any bond, which is not in common form but contains various covenants, recitals, or conditions, or which includes the description of several parcels of lands, whether the consideration is therein expressed or not, and all agreements, deeds, powers of attorney, or other instruments, including last wills and other testamentary dispositions : for every such document, per folio of 120 words . . . | 3 50 |
| In cases where deed is sent to another notary for attestation, the above charges to hold for drawing and engrossing. | | |
| 3. | For attesting, in duplicate, any deed or instrument, not drawn by the notary himself, a sum equal to half the cost of drawing the deed, provided that the minimum fee shall be Rs. 1.50, and the maximum Rs. 10.50. | |
| 4. | For examining, at the request of any party, the title of any property to be transferred, demised, or mortgaged, if there is only one deed . . . | 2 50 |
| | If there are more deeds than one, then for each additional deed . . . | 1 0 |
| 5. | For preparing abstract of the title at the request of any party, for each deed abstracted . . . | 1 0 |
| 6. | For registering, at the request of any party, any deed in the office of the Registrar of Lands, half of the charges allowed for drawing, engrossing, and attesting such deed : | |
| | Provided that the maximum charge shall not exceed . . . | 5 0 |
| 7. | For noting each bill of exchange or promissory note, including the copying of it in the book of registry or protest book and presentment. . . | 1 25 |
| | For protesting ditto . . . | 7 50 |
| | For every duplicate protest . . . | 2 50 |
| 8. | For every act of honour on acceptance of payment supra protest . . . | 5 0 |
| | For every duplicate of such protest . . . | 2 50 |
| 9. | For copy of a bill paid in part, and of receipt . . . | 1 50 |
| 10. | For noting protest of ship or vessel, including the copying of it in the book of registry or protest book . . . | 7 50 |

NOTARIES

| | Rs. c. |
|--|------------|
| 11. For drawing, engrossing, attesting, and recording protest of ship or vessel, for every folio of 120 words or less | 3 50 |
| 12. For every notarial copy or extract of deeds where parties require same (excepting the attestation),— | |
| For every folio of 120 words | 0 50 |
| Fee for attesting same | 2 50 |
| 13. For every duplicate deed engrossed, attested, and transmitted to the Registrar of Lands, half of the charges allowed for drawing, engrossing, and attesting such deed. | |
| 14. For preparing certificate of the Minister in charge of the subject of Foreign Affairs or other officer to any document intended to be sent abroad | 2 50 |
| 15. For attendance, either at the notary's office between the hours of 5 p.m. and 9 a.m. or elsewhere, for any purpose, for every hour or part of an hour | .. 2 50 |
| 16. For attendance at the registrar's office for the purpose of ascertaining the existence of incumbrances on one land | 2 50 |
| 17. For each additional land in the same deed | 0 50 |
| 18. For writing an application for that purpose | 0 50 |
| 19. For attendance at any place other than the notary's house or office, a charge of Re. 1 per mile going and 50 cents on return, or for any distance under a mile, shall be allowed as travelling expenses. | |

CHAPTER 562

NUISANCES

Ordinances AN ORDINANCE TO PROVIDE FOR THE BETTER PRESERVATION OF PUBLIC HEALTH AND
 Nos.15 of 1862, THE SUPPRESSION OF NUISANCES.
 61 of 1939,
 3 of 1946,
 57 of 1946.

[1st January, 1863.]

- | | | | | |
|--------------------------------------|---|-----|--|--|
| Short title. | 1. This Ordinance may be cited as the Nuisances Ordinance. | (4) | Whosoever shall keep in or upon any house, building, or land occupied by him any cattle, goat, swine, or other animal, so as to be a nuisance to or injurious to the health of any person. | Keeping cattle, goats, swine, &c. |
| Certain acts made offences. | *2. Whosoever shall commit any of the following offences shall be liable to a fine not exceeding fifty rupees ;— | (5) | Whosoever, being the owner of a house, building, or wall, shall allow the same to be in a ruinous state, or in any way dangerous to the inhabitants of such house or building, or to the neighbouring houses or buildings, or to the occupiers thereof or to passengers. | Allowing house, &c.. to be in a state ruinous or likely to fall. |
| Keeping a house, &c., filthy state. | (1) Whosoever, being the owner or occupier of any house, building, or land in or near any road, street, or public thoroughfare, whether tenantable or otherwise, shall keep or suffer the same to be in a filthy and unwholesome state, or overgrown with rank and noisome vegetation, so as to be a nuisance to or injurious to the health of any person. | (6) | Whosoever shall suffer any waste or stagnant water or other matter to remain in any place within the premises occupied by him, or shall allow the contents of any privy or cesspool to overflow or soak therefrom. | Suffering waste or stagnant water to remain, &c. |
| Having foul and offensive drains. | (2) Whosoever shall have in or upon any house building, or land occupied by him any foul or offensive ditch, gutter, drain, privy, cesspool, or other receptacle. | (7) | Whosoever shall throw, put. or cast, or cause to enter in any stream, tank, reservoir, well, cistern, conduit or aqueduct, any dead animal, or any dirt, rubbish, filth, or other noisome or offensive matter or thing, or shall cause or suffer to run, drain, or be brought thereinto any unwholesome or offensive liquid, matter, or thing, or flowing from any house or building or from any ground occupied by him, or shall do anything whereby any such water shall be in any degree fouled or corrupted. | Casting animals, dirt, &c., in streams. |
| Keeping an accumulation of dung, &c. | (3) Whosoever, being the occupier of a house, building, or land in or near any road, street, or public thoroughfare, shall keep or allow to be kept for more than twenty-four hours, otherwise than in some proper receptacle any accumulation of dung, offal, filth, refuse, or other noxious or offensive matter, or suffer such receptacle to be in a filthy or noxious state, or neglect to employ proper means to remove the filth therefrom and to cleanse and purify the same. | (8) | Whosoever shall keep in any market, shop, building, stall, or place used for the sale of butchers' meat, | Exposing for sale unwholesome meal, &c. |

* Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

poultry, fish, fruit, or vegetable, or expose or shall allow to be exposed for sale in any place or way any animal, carcase, meat, poultry, game, flesh, fish, fruit, or vegetable which is unfit for the food of man.

Selling noxious articles as food.

(9) Whosoever shall sell or offer or expose for sale as food or drink for man any article which has been rendered or has become noxious or unfit for such use, knowing or having reason to believe the same to be noxious or unfit for such use.

Keeping manufactories without licence.

(10) Whosoever shall keep any manufactory or place of business from which offensive or unwholesome smells arise, without a licence for that purpose, as provided in section 5.

Depositing coconut husks, &c.

(11) Whosoever shall keep or deposit any coconut husks, coir, or any other substance at or near such places, or in such a manner as to be a nuisance to or injurious to the health of any person.

Throwing dirt, &c., on road, or into sewers.

(12) Whosoever shall throw or put, or permit his servants to throw or put, any earth, dirt, ashes, filth, refuse from any garden, kitchen, or stable, or any broken glass or earthenware, or other rubbish, on any street, road, or public place or passage, or into any sewer or drain.

Notice to the owner or occupier to abate the nuisance.

3. Whosoever shall continue or suffer to continue any of the nuisances above specified after being convicted of any of the above offences, or after notice in writing prior to any conviction from the Board of Health, or Urban Council or Town Council, or any of its officers, or from the Magistrate, requiring him to abate or put an end to the same, shall be liable to a further fine not exceeding ten rupees for each day after such conviction or notice. And the court competent to try the offender is hereby empowered to impose such further fine, although the aggregate thereof may exceed in amount the jurisdiction of such court.

4. Any person authorized by the Board of Health, or Urban Council or Town Council, may, and he is hereby empowered, at all reasonable times, with or without assistants, to enter into and inspect any market, building, shop, stall, or place used for the sale of butchers' meat, poultry, fish, fruit, or vegetable, or as a slaughter-house, and to examine any animal, carcase, meat, poultry, game, flesh, fish, fruit, or vegetable which may be therein; and in case any animal, carcase, meat, poultry, game, flesh, fish, fruit, or vegetable appear to him to be intended for the food of man, and to be unfit for such food, the same may be seized and conveyed to the nearest Magistrate; and if it appear to such Magistrate, upon the evidence of a competent person, that any such animal, carcase, meat, poultry, game, flesh, fish, fruit, or vegetable was intended for the food of man and is unfit for such food, he shall order the same to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such food.

Markets may be visited, and unwholesome meat seized and destroyed.

5. No place shall be used within the limits of a town for the purposes of a manufactory or place of business from which offensive or unwholesome smells arise, except under a licence from the Assistant Commissioner of Local Government for the administrative region, within which such manufactory or place of business is used, who is hereby empowered at his discretion, from time to time, to grant such licences, and the same, with the sanction of the Minister, to recall; and the licence shall be on a stamp of twenty rupees, and shall be substantially of the form in the Schedule.

What manufactories must be licensed.

6. The Board of Health for each province, or Urban Council or Town Council, may make by-laws—

Board of Health, &c., may make by-laws.

(a) with respect to the removal by the owners and occupiers of houses of dust, ashes, rubbish, filth, manure, dung, and soil collected, placed, or found in or about any house, stable, cow-house, street, or place whatsoever, and for preventing the deposit thereof in or by the side of any street so as to be a nuisance to any person ;

- (b) for the draining, cleansing, covering, or filling up all ponds, pools, open ditches, sewers, drains, and places containing or used for the collection of any drainage, filth, water, matter, or thing of an offensive nature or likely to be prejudicial to health ;
- (c) for the cleansing, purifying, ventilating, and disinfecting of houses, dwellings, churches, and places of assembly by the owners or occupiers and persons having the care and ordering thereof;
- (d) for the preventing or mitigating any epidemic, endemic, or contagious diseases, and for the speedy interment of the dead during the prevalence of such diseases; and
- (e) for all other matters as are not specially enacted by this Ordinance, and as shall be necessary for the preservation of the public health and the suppression of nuisances :

penalty, to be printed in the Sinhala, Tamil and English languages and copies thereof to be circulated so as to secure due publicity to the same.

***9.** Any breach of by-laws so made as aforesaid shall be deemed an offence, and the person guilty thereof shall, on conviction, be liable to a fine not exceeding twenty rupees, and in the case of a continuing offence a further fine not exceeding the sum of five rupees for each day after conviction for the original offence, or after written notice from the Board of Health, Urban Council or Town Council, or any officer thereof in its name, or from the Magistrate,* calling upon him to remove the same ; and the court competent to try the offender is hereby empowered to impose such further fine, although the aggregate thereof may exceed in amount the jurisdiction of such court.

Breach of by-laws made an offence.

10. Nothing in this Ordinance shall be construed to render lawful any act or omission on the part of any person which is, or but for this Ordinance would be, otherwise deemed to be a nuisance, or to exempt any person guilty of such nuisance from prosecution or action in respect thereof.

Other nuisances not affected by this Ordinance.

11. Where any notice is required by this Ordinance to be given to the owner or occupier of any building or land, such notice addressed to the owner or occupier, as the case may require, may be served on the occupier of such building or land, or left with some adult member or servant of his family, or, if the notice cannot be so served, or if there be no occupier, may be put up on some conspicuous part of such building or land, and it shall not be necessary in any such notice to name the occupier or the owner.

Service of notices.

Provided that no such by-laws shall be repugnant to the provisions of this Ordinance, and the same shall not be of any force and effect unless and until the same be submitted to and confirmed by the Minister, who is hereby empowered to allow, amend, or disallow the same as he may think proper, and published in the Gazette ;

Provided also that the said Board of Health or Urban Council or Town Council may alter or repeal any such by-laws.

7. All courts and Magistrates shall take judicial notice of such by-laws when the same shall have been confirmed and published as aforesaid.

8. The Board of Health, or Urban Council or Town Council, shall cause short particulars of the several offences for which any penalty is imposed by this Ordinance, or of any by-law made under this Ordinance, and of the amount of every such

12. If at any time it shall appear to the Board of Health, Urban Council, Town Council, or to the Magistrate that a nuisance ought to be abated, or any work or thing required by this Ordinance or by any by-law to be performed or done, such Board or Council or Magistrate may give notice to

Board of Health, Urban Council, Town Council, or Magistrate may abate nuisances.

* Primary Court has exclusive Jurisdiction under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

By-laws to be taken judicial notice of.

Short particulars of offences and penalties to be published.

the owner or occupier, as the case may be, requiring him to get such nuisance abated, or such work or thing performed or done, within such time as the Board of Health, Urban Council, or Town Council shall deem reasonable; and if after such notice default is made in the removal of the nuisance or the performance of such work, or in the doing of such thing, the Board of Health, Urban Council, Town Council, or Magistrate, whether any penalty is or is not provided for such default, may cause such nuisance to be removed or work to be performed or such thing to be done. and the expense thereby incurred, if not paid by the owner or occupier, or any person on his behalf, shall, when notified to the Magistrate's Court by the person entrusted with the performance of such work or the doing of such thing, and proved to be reasonable by the evidence of two or more competent persons, be recovered as any ordinary fine imposed by the court.

Occupier may execute works in default of owner.

13. Whenever default is made by the owner of any land in the execution of any work required to be executed by him, the occupier of such land may cause such work to be executed, and the cost thereof shall be paid to him by the owner.

Occupier executing works for owner may deduct his expenses from the rent.

14. Whenever the occupier of any land shall be put to any expense or pay any money for anything required under this Ordinance which is payable by the owner, being the defaulter, such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as is so paid by or recovered from him in respect of any such expenses, and he shall have a right to retain possession of such house until such expenses are paid or tendered to him.

Course if occupier obstruct owner.

15. If the occupier of any land prevent the owner thereof from carrying into effect any of the provisions of this Ordinance after notice of his intention so to do has been given by the owner to such occupier, any Magistrate, upon proof thereof, may make an order in writing requiring such occupier to permit the owner to execute ail such works as may be necessary for carrying into effect the provisions of this Ordinance ; and if after the expiration of eight days from the date of the order such occupier refuse to permit such owner to execute such works,

such occupier shall, for every day during which he so continues to refuse, be liable to a fine not exceeding twenty rupees; and every such owner during the continuance of such refusal shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

16. The Board of Health, Urban Council, Town Council, or Magistrate shall, for the purposes of this Ordinance, have power by themselves or their officers to enter at all reasonable hours in the day-time into and upon any land, for the purpose of inspecting the same or removing any nuisance or executing any work authorised by this Ordinance, without being liable to any legal proceedings or molestation whatever on account of such entry, or of anything done in any part of the land in pursuance of this Ordinance.

Power to enter into lands.

17. Whoever at any time shall obstruct or molest the Board of Health, Urban Council, Town Council, or Magistrate, or any of their officers or workmen, or any person employed by them in the performance and execution of their duty, or of anything which they are respectively empowered or required to do by virtue or in consequence of this Ordinance, shall be guilty of an offence, and liable on conviction to a fine not exceeding fifty rupees.

Obstruction of Board of Health, &c., or Magistrate, or their officers.

18. The Magistrate by whom any fine is imposed by virtue of this Ordinance may award any portion not exceeding one-half thereof to the informer.

Informer's share.

19. No person shall be liable to any fine for any offence committed under this Ordinance unless the complaint respecting such offence shall have been made before a Magistrate within three months next after the commission of such offence.

Limitation of prosecutions.

20. It shall be the duty of all officers of the police force, and of all grama seva niladharis, police and peace officers generally, to aid and assist in the prevention of all offences against this Ordinance within their respective jurisdiction ; and any officer or grama seva niladhari who being cognizant of any such offence, whether upon his own view or upon the information

Police officer to assist.

NUISANCES

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of others, shall fail to make complaint thereof before the duly constituted authority, or shall fail to act promptly and vigorously thereupon, shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding fifty rupees.

" Magistrate " shall be respectively held to mean the Board of Health of the province, the Urban Council or Town Council of the area, or the Magistrate of the division, within which the nuisance exists, or any work or thing has to be performed or done, and the term " administrative region " shall mean an administrative region defined by Order made under section 2 of the Local Government (Administrative Regions) Ordinance.

Interpretation.

21. In construing this Ordinance the terms " Board of Health", " Urban Council", "Town Council", and

SCHEDULE

A. B.. of _____ is hereby empowered to keep a manufactory or place of business for _____ . . [Section 5.]
at _____

C.D.

(Date.)

Assistant Commissioner of Local Government
for the administrative region

CHAPTER 626

NAVY

Acts AN ACT TO PROVIDE FOR THE RAISING AND MAINTENANCE OF A NAVY AND FOR
Nos.34 of 1950, MATTERS CONNECTED THEREWITH.
8 of 1962,
11 of 1962,

Law
No. 33 of 1976,
Act
No. 21 of 1979.

[9th December. 1950.]

Short title. 1. This Act may be cited as the Navy Act.

out, as hereinafter provided, on active service or for naval training, the officers and seamen of such reserve, force, or part so called out shall, during the period of such service or training be deemed for all purposes to be officers and seamen of the Regular Naval Force.

PART I

ORGANIZATION OF THE SRI LANKA NAVY

Sri Lanka Navy.

2. (1) There shall be raised and maintained, in accordance with the provisions of this Act and of the regulations made thereunder, a navy, to be called the Sri Lanka Navy (and hereinafter referred to as the " Navy "), not exceeding such strength as may, from time to time, be determined by Parliament.

4. The Regular Naval Reserve shall consist of officers who by order of the President are transferred to such reserve from the Regular Naval Force and seamen who are transferred to such reserve from the Regular Naval Force in accordance with the terms of their enlistment.

Regular Naval Reserve.

[§ 2, 21 of 1979.]

- (2) The Navy shall consist of—
 - (a) a Regular Naval Force,
 - (b) a Regular Naval Reserve, and
 - (c) such Volunteer Naval Force and Volunteer Naval Reserve as may be constituted under sections 5 and 6.

5. (1) There may be raised and maintained, in accordance with the provisions of this Act and of the regulations made thereunder, a force of volunteers for the purpose of rendering service under this Act.

Volunteer Naval Force.

(2) The force of volunteers raised and maintained under this Act shall be called the Volunteer Naval Force.

Regular Naval Force.

3. (1) The Regular Naval Force shall consist of officers and seamen who are appointed or enlisted for the purpose of rendering continuous service under this Act during the period of their engagement.

(3) The Volunteer Naval Force shall be organized in such manner as may, from time to time, be determined by the President.

(2) The Regular Naval Force shall be organized in such manner as may, from time to time, be determined by the President.

(3) Where the whole or any part of the Regular Naval Reserve, Volunteer Naval Force, or Volunteer Naval Reserve is called

(4) Every member of the Ceylon Naval Volunteer Force raised under the Naval Volunteer Ordinance, No. 1 of 1937,* who is not in actual service (within the meaning of that Ordinance) on the day immediately preceding the date on which this Act comes into operation shall be deemed to be a member of the Volunteer Naval Force raised under this Act.

* Repealed by Act No. 34 of 1950.

Volunteer Naval Reserve. **6.** There may be organized and maintained a Volunteer Naval Reserve consisting of such officers and seamen of the Volunteer Naval Force or of any other unit of the Navy as are transferred to such reserve by order of the President.

Training. **7.** The whole or any part of the Regular Naval Reserve, Volunteer Naval Force, or Volunteer Naval Reserve may by order of the President be called out for naval training with the whole or any part of the Regular Naval Force during any period specified in such order.

Captain of the Navy. **8.** (1) The President shall appoint a fit and proper person to command the Navy.

[§ 2, Law 33 of 1976.] (2) The person appointed under subsection (1) shall be designated Commander of the Navy.

(3) Where a commissioned officer of the Volunteer Naval Force or Volunteer Naval Reserve desires to resign his commission on any date, he shall, not less than three months before that date, give the President written notice that he will be resigning his commission on that date.

(4) Where a commissioned officer of the Volunteer Naval Force or Volunteer Naval Reserve has, in accordance with subsection (3), given notice of resignation of his commission, he shall be entitled to resign his commission—

- (a) if he is not on active service, on the date of resignation specified in such notice, or
- (b) if he is on active service, immediately after the termination of such service.

PART II

COMMISSIONED OFFICERS

Appointment of commissioned officers. **9.** (1) All officers other than warrant officers and subordinate officers shall be appointed by commissions under the hand of the President. An officer so appointed is hereinafter referred to as a "commissioned officer".

(2) No commission issued by the President under subsection (1) shall become invalid by reason of his death or vacation of office.

Duration of appointments. **10.** Every commissioned officer shall hold his appointment during the President's pleasure.

Resignation. **11.** (1) A commissioned officer of the Regular Naval Force or Regular Naval Reserve shall not have the right to resign his commission, but may be allowed by the President to do so.

(2) A commissioned officer of the Regular Naval Force or Regular Naval Reserve who tenders the resignation of his commission to the President shall not be relieved of the duties of his appointment until the acceptance of the resignation is notified in the Gazette.

PART III

SEAMEN

12. (1) The enlistment of persons as seamen shall be in accordance with such regulations as may be made in that behalf under this Act. Enlistment.

(2) Every person selected for enlistment as a seaman shall appear before a prescribed officer and sign an attestation paper containing the terms of his enlistment.

(3) The attestation paper referred to in subsection (2) shall be in the prescribed form.

13. (1) Subject to the provisions of section 17, the enlistment of a person as a seaman of the Regular Naval Force shall— Original enlistment, and re-engagement.

- (a) be for the prescribed period which shall be called the period of original enlistment, and
- (b) be entirely for service in such force or partly for such service and partly for service in the Regular Naval Reserve.

(2) A seaman may, before the expiry of the period of his original enlistment, be re-engaged for a further period of naval service not exceeding the prescribed maximum period of re-engagement.

Discharge of seamen of Volunteer Naval Force or Volunteer Naval Reserve.

14. Where a seaman of the Volunteer Naval Force or Volunteer Naval Reserve desires to obtain his discharge from such force or reserve on any date before the expiry of the period for which he has volunteered to serve in such force or reserve, he shall, not less than three months before such date, make a written request to his commanding officer for such discharge; and, if he makes such request, he shall, subject to the provisions of section 17, be entitled to be discharged from such force or reserve on such date.

PART IV

SERVICE

Employment of Regular Naval Force.

15. The Regular Naval Force shall at all times be liable to be employed on active service.

Employment of Regular Naval Reserve, Volunteer Naval Force, and Volunteer Naval Reserve.

16. (1) The President may—
- (a) for the defence of Sri Lanka in time of war whether actual or apprehended, or
 - (b) for the prevention or suppression of any rebellion, insurrection or other civil disturbance in Sri Lanka,

by Proclamation or, where the circumstances render it impossible to issue a Proclamation, by order call out on active service the whole or any part of all or any of the following units of the Navy:—

Regular Naval Reserve;

Volunteer Naval Force;

Volunteer Naval Reserve..

(2) If Parliament is sitting at the date of issue of a Proclamation or an order under subsection (1) the President shall forthwith communicate to Parliament the reason for issuing the Proclamation or order. If

Parliament is not then sitting the President shall summon Parliament to meet as soon as possible but not later than thirty days after the aforesaid date, and shall, at the first sitting of Parliament after it is summoned, communicate the aforesaid reason.

(3) All officers and seamen of any such part of the Navy as is called out on active service under subsection (1) shall be deemed to be on such service until the President terminates such service by Proclamation.

17. Where the time at which a seaman is entitled to be discharged from the Navy occurs during the period when the whole or any part of the Navy is on active service, the President may by order prolong the service of that seaman in the Navy for such period.

Prolongation of service in the Navy.

18. (1) Where an officer or a seaman of the Navy is attached to, or is a member of any part of the Navy acting with, any military or air force of Sri Lanka under such conditions as may be prescribed, then, for the purposes of command and discipline, the officers and the non-commissioned officers (not below the rank of Sergeant) of such force shall, in relation to him, be treated as, and have all the powers (other than powers of punishment) vested in, officers or petty officers of the Navy, as the case may be.

Relations between naval, military, and air forces of Sri Lanka acting together.

(2) Where an officer or a non-commissioned officer (not below the rank of Sergeant) of the Army or Air Force of Sri Lanka is attached to, or is a member of any military or air force of Sri Lanka which is acting with, any part of the Navy under such conditions as may be prescribed, then, for the purposes of command and discipline, he shall, in relation to that part of the Navy, be treated as, and have all the powers (other than the powers of punishment) vested in, an officer or a petty officer of the Navy, as the case may be.

19. Any officer or seaman of the Navy who, by order of the Commander of the Navy, is serving in a ship of, or belonging to, the naval forces of any country (other than Sri Lanka) which is a member of the Commonwealth, or in a naval establishment of such country, or who is on board such ship or in such establishment

Officers and seamen of the Navy in ships and naval establishments of any member of the Commonwealth other than Sri Lanka.

awaiting passage or conveyance to any destination shall, for the purposes of command and discipline, be subject to the laws and customs for the time being applicable to the ships and naval forces of such country.

20. (1) If the whole or any part of the Navy is required to act in co-operation with any foreign naval force, the President may place the Navy or such part thereof under the command of the officer commanding such foreign naval force if that officer is senior in rank to all the officers of the Navy or of such part thereof.

(2) Where any officer or petty officer of the Navy is acting in co-operation with any foreign naval force in defence of Sri Lanka, the President may, in agreement with the Commander of such force, define the powers of command and the order of precedence of such officer or petty officer in relation to a member of such force who is of the same or similar rank.

21. (1) The President may order all or any of the members of the Navy to perform such non-naval duties as he may consider necessary in the national interest.

The President may order any member of the Navy to perform escort and guard duties in respect of persons suspected, accused or convicted of any offence against the State under Chapter VI of the Penal Code.

Whenever an order relating to the performance by any officer of the Navy of civilian administrative duties or by any member of the Navy of escort and guard duties is made under this subsection, the occasion thereof shall forthwith be communicated to Parliament in the same manner as a Proclamation made under section 2 of the Public Security Ordinance would be communicated to Parliament, and accordingly the provisions of subsection (3) of section 2 of that Ordinance shall, *mutatis mutandis*, apply as though there were substituted in that subsection,—

- (i) for the words " a Proclamation is made under the preceding provisions of this section", the words " an order is made under this subsection ":

- (ii) for the words and figure " a Proclamation under subsection (1) ", the words " an order under this subsection "; and

- (iii) for all the words and figures " or operation of that Proclamation or of the provisions of Part II of this Ordinance or anything done under that Part: ", the words " of an order made under this subsection : ".

(2) Every officer or seaman of the Navy shall perform such duties as may be imposed on him by order of the President under subsection (1).

PART V

PERSONS SUBJECT TO NAVAL LAW

22. For the purposes of this Act, " person subject to naval law" means a person who belongs to any of the following classes of persons :—

Meaning of " person subject to naval law ".

- (a) all officers and seamen of the Regular Naval Force;
- (b) all such officers and seamen of the Regular Naval Reserve, Volunteer Naval Force, or Volunteer Naval Reserve, as are deemed to be officers and seamen of the Regular Naval Force under subsection (3) of section 3;
- (c) all persons who by virtue of any provisions of this Act are deemed to be persons subject to naval law.

23. A person subject to naval law who commits any naval or civil offence may be taken into naval custody.

Persons liable to naval custody.

24. (1) A senior officer may order into naval custody a junior officer who, being a person subject to naval law, commits any naval or civil offence, and a junior officer may order into naval custody a senior officer who, being a person subject to naval law, is engaged in a quarrel, affray or disorder.

Persons who may order naval custody

Co-operation with foreign naval force.

Performance of non-naval duties. [§ 2, 8 of 1962.]

(2) Any officer or petty officer may order into naval custody any seaman who, being a person subject to naval law, commits any naval or civil offence.

PART VI

JUDICIAL POWERS OF COMMANDING OFFICERS

Naval custody of officer or seaman not on active service.

25. Where any officer or seaman not on active service is kept in naval custody for a longer period than seven days without trial, his commanding officer shall submit weekly to the officer to whom application would be made to convene a court martial if the person in naval custody were to be tried by a court martial, a written report on the necessity for such custody, until he is brought to trial or is released from such custody.

28. A commanding officer may, except in the cases which are expressly required by this Act to be tried by a court martial, summarily try and punish a seaman who has committed any non-capital naval offence, subject to the restriction that the commanding officer shall not have power to award imprisonment or detention for more than three months.

Summary trial of offenders by commanding officers.

Time-limit for prosecution.

26. No person subject to naval law, unless he is an offender who has avoided apprehension or fled from justice, shall be tried or punished by a court martial or by a naval officer exercising judicial powers under this Act for any offence committed by that person unless the trial takes place within a period of three years from the commission of the offence, or, where that person has been absent from Sri Lanka during such period, within one year after his return to Sri Lanka.

29. Where a petty officer is charged with a non-capital naval offence other than a disciplinary offence, his commanding officer shall ask him whether he desires to be dealt with summarily or to be tried by a court martial, and, if he elects to be tried by a court martial, shall take steps for his trial by a court martial.

Right of offender who is a petty officer to elect to be tried summarily or by court martial.

Trial and punishment of offenders who have ceased to be subject to naval law.

27. (1) Where a person subject to naval law commits an offence and thereafter ceases to be a person subject to naval law, he may be taken into and kept in naval custody and be tried and punished for that offence in like manner as he might have been taken into and kept in naval custody and tried and punished if he had continued to be a person subject to naval law;

30. A commanding officer may, in accordance with such regulations as may be made in that behalf under this Act, delegate his power of dealing summarily with an offender to an officer under his command.

Delegation of commanding officer's judicial powers.

31. Every witness at a summary trial of an offender by a naval officer exercising judicial powers under this Act shall, before giving evidence, take or make the same oath or affirmation as that required to be taken or made by a witness before a court martial.

Witnesses at summary trials to give evidence on oath or affirmation.

32. Every naval officer exercising judicial powers under this Act who tries an offender summarily shall, except in any such case or circumstance as may be prescribed, make a brief record of the proceedings at the trial.

Record of proceedings at summary trials.

Provided that, after the lapse of six months from the date of the commission of such offence, he shall not be tried for such offence unless such offence is the offence of mutiny or desertion.

PART VII

COURTS MARTIAL

(2) Where a person subject to naval law is sentenced by a court martial or by a naval officer, exercising judicial powers under this Act to imprisonment or detention for any offence and thereafter ceases to be a person subject to naval law, he may, during his imprisonment or detention, be dealt with as if he had continued to be a person subject to naval law.

33. A court martial may try and punish a person subject to naval law who has committed any naval or civil offence.

Jurisdiction of courts martial.

34. (1) The President, or such officer of a rank not below that of Lieutenant Commander as may be authorized by the President, may order a court martial to be held.

Authorities who may order courts martial to be held.

(2) An officer authorized by the President to order courts martial to be held shall not have the power to do so if there is present at the place where a court martial is to be held any officer superior in rank to himself on full pay and in command of one or more of the ships of the Navy; and in such a case such last-mentioned officer may order a court martial to be held, although he has not been authorized to do so by the President.

(3) Where an officer authorized by the President to order courts martial to be held and having the command of a fleet or squadron in foreign parts dies, is recalled, leaves his station, or is removed from his command, the officer for the time being in command of such fleet or squadron shall, without any authorization from the President, have the same power to order courts martial to be held as the first-mentioned officer was invested with.

(4) An officer authorized by the President to order courts martial to be held and having the command of a fleet or squadron in foreign parts may in writing authorize—

- (a) where he separates himself from such fleet or squadron, the next senior officer of such fleet or squadron, and
- (b) where he assigns separate service to a detachment of such fleet or squadron, the commanding officer for the time being of such detachment,

to order courts martial to be held during his absence from such fleet or squadron or during the time of separate service of such detachment, as the case may be.

35. (1) A court martial shall consist of not less than three nor more than nine members.

(2) A court martial shall—

- (a) where it is convened to try a person subject to naval law for the offence of treason, murder or rape, consist of not less than five members, and

(b) where it is convened to try a person subject to naval law for any other offence, consist of not less than three members.

(3) Where a commander, lieutenant commander, or lieutenant is a member of a court martial, the number of members of the court martial shall not exceed five.

(4) No person shall be qualified to be a member of a court martial unless he has attained the age of twenty-one years and is a flag officer, captain, commander, lieutenant commander, or lieutenant of the Navy, or an officer of equivalent rank in the Army or Air Force of Sri Lanka.

(5) Where the members of a court martial consist of officers of the Navy and officers of the Army or Air Force, there shall be not less than one officer of the Navy for every two officers of the Army or Air Force among such members.

(6) The following shall not be members of a court martial:—

- (a) the officer who investigated the charge on which the offender is arraigned;
- (b) the officer who ordered the court martial to be held ;
- (c) the commanding officer of the offender;
- (d) the prosecutor;
- (e) any witness for the prosecution.

(7) No commander, lieutenant commander, or lieutenant shall be required to be a member of a court martial when four officers of a higher rank and junior to the president of the court martial can be assembled at the place where the court martial is to be held (but the regularity or validity of a court martial or of the proceedings thereof shall not be affected by reason only of the fact that a commander, lieutenant commander, or lieutenant is required to be or is a member thereof under any circumstances).

Constitution of courts martial.

(8) The president of a court martial shall be named by the authority ordering the court martial to be held or by an officer empowered by such authority to name the president.

(9) No court martial for the trial of a flag officer shall be duly constituted unless the president is a flag officer and the other members of the court martial are of the rank of captain or of higher rank.

(10) No court martial for the trial of a captain shall be duly constituted unless the president is a captain or of higher rank and the other members of the court martial are commanders or officers of higher rank.

(11) No court martial for the trial of a person below the rank of captain shall be duly constituted unless the president is a captain or of higher rank, nor, if the person to be tried is of the rank of commander, unless in addition to the president, two other members of the court martial are of the rank of commander or of higher rank.

(12) Subject to the other provisions of this section, when a court martial is to be held, the officer appointed to preside thereat shall summon the necessary number of persons to be members of the court martial from the officers next in seniority to himself present at the place where the court martial is to be held.

Where courts martial are to be held.

36. A court martial shall be held at such convenient place as may be determined by the person ordering the court martial to be held.

Sittings of courts martial.

37. A court martial may, if it appears to the court martial that an adjournment is desirable, be adjourned for a period not exceeding six days, but, except where such an adjournment is ordered, shall sit from day to day, with the exception of Sundays, until sentence is given, unless prevented from doing so by stress of weather or unavoidable accident. The proceedings of a court martial shall not be delayed by the absence of any member of the court martial unless the result of such absence is that the minimum number of members required by this Act to constitute the court martial is not present.

38. (1) The authority ordering a court martial to be held shall appoint a person who has sufficient knowledge of procedure of courts martial and of the general principles of law and of the rules of evidence to act as the Judge-Advocate of the court martial.

Appointment of Judge-Advocate.

(2) A person who is disqualified under this Act from being a member of a court martial shall not be appointed as the Judge-Advocate of that court martial.

39. The powers and duties of the Judge-Advocate of a court martial shall be as follows;—

Duties of Judge-Advocate.

(a) It shall be his duty, whether before or during the proceedings, to give advice on questions of law or procedure relating to the charge or trial to the prosecutor and to the accused, who are hereby declared to be entitled to obtain such advice at any time after his appointment:

Provided that during proceedings he shall give such advice with the prior permission of the court martial.

(b) It shall be his duty to invite the attention of the court martial to any irregularity in the proceedings. Whether or not he is consulted, he shall inform the court martial and the authority who has ordered the court martial to be held, of any defect in the charge or in the constitution of the court martial, and shall give his advice on any matter before the court martial.

(c) He shall take all such action as may be necessary to ensure that the accused does not suffer any disadvantage in consequence of any incapacity to examine or cross-examine witnesses or to give evidence clearly, and may for that purpose, with the permission of the court martial, question any witness on any relevant matter.

(d) At the conclusion of the case he shall, unless both he and the court martial consider it unnecessary,

sum up the evidence and advise the court martial upon the law relating to the case before the court martial proceeds to deliberate upon its finding.

Oath or affirmation to be taken or made by members of court martial, Judge-Advocate, and witnesses.

40. (1) Every member of a court martial and the Judge-Advocate shall take the prescribed oath or make the prescribed affirmation before the commencement of the trial of a case.

(2) Every witness before a court martial shall take the prescribed oath or make the prescribed affirmation before the commencement of his evidence.

Objections by accused to members of court martial.

41. (1) The names of the members of a court martial shall, before the members are sworn or affirmed, be read in the hearing of the accused ; and the accused shall be asked whether he objects to any such member, and where as hereinafter provided any such member retires on being objected to and a successor to the retiring member is appointed, the accused shall be asked whether he objects to the succeeding member.

(2) The accused may object, for any reasonable cause, to any member of the court martial, including the president, whether appointed to serve on the court martial originally or to fill a vacancy caused by the retirement of a member objected to, so that the court martial may be constituted of officers to whom the accused has no reasonable objection.

(3) An objection of the accused to any member of a court martial shall be submitted for decision to the other members of the court martial.

(4) An objection of the accused to the president of a court martial shall, if upheld by one-third or more of the other members of the court martial, be allowed, and the court martial shall adjourn for the purpose of the appointment of another president.

(5) Where an objection of the accused to the president of a court martial is allowed, the authority by whom the court martial was ordered to be held shall appoint another officer as president, and such officer

shall act as president subject to the right of the accused to object to him.

(6) An objection of the accused to a member of a court martial other than the president shall, if upheld by one-half or more of the other members of the court martial, be allowed, and the member objected to shall retire, and the authority by whom the court martial was ordered to be held shall appoint a successor to the retiring member subject to the right of the accused to object.

Dissolution of courts martial.

42. (1) Where the number of members of a court martial after the commencement of the trial of a case is, by death or otherwise, reduced below the minimum number of members required for the constitution of the court martial under this Act, the court martial shall be dissolved.

(2) Where after the commencement of the trial of a case the president of a court martial dies or is otherwise unable to attend the court martial and the number of members of the court martial is not reduced below the minimum number of members required for the constitution of the court martial under this Act, the authority by whom the court martial was ordered to be held may appoint a senior member of the court martial, if he is of sufficient rank, to be president, and the trial shall proceed accordingly, but if he is not of sufficient rank, the court martial shall be dissolved.

(3) Where the Judge-Advocate of a court martial dies or is unable to attend the court martial owing to illness or any other cause, the court martial shall adjourn and the president shall report the circumstances to the authority by whom the court martial was ordered to be held ; and in the case of the death of the Judge-Advocate, or where the authority by whom the court martial was ordered to be held is of the opinion that it is inexpedient to delay the trial until the Judge-Advocate who is unable to attend the court martial is able to do so, the court martial shall be dissolved.

(4) Where the trial of an accused by a court martial cannot, within a reasonable time having regard to all the circumstances, be continued owing to the illness of the accused, the court martial shall be dissolved-

(5) Where a court martial held for the trial of an accused is dissolved under any of the preceding subsections, the accused may be tried again by another court martial, without prejudice to the provisions of section 26.

Manner of deciding questions before court martial.

43. Every question before a court martial shall be decided by the majority vote of the members of the court martial. Where there is an equality of votes of the members of a court martial on the question of the finding in any case, the accused in that case shall be deemed to be acquitted. Where there is an equality of votes of the members of a court martial on the sentence in any case or on any question arising after the commencement of the hearing of any case other than the question of the finding, the president shall have a casting vote.

Recommendation to mercy.

44. Where a court martial recommends a person under sentence to mercy, the recommendation shall be attached to and form part of the proceedings of the court martial, and shall be promulgated and communicated to such person, together with the finding and sentence.

Power to order place of court martial to be cleared of persons.

45. The president of a court martial may, on any deliberation among the members of the court martial, cause the place where the court martial is held to be cleared of all other persons.

Effect of acquittal or conviction of an offence.

46. A court martial shall not try a person for any offence if—

- (a) he has been already acquitted or convicted of that offence by a court martial or by a competent civil court, or
- (b) the charge against him in respect of that offence has been dismissed, or he has been dealt with summarily for that offence, by a naval officer exercising judicial powers under this Act.

Where offence proved is included in offence charged.

47. Where a person is charged with an offence before a court martial and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence although he was not charged with it.

48. (1) Where it appears to a court martial that an accused is of unsound mind and consequently incapable of making his defence, the court martial shall record an express finding of the fact of his unsoundness of mind and incapacity; and he shall be kept in custody until the directions of the President thereon are obtained or until any earlier time at which he is fit to take his trial.

Accused who is of unsound mind.

(2) Where, on the trial of an accused by a court martial, it appears that he did the act or made the omission with which he is charged, but that he was of unsound mind at the time of such act or omission, the court martial shall record an express finding that he was guilty of such act or omission but was of unsound mind at the time when he did the act or made the omission ; and he shall be kept in custody until the directions of the President thereon are obtained.

(3) Where a court martial records an express finding under this section that an accused is of unsound mind, the President may give orders for the safe custody, during his pleasure, of the accused in such place and in such manner as the President thinks fit.

49. Where a person who is already under a sentence of imprisonment or detention passed on him under this Act for a former offence is convicted of an offence by a court martial, the court martial may award him a sentence of imprisonment or detention to commence at the expiration of the imprisonment or detention to which he has been previously sentenced, although the aggregate of the terms of imprisonment or detention may exceed the term for which any of those punishments could be otherwise awarded :

Imprisonment or detention of offender who is under sentence for previous offence.

Provided that nothing in this section shall cause a person to undergo imprisonment or detention for a period exceeding the aggregate of three consecutive years, and so much of any term of imprisonment or detention imposed on a person by a sentence in pursuance of this section as would prolong the total term of his punishment beyond that period shall be deemed to be remitted.

Counsel at court martial.

50. (1) At all proceedings before a court martial the prosecution as well as the defence shall be entitled to be represented by counsel.

(2) The following provisions shall have effect with respect to the conduct of counsel appearing on behalf of the prosecution or defence at a court martial;—

(a) Any conduct of a counsel which would be liable to censure, or would be a contempt of court, if it occurred before a civil court, shall likewise be deemed liable to censure, or be deemed a contempt of the court martial, if it occurs before a court martial.

(b) Where the conduct of a counsel appearing before a court martial is deemed liable to censure or is deemed a contempt of the court martial, the president of the court martial may under his hand certify such conduct of that counsel to the Court of Appeal, and that court may thereupon deal with that counsel in like manner as if such conduct had occurred before that court.

(c) Where the conduct of a counsel appearing before a court martial is deemed liable to censure or is deemed a contempt of the court martial, the president of the court martial may make an order refusing to hear him and may adjourn the proceedings in order to enable other counsel to be retained.

Report of proceedings of court martial.

51. The Judge-Advocate of a court martial shall transmit with as much expedition as possible the original proceedings, or a complete and authenticated copy thereof, and the original sentences of the court martial, to the Commander of the Navy, who shall transmit them to the Secretary to the Ministry.

Right of person tried by court martial to copy of proceedings,

52. (1) A person tried by a court martial shall be entitled to obtain from the person having the custody of the record of the proceedings of that court martial a copy thereof, upon payment for it at such rate

not exceeding ten cents for every folio of seventy-two words as may be prescribed.

(2) The right conferred by subsection (1) shall be subject to the condition that the demand for the copy of the proceedings of the court martial by the person referred to in that subsection is made within three years after the date of the final decision of the court martial.

(3) If the person referred to in subsection (1) dies within the period of three years specified in subsection (2), his next of kin shall, within ten months after his death, have the right to obtain the copy of the proceedings mentioned in subsection (1).

53. The records of the proceedings of courts martial shall be preserved in such manner and by such officer as may be determined by the Commander of the Navy.

Preservation of records of proceedings of courts martial.

PART VIII

NAVAL OFFENCES

MISCONDUCT IN THE PRESENCE OF THE ENEMY

54. (1) Every flag officer, captain, commander, or commanding officer who upon signal of battle or on sight of a ship of an enemy which it may be his duty to engage—

Misconduct in action.

(a) does not use his utmost exertions to bring his ship into action, or

(b) does not during action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously, or

(c) surrenders his ship to the enemy when capable of making a successful defence, or in time of action improperly withdraws from the fight,

shall be guilty of a naval offence and shall be punished—

(i) if he has acted traitorously, with death,

- (ii) if he has acted from cowardice, with death or any less severe punishment in the scale of punishments, and
- (iii) if he has acted from negligence or through other default, with dismissal with or without disgrace from the Navy or with any less severe punishment in the scale of punishments.

(2) Every person subject to naval law, and not being a commanding officer, who does not use his utmost exertions to carry out the orders of his superior officers when ordered to prepare for action, or during action, shall be guilty of a naval offence and shall be punished—

- (a) if he has acted traitorously, with death,
- (b) if he has acted from cowardice, with death or any less severe punishment in the scale of punishments, and
- (c) if he has acted from negligence or through other default, with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

Not pursuing the enemy or not assisting a friend in view.

55. Every officer who forbears to pursue the chase of any enemy, pirate, or rebel, beaten or flying, or does not relieve and assist a known friend in view to the utmost of his power shall be guilty of a naval offence and shall be punished—

- (a) if he has acted traitorously, with death,
- (b) if he has acted from cowardice, with death or any less severe punishment in the scale of punishments, and
- (c) if he has acted from negligence or through other default, with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

Delaying or discouraging

56. When any action or service is commanded, every person subject to naval

law who delays or discourages such action or service upon any pretence whatsoever shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments.

COMMUNICATIONS WITH THE ENEMY

57. All persons who act as spies for the enemy shall be deemed to be persons subject to naval law and shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments. Spies.

58. Every person subject to naval law who— Correspondence, &c., with the enemy.

- (a) traitorously holds correspondence with or gives intelligence to the enemy, or
- (b) fails to make known to the proper authorities any information which he may have received from the enemy, or
- (c) relieves the enemy with any supplies,

shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments.

59. Every person subject to naval law who, without traitorous intention, holds any improper communication with the enemy shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments. Improper communication with the enemy.

NEGLECT OF DUTY

60. (1) Every person subject to naval law who, while on active service, abandons his post or sleeps upon his watch shall be guilty of a naval offence and shall be punished— Abandonment of post. &c., when on active service.

- (a) if he has acted traitorously, with death,
- (b) if he has acted from cowardice, with death or any less severe punishment in the scale of punishments, and

(c) if he has acted from negligence or through other default, with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

(2) Every person subject to naval law who, while on active service, is absent without leave without being guilty of desertion shall be guilty of a naval offence and shall be punished with rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

61. Every person subject to naval law who, while not on active service, is absent without leave, or negligently performs the duty imposed on him, shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

62. Where any person subject to naval law is absent without leave for a period of one month and is not apprehended and tried for his offence, he shall be liable to such forfeiture of pay and other benefits as may be prescribed, and the Commander of the Navy may, by an order containing a statement of the absence without leave, direct that any clothes and effects left by him at his place of duty be forfeited; and where any such order is made, such clothes and effects may be sold, and the proceeds of the sale shall be disposed of as the Commander of the Navy may direct, and every order under this section shall be conclusive as to the fact of the absence without leave as therein stated of the person therein named; but in any case the President may, if it seems fit on sufficient cause being shown, at any time after forfeiture and before sale remit the forfeiture, or after sale pay or dispose of the proceeds of the sale or any part thereof to or for the use of the person to whom the clothes or effects belonged, or his heirs.

MUTINY

63. (1) Every person subject to naval law who joins in any mutiny which is

accompanied by violence shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments.

(2) Every person subject to naval law who does not use his utmost exertions to suppress any mutiny which is accompanied by violence shall be guilty of a naval offence and shall be punished—

(a) if he has acted traitorously, with death or any less severe punishment in the scale of punishments,

(b) if he has acted from cowardice, with rigorous imprisonment for a term not less than three years or any less severe punishment in the scale of punishments, and

(c) if he has acted from negligence, with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

64. (1) Every person subject to naval law who is a ringleader of any mutiny which is not accompanied by violence shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments.

(2) Every person subject to naval law who, not being a ringleader, joins in any mutiny which is not accompanied by violence shall be guilty of a naval offence and shall be punished with rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

65. (1) Every person subject to naval law who incites or endeavours to incite any other person subject to naval law to commit any act of mutiny shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments.

(2) Every person, not otherwise subject to naval law, who incites or endeavours to incite any person subject to naval law to commit any act of mutiny shall, so far as respects such incitement or endeavour, be

Absence without leave, &c., when not on active service.

Absence without leave for one month.

Mutiny with violence.

Mutiny without violence.

Incitement to mutiny.

deemed to be a person subject to naval law and shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments.

Making mutinous assemblies or uttering words of mutiny.

66. Every person subject to naval law who makes or endeavours to make any mutinous assembly, or leads or incites any other person subject to naval law to join in any mutinous assembly, or utters any words of mutiny, shall be guilty of a naval offence and shall be punished with rigorous imprisonment for a term not less than three years or any less severe punishment in the scale of punishments.

Concealment of mutinous practice.

67. Every person subject to naval law who wilfully conceals any mutinous practice or design shall be guilty of a naval offence and shall be punished with rigorous imprisonment for a term not less than three years or any less severe punishment in the scale of punishments,

Striking or attempting to strike, Ac., superior officer.

68. Every person subject to naval law who strikes or attempts to strike, or draws or lifts up any weapon against, or uses or attempts to use any violence against, his superior officer whether or not such superior officer is in execution of his office, shall be guilty of a naval offence and shall be punished with rigorous imprisonment for a term not less than three years or any less severe punishment in the scale of punishments.

INSUBORDINATION

Disobedience of or use of threatening language to superior officer.

69. Every person subject to naval law who wilfully disobeys any lawful command of his superior officer, or uses threatening or insulting language or behaves with contempt to his superior officer, shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

Quarrelling or using reproachful speech or gestures.

70. Every person subject to naval law who quarrels or fights with any other person, whether such other person is or is not a person subject to naval law, or uses reproachful or provoking speeches or gestures tending to make any quarrel or disturbance, shall be guilty of a naval

offence and shall be punished with simple or rigorous imprisonment for a term not exceeding six months or any less severe punishment in the scale of punishments.

71. Every person subject to naval law who absents himself from his ship, or from the place where his duty requires him to be, with an intention of not returning to such ship or place, or who, at any time and under any circumstances when absent from his ship or place of duty, does any act which shows that he has an intention of not returning to such ship or place, shall be deemed to have deserted and shall be guilty of a naval offence and shall be punished—

(a) if he has deserted to the enemy, with death or any less severe punishment in the scale of punishments, and

(b) if he has deserted in any other circumstances, with rigorous imprisonment for a term not less than three years or any less severe punishment in the scale of punishments;

and in every such case he shall forfeit all such pay, allowances, and other emoluments as may be due to him, and all medals and decorations granted to him, and also all clothes and effects which he may have left on board the ship or at the place from which he has deserted unless the tribunal by which he is tried, or the President, otherwise directs.

72. Every person subject to naval law who induces or endeavours to induce any other person subject to naval law to desert shall be guilty of a naval offence and shall be punished with rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

73. Every officer in command of any ship of the Navy who receives or entertains a deserter from the Navy, Army, or Air Force of Sri Lanka after discovering him to be a deserter and does not with all convenient speed, in the case of a deserter from the Navy, give notice to the commanding officer of the ship to which the deserter belongs, or, if such ship is at a

distance, to the Commander of the Navy, or in the case of a deserter from the Army or Air Force, give notice to the Commander of the Army or the Commander of the Air Force, as the case may be, or the commanding officer of the regiment or unit to which the deserter belongs, shall be guilty of a naval offence and shall be punished with dismissal without disgrace from the Navy or with any less severe punishment in the scale of punishments.

martial or officer, or by printing or publishing observations or by uttering words calculated to influence such court martial or officer or any witness before such court martial or officer, or by bringing such court martial or officer into disrepute,

shall be guilty of a naval offence and shall, on conviction by a court martial, other than the court martial in relation to or before which the offence was committed, be punished with simple or rigorous imprisonment for a term not exceeding six months or any less severe punishment in the scale of punishments:

OFFENCES IN RELATION TO COURTS
MARTIAL AND NAVAL OFFICERS
EXERCISING JUDICIAL POWERS

Absence of member of court martial without just cause.

74. A member of a court martial who absents himself therefrom shall, unless his absence is due to illness or other just cause approved by the other members of the court martial, be guilty of a naval offence and shall, on conviction by a court martial, be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

Provided that where a person subject to naval law is guilty of contempt of a court martial by using insulting or threatening language or by causing any interruption or disturbance in the proceedings, the court martial may, instead of causing him to be tried by another court martial, sentence him to simple or rigorous imprisonment for a term not exceeding one month.

Misconduct of and contempt by witness subject to naval law.

75. Every person subject to naval law who—

- (a) being duly summoned to attend as a witness before a court martial or a naval officer exercising judicial powers under this Act, makes default in attending, or
- (b) refuses to take an oath or make an affirmation lawfully required by a court martial or by such officer to be taken or made, or
- (c) refuses to produce any document in his power or control lawfully required by a court martial or by such officer to be produced by him, or
- (d) refuses when a witness to answer any question to which a court martial or such officer may lawfully require an answer, or
- (e) commits contempt of a court martial or such officer by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court

76. Every person subject to naval law who, when examined on oath or affirmation before a court martial or a naval officer exercising judicial powers under this Act, wilfully gives false evidence, shall be guilty of a naval offence and shall, on conviction by a court martial, be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

False evidence by witness subject to naval law.

OFFENCES IN RELATION TO PERSONS
IN CUSTODY

77. Every person subject to naval law who—

- (d) releases without proper authority, whether wilfully or otherwise, any person under naval custody who is committed to his charge, or
- (b) wilfully or without reasonable excuse allows to escape any person under naval custody who is committed to his charge,

Permitting escape of person in custody.

shall be guilty of a naval offence and shall be punished, if he has acted

wilfully, with rigorous imprisonment for a term not less than three years or any less severe punishment in the scale of punishments, and, in any other case, with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

Irregular arrest or confinement.

78. Every person subject to naval law who unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation, shall be guilty of a naval offence and shall be punished with dismissal without disgrace from the Navy or with any less severe punishment in the scale of punishments.

Escape from confinement.

79. Every person subject to naval law who, being under arrest, or in confinement or prison, or otherwise in lawful custody, escapes or attempts to escape shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

OFFENCES IN RELATION TO PROPERTY

Corrupt dealings in respect of supplies to the Navy.

80. Every person subject to naval law who takes any reward, fee, or advantage in respect of or in connexion with the purchase of any articles for the use of the Navy shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

Embezzlement, &c., of naval stores.

81. Every person subject to naval law who embezzles or fraudulently purchases, sells, or receives any ammunition, provisions, or other naval stores, or who knowingly permits any such embezzlement, purchase, sale or receipt, shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

Deficiency in or injury to naval property.

82. Every person subject to naval law who—

- (a) whether by pawning, sale, destruction or otherwise makes away with, or is concerned in making away with, any property of the Navy, or

- (b) loses by neglect any such property, or

- (c) wilfully injures any such property,

shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

83. Every person subject to naval law who unlawfully sets fire to any property which does not belong to any enemy, pirate, or rebel shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments.

Unlawfully burning property.

OFFENCES IN RELATION TO DOCUMENTS AND STATEMENTS

84. Every person subject to naval law who—

False documents and declarations.

- (a) in any report, return, muster roll, pay list, certificate, book, or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes or is privy to the making of any false or fraudulent statement or any omission with intent to defraud, or

- (b) knowingly with intent to injure any person or to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce, or

- (c) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration,

shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

85. Every person subject to naval law who—

False accusations.

- (a) being an officer or a seaman, make; a false accusation against any other

officer or seaman, knowing such accusation to be false, or

- (b) being an officer or a seaman, in making a complaint where he thinks himself wronged, knowingly makes any false statement affecting the character of any other officer or seaman, or knowingly and wilfully suppresses any material facts,

shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

OFFENCES IN RELATION TO ENLISTMENT

86. Every person subject to naval law who, having been dismissed with disgrace from the Navy, Army, or Air Force of Sri Lanka, has afterwards enlisted in the Navy without declaring the circumstances of his dismissal, shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

87. Every person subject to naval law who, when enlisted as a seaman, has wilfully made a false answer to any question set out in the attestation paper signed by him, shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

88. Every person subject to naval law who—

- (a) is concerned in the enlistment of any other person as a seaman, when he knows or has reasonable cause to believe that such other person by enlisting commits an offence, or
- (b) wilfully contravenes any provision of law relating to the enlistment of seamen,

shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

MISCELLANEOUS OFFENCES

89. Every person subject to naval law who is drunk or commits any act of immorality shall be guilty of a naval offence and shall be punished with dismissal with or without disgrace from the Navy or with any less severe punishment in the scale of punishments.

Drunkenness and immorality.

90. Every officer subject to naval law who commits any act of cruelty or whose conduct is scandalous, fraudulent, or unbecoming the character of an officer shall be guilty of a naval offence and shall be punished with dismissal with or without disgrace from the Navy.

Cruelty and scandalous conduct.

91. Every person subject to naval law who loses, strands, or hazards, or suffers to be lost, stranded or hazarded, any ship of the Navy, or loses or suffers to be lost any aircraft belonging to the Navy, shall be guilty of a naval offence and shall be punished—

Suffering ships or aircraft to be improperly lost.

- (a) if he has acted designedly, with rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments, and
- (b) if he has acted negligently, with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

92. Officers of all ships of the Navy appointed for the convoy and protection of any vessels shall diligently perform their duty without delay according to their instructions in that behalf; and every officer who fails in his duty in this respect and does not defend the vessels and goods under his convoy, without deviation to any other objects, or refuses to fight in their defence if they are assailed, or cowardly abandons and exposes the vessels in his convoy to hazard, or demands or exacts any money or other reward from any merchant or master for convoying any vessels entrusted to his care, or misuses the masters or mariners thereof shall be guilty of a naval offence and shall be punished with death or any less severe punishment in the scale of punishments.

Not taking care and defending ships under convoy.

Enlistment of seaman, soldier, or airman discharged with disgrace.

False answers on enlistment.

General offences in relation to enlistment.

Taking articles on board a ship other than for use of the ship.

93. An officer in command of any ship of the Navy who receives on board or permits to be received on board such ship any articles which are not for the sole use of such ship, except any articles belonging to any merchant, or on board any vessel which may be shipwrecked or in imminent danger, either on the high seas or in some port, creek, or harbour, for the purpose of preserving them for their proper owners, or except any articles which he may at any time be ordered to take or receive on board by order of a superior officer, shall be guilty of a naval offence and shall be punished with dismissal without disgrace from the Navy or with any less severe punishment in the scale of punishments.

Causing or aggravating disease or infirmity.

94. Every person subject to naval law who—

- (a) malingers, or feigns or causes in himself disease or infirmity, or
- (b) wilfully maims or injures himself or any other person subject to naval law, whether at the instance of that other person or not, with the intent thereby to render himself or that other person unfit for service, or causes himself to be maimed or injured by any other person with intent thereby to render himself unfit for service, or
- (c) by wilful misconduct, or by wilful disobedience of orders whether in hospital or otherwise, produces or aggravates disease or infirmity, or delays its cure,

shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

Stirring up disturbance on account of victuals or other grounds.

95. Every person subject to naval law who stirs up any disturbance among any persons subject to naval law on account of the unwholesomeness of the victuals supplied to them or upon any other ground shall be guilty of a naval offence and shall be punished with simple or rigorous imprisonment for a term not exceeding two years or any less severe punishment in the scale of punishments.

96. Where the commanding officer of a ship of the Navy who takes any vessel as prize fails to preserve all the papers, charter-parties, bills of lading, passports, and other writings whatsoever that shall be taken, seized or found aboard the vessel taken as prize, or fails to send them for inspection and use according to law to any tribunal authorized to determine whether such prize is lawful capture, shall be guilty of a naval offence and shall be punished with dismissal without disgrace from the Navy or with any less severe punishment in the scale of punishments and, in addition thereto, with forfeiture of his share of the capture.

Papers found aboard a prize vessel.

97. Every person subject to naval law who embezzles any property belonging to any vessel seized as prize shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments and, in addition thereto, with forfeiture of his share of the capture.

Embezzlement of property belonging to prize vessel.

98. Every person subject to naval law who strips off the clothes of, or in any way pillages, beats, or ill-treats, any person on board a vessel taken as prize shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

Ill-treatment of persons on board a prize vessel.

99. If the commanding officer of any ship of the Navy—

- (a) by collusion with the enemy takes as prize any vessel, goods, or thing, or
- (b) unlawfully agrees with any person for the ransoming of any vessel, goods, or thing taken as prize, or
- (c) in pursuance of any unlawful agreement for ransoming or otherwise by collusion actually quits or restores any vessel, goods, or thing taken as prize,

Collusion in capturing a vessel as prize, &c.

shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

Breaking bulk on board prize vessel with a view to embezzle.

100. Every person subject to naval law who breaks bulk on board any vessel taken as prize, or detained in the exercise of any belligerent right or under any law for the time being in force, with intent to embezzle anything therein or belonging thereto, shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments and, in addition thereto, with forfeiture of his share of the capture.

Persons subject to naval law giving or receiving illegal gratification in respect of appointments or promotions in the Navy.

101. Every person subject to naval law who gives or receives, or aids the giving or receiving of, any valuable consideration in respect of any appointment or promotion in or retirement from the Navy, or any employment therein, shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

Injurious disclosures.

102. Every person subject to naval law who, orally or in writing, or by signal or otherwise, discloses the numbers or position of any naval forces of Sri Lanka, or any magazines or stock of such forces, or any preparations for, or orders relating to, operations or movements of such forces at such time and in such manner as to have produced effects injurious to such forces, shall be guilty of a naval offence and shall be punished with rigorous imprisonment for a term not less than three years or any less severe punishment in the scale of punishments.

Failure to deliver to civil court officers and seamen charged with, or convicted of, civil offences.

103. Every commanding officer who, on application being made to him, neglects or refuses to deliver to a civil court, or to assist in the lawful arrest of, any officer or seaman under his command who is charged with, or convicted of, a civil offence before that court, shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

Offences against naval discipline not particularly mentioned.

104. Every person subject to naval law who, by any act, conduct, disorder, or neglect which does not constitute an offence for which special provision is made in any other section of this Act, prejudices good

order and naval discipline, shall be guilty of a naval offence and shall be punished with dismissal with disgrace from the Navy or with any less severe punishment in the scale of punishments.

PART IX

OFFENCES UNDER THIS ACT WHICH ARE NOT NAVAL OFFENCES

105. Every person, other than a person subject to naval law, who without due authority—

Unlawful recruiting.

- (a) publishes or causes to be published notices or advertisements for the purpose of procuring recruits for the Navy, or relating to recruits for the Navy, or
- (b) opens or keeps any house, place of rendezvous, or office connected with the procuring of recruits for the Navy, or
- (c) receives any person under any such notice or advertisement as aforesaid, or
- (d) directly or indirectly interferes with a duly appointed recruiter in the discharge of his duties,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with a fine not exceeding two hundred rupees.

106. Every person, other than a person subject to naval law, who has knowingly made a false answer to any question put to him at an examination for his enlistment as a seaman shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with simple or rigorous imprisonment for a term not exceeding three months.

False answers by applicants for enlistment.

107. Every person, other than a person subject to naval law, who by any means—

Inducing or assisting officers or seamen to desert or absent themselves without leave.

- (a) procures or persuades any officer or seaman to desert or absent himself without leave, or attempts to procure or persuade any officer or seaman to desert or absent himself without leave, or

- (b) knowing that an officer or seaman is about to desert or absent himself without leave, aids him in deserting or absenting himself without leave, or
- (c) knowing any officer or seaman to be a deserter or absentee without leave, conceals or employs such officer or seaman or aids him in concealing himself, or effects, or aids him in, his rescue from arrest,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with simple or rigorous imprisonment for a term not exceeding two years.

Interference with naval duties.

108. Every person, other than a person subject to naval law, who—

- (a) wilfully obstructs, or impedes, or otherwise interferes with any officer or seaman in the execution of his duties, or
- (b) wilfully produces any disease or infirmity in, or maims or injures, any person whom he knows to be an officer or seaman with a view to enabling such officer or seaman to avoid naval service, or
- (c) with intent to enable an officer or seaman to render himself, or induce the belief that he is, permanently or temporarily unfit for service, supplies to, or for the use of, such officer or seaman any drug or preparation calculated or likely to render him, or lead to the belief that he is, permanently or temporarily unfit for service,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with a fine not exceeding one thousand rupees, or with simple or rigorous imprisonment for a term not exceeding six months, or with both such fine and such imprisonment.

Persons not subject to naval law giving or receiving illegal gratification in respect of appointments or promotions in the Navy.

109. Every person, other than a person subject to naval law, who gives or receives, or aids the giving or receiving of, any valuable consideration in respect of any appointment or promotion in or retirement from the Navy, or any employment therein, shall be guilty of an offence and shall, on

conviction after summary trial before a Magistrate, be punished with a fine not exceeding one thousand rupees, or with simple or rigorous imprisonment for a term not exceeding six months, or with both such fine and such imprisonment.

110. (1) Every person, other than a person subject to naval law, who— Purchase of naval property.

- (a) buys, exchanges, takes in pawn, detains, or receives from any person, on any pretence whatsoever, or
- (b) solicits or entices any person to sell, exchange, pawn or give away, or
- (c) assists or acts for any person in selling, exchanging, pawning, or making away with,

any property of the Navy shall, unless he proves either that he acted in ignorance of the fact that such property was the property of the Navy, or that it was purchased at a sale held by order or with the consent of the Commander of the Navy, or that it was the personal property of a person who had ceased to be an officer or a seaman, or of the legal representative of an officer or a seaman who had died, be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with a fine not exceeding two hundred rupees, together with a penalty of treble the value of any property of which he has become possessed by means of his offence, or with simple or rigorous imprisonment for a term not exceeding six months, or with both such fine and such imprisonment. Such penalty may be recovered in like manner as a fine imposed by the Magistrate.

(2) Where there is reasonable ground to believe that any property found in the possession or keeping of any person is naval property which has been stolen, or which has been bought, exchanged, taken in pawn, obtained or received in contravention of this section, he may be taken or summoned before a Magistrate's Court, and he shall, if he does not satisfy the court that he came by such property lawfully and without any contravention of this Act, be punished, on conviction after summary trial, with the same punishments as are specified for a contravention of the last preceding subsection.

(3) A person found committing an offence under this section may be arrested without warrant and taken, together with the property which is the subject of the offence, before a Magistrate's Court.

(4) A Magistrate's Court, if satisfied on the evidence on oath or affirmation of any person that there is reasonable cause to suspect that any other person has in his possession, or on his premises, any property with respect to which any offence under this section has been committed, may grant a warrant to search for such property, as in the case of stolen property ; and the officer charged with the execution of such warrant shall seize any such property found on search of that other person or his premises and shall bring the person in whose possession such property is found before such court to be dealt with according to law.

(5) For the purposes of this section, property shall be deemed to be in the possession or keeping of a person if it is possessed or kept for him by any other person.

111. Every person, other than a person subject to naval law, who receives or has in his possession any identity certificate, life certificate, or other certificate, or official document evidencing or issued in connexion with the right of any person to a naval pension or pay, or to any bounty, allowance, gratuity, relief, benefit or advantage granted in connexion with naval service, as a pledge or security for a debt or with a view to obtain payment from the person entitled thereto of a debt due either to the first-mentioned person or to any other person, shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with a fine not exceeding two hundred rupees, or with simple or rigorous imprisonment for a term not exceeding six months, or with both such fine and such imprisonment.

112. Every person, other than a person subject to naval law, who—

- (a) without lawful authority uses or wears any naval decoration, medal, medal ribbon, badge, wound stripe, or emblem, or any imitation thereof which is calculated to deceive, or
- (b) falsely represents himself to be a person who is or has been entitled to use or wear any such decoration, medal, medal ribbon, badge, wound stripe, or emblem, or

- (c) without lawful authority or excuse supplies or offers to supply any such decoration, medal, medal ribbon, badge, wound stripe, or emblem, to any person not authorized to use or wear it,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with a fine not exceeding two hundred rupees, or with simple or rigorous imprisonment for a term not exceeding three months, or with both such fine and such imprisonment.

113. (1) It shall be the duty of every employer to give all proper facilities for enabling any person in his employ to become or to be a member of the Volunteer Naval Force or the Volunteer Naval Reserve and any such person who is a member of that force or reserve to undergo and render such naval training and service as he may be required to undergo and render by virtue of this Act.

(2) Any employer who—

- (a) fails to give the facilities referred to in subsection (1), or
- (b) by dismissing an employee or by reducing his wages or in any other manner penalizes him for undergoing or rendering any training or service referred to in that subsection,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with a fine not exceeding one hundred rupees, or with simple or rigorous imprisonment for a term not exceeding six months, or with both such fine and such imprisonment.

114. Where any person, other than a person subject to naval law—

- (a) being duly summoned as a witness before a court martial or a naval officer exercising judicial powers under this Act and after payment or tender of the reasonable expenses of his attendance, makes default in attending, or
- (b) being in attendance as a witness before a court martial or such officer—
 - (i) refuses to take any oath or make any affirmation which

Possession of naval certificate as security for debt.

Unauthorized use of naval decorations, &c.

Obligations of employers.

Misconduct of civilian witness.

he is lawfully required by such court martial or officer to take or make, or

- (ii) refuses to produce any document, in his power or control, which he is lawfully required by such court martial or officer to produce, or
- (iii) refuses to answer any question which he is lawfully required by such court martial or officer to answer,

he shall be deemed to commit an offence; and the president of the court martial or such officer may under his hand certify such offence of that person to the nearest civil court, and that court may thereupon deal with that person in like manner as if he had committed a like offence in that court.

False evidence and contempt by civilian witness.

115. (1) Where any person, other than a person subject to naval law, wilfully gives false evidence when examined on oath or affirmation before a court martial or a naval officer exercising judicial powers under this Act, he shall be deemed to commit the offence of giving false evidence under Chapter XI of the Penal Code and may be prosecuted and punished accordingly.

(2) Where any person, other than a person subject to naval law, uses insulting or threatening language about or towards a court martial or a naval officer exercising judicial powers under this Act, or causes any interruption or disturbance in the proceedings of a court martial or such officer, or prints or publishes observations or utters words calculated to influence a court martial or such officer or witnesses before a court martial or such officer or to bring a court martial or such officer into disrepute, he shall be deemed to commit the offence of contempt of the court martial or such officer; and the president of the court martial or such officer may under his hand certify such offence of that person to the Court of Appeal, and that court may thereupon deal with that person in like manner as if he had been charged with the offence of contempt committed against the authority of that court.

116. Where any person promotes or organizes or is a member of any association or body of persons who, without the permission of the President, are being trained in the use of any naval weapon of war or are undergoing any training of a naval nature, he shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with simple or rigorous imprisonment for a term not exceeding six months.

Unauthorized training of a naval nature.

117. (1) Every person, other than a person subject to naval law, who conveys or causes to be conveyed into a naval prison or naval detention quarters any articles for the purpose of facilitating the escape of any naval prisoner, or by any means whatsoever aids any naval prisoner to escape or in an attempt to escape from any naval prison or naval detention quarters, shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with simple or rigorous imprisonment for a term not exceeding two years.

Persons not subject to naval law who aid escape or attempt to escape of naval prisoners or who contravene naval prison regulations.

(2) Every person, other than a person subject to naval law, who, for any purpose other than the purpose specified in subsection (1), brings or attempts to bring any article into any naval prison or naval detention quarters in contravention of such regulations relating to naval prisons and naval detention quarters as may be made under this Act, shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be punished with a fine not exceeding two hundred rupees.

PART X

PUNISHMENTS BY COURTS MARTIAL IN RESPECT OF CIVIL OFFENCES

118. (1) Every person subject to naval law who is convicted by a court martial of the offence of treason shall be punished with death.

Treason, murder, culpable homicide not amounting to murder, and rape.

(2) Every person subject to naval law who is convicted by a court martial of the offence of murder shall be punished with death.

(3) Every person subject to naval law who is convicted by a court martial of the offence of culpable homicide not amounting to murder shall be punished with simple or rigorous imprisonment for a term not exceeding twenty years.

(4) Every person subject to naval law who is convicted by a court martial of the offence of rape shall be punished with simple or rigorous imprisonment for a term not exceeding twenty years.

Any civil offence not mentioned in section 118,

119. Every person subject to naval law who is convicted by a court martial of any civil offence not mentioned in section 118 shall be punished—

- (a) with dismissal with or without disgrace from the Navy or with any less severe punishment in the scale of punishments, or
- (b) with the punishment prescribed for such offence by any law of Sri Lanka other than this Act.

- (g) forfeiture of seniority as an officer for a specified time or otherwise;
- (h) dismissal from the ship to which the offender belongs;
- (i) severe reprimand;
- (j) reprimand;
- (k) disrating subordinate or petty officer;
- (l) forfeiture of pay, allowance, and other emoluments due, and medals and decorations granted, to the offender, or of any one or more thereof; also, in the case of desertion, of all clothes and effects left by the deserter on board the ship or at the place from which he has deserted;
- (m) such minor punishments as may be prescribed.

121. The following provisions shall apply in regard to the award of punishments by courts martial or by naval officers exercising judicial powers under this Act:— Special provisions in regard to the award of punishments.

PART XI

AWARD OF PUNISHMENTS BY COURTS MARTIAL AND NAVAL OFFICERS EXERCISING JUDICIAL POWERS

Scale of punishments.

120. The following shall be the scale of punishments, in descending order of severity, which, subject to the provisions of this Act, may be awarded to persons convicted of offences by courts martial or by naval officers exercising judicial powers under this Act:—

- (a) death;
- (b) rigorous imprisonment;
- (c) dismissal with disgrace from the Navy;
- (d) simple imprisonment;
- (e) detention;
- (f) dismissal without disgrace from the Navy;

- (a) A sentence of death shall not be passed on any person by a court martial unless, where the number of members of the court martial does not exceed five, at least four of the members present, and, where the number of members of the court martial exceeds five, not less than two-thirds of the members present, concur in the sentence.
- (b) The sentence of dismissal with disgrace from the Navy shall involve in all cases the forfeiture of all pay, allowances, and other emoluments due, and all medals and decorations granted, to the offender, and an incapacity to serve again in the Navy, Army or Air Force of Sri Lanka or hold any office under the State.
- (c) A sentence of imprisonment may be accompanied with the direction that the prisoner shall be kept in

solitary confinement for any period of the term of imprisonment, not exceeding fourteen days at any one time and not exceeding eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than such periods; and when the term of imprisonment exceeds eighty-four days, the solitary confinement shall not exceed seven days in any twenty-eight days of the whole of such term, with intervals between the periods of solitary confinement of not less duration than such periods.

- (d) The punishment of detention may, unless otherwise expressly provided for in this Act, be for any term not exceeding two years.
- (e) The punishment of imprisonment or detention shall involve disrating in the case of a petty officer, and shall in all cases be accompanied by stoppage of pay during the term of imprisonment or detention:

Provided that where the punishment awarded is detention for a term not exceeding fourteen days, the sentence may direct that the punishment shall not be accompanied by stoppage of pay during the term of detention.

PART XII

REVISION AND EXECUTION OF SENTENCES PASSED BY COURTS MARTIAL AND NAVAL OFFICERS EXERCISING JUDICIAL POWERS

Revision of sentences.

122. The President may annul, suspend, or modify any sentence (including a sentence of death) passed by a court martial or by a naval officer exercising judicial powers under this Act, or substitute a punishment inferior in degree for the punishment involved in any such sentence, or remit the whole or any portion of the punishment involved in any such sentence, or remit the whole or any portion of the punishment into which the punishment involved in any such sentence has been commuted; and any sentence so modified

shall, subject to the provisions of this Act, be valid, and shall be carried into execution, as if it had been originally passed, with such modification, by such court martial or officer:

Provided that neither the degree nor the duration of the punishment involved in any sentence shall be increased by any such modification.

123. A sentence of death passed by a court martial shall not be carried out until the sentence has been confirmed by the President. Sentence of death.

124. (1) Every officer, below the rank of commander, who is authorized in that behalf by the President shall have the power to order the committal of a naval prisoner to prison or detention quarters. Committing authorities.

(2) An officer authorized to make an order under subsection (1) is hereinafter referred to as a "committing authority".

125. (1) An order of a committing authority shall be a sufficient warrant for the committal of a naval prisoner to prison or detention quarters. Committal, transfer, removal and release of naval prisoners.

(2) An order of a committing authority shall, be a sufficient authority for the transfer of a naval prisoner from prison to detention quarters or vice versa, or from any prison or detention quarters to any other prison or detention quarters.

(3) It shall be lawful for the committing authority, by order in writing, to direct that any person who is undergoing imprisonment or detention by virtue of a sentence passed on him by a court martial or by a naval officer exercising judicial powers under this Act be delivered over to naval custody for the purpose of being heard before a court martial, either as a witness, or for trial or otherwise, and such person shall accordingly, on the production of such order, be delivered over to such custody.

(4) A naval prisoner whose sentence is remitted may be released by order of the committing authority.

Commence-
ment of
term of
imprisonment
or detention.

126. (1) Every term of imprisonment or detention in pursuance of this Act shall be reckoned as commencing on the day on which the sentence was awarded.

(2) Where, by reason of a ship being at sea or off a place at which there is no proper prison or there are no proper detention quarters, a sentence of imprisonment or detention passed on an offender cannot be duly executed, he shall, on arrival at some place at which there is a proper prison or there are proper detention quarters, undergo his sentence in like manner as if the time of such arrival were the day on which the sentence was awarded; and the term of imprisonment or detention shall be reckoned accordingly subject to the deduction of any time during which he has been kept in confinement in respect of the sentence passed on him.

Detention in
naval custody.

127. The time during which any offender under sentence of imprisonment or detention is detained in naval custody shall be reckoned as imprisonment or detention under his sentence.

Prisoners of
unsound mind.

128. If a person imprisoned or undergoing detention by virtue of a sentence passed on him by a court martial or by a naval officer exercising judicial powers under this Act becomes unsound in mind, the President may, upon a certificate by two qualified medical practitioners that such person is of unsound mind, order that such person shall be removed to a mental hospital or other place for the reception of persons of unsound mind and that he shall be there confined for the unexpired term of his imprisonment or detention or until he is again of sound mind; and, if before the expiry of that term such person is certified in the like manner to be again of sound mind, the President may order that such person shall be removed to any prison or detention quarters in which he might have been confined if he had not become unsound in mind and that he shall there serve the remainder of that term.

Establishment
of naval
prisons and
naval detention
quarters.

129. (1) It shall be lawful for the Minister to set apart any buildings or vessels, or any parts thereof, as naval prisons or naval detention quarters, and any buildings or vessels, or parts of buildings or

vessels, so set apart as naval prisons or naval detention quarters, as the case may be, shall be deemed to be naval prisons or naval detention quarters, respectively, within the meaning of this Act.

(2) In any country in which operations against the enemy are being conducted, the powers of the Minister under subsection (1) shall be exercised by the officer for the time being in command of the forces of Sri Lanka in the field.

PART XIII

CIVIL COURTS

130. (1) Save as provided in subsection (2), nothing in this Act shall affect the jurisdiction of a civil court to try and punish any person subject to naval law for any civil offence.

Jurisdiction of
civil courts not
affected by this
Act.

(2) If a person subject to naval law is convicted of any civil offence and sentenced to punishment by a court martial and is afterwards tried for, and convicted of, the same offence by a civil court, then the civil court shall, in awarding punishment, have due regard to such punishment imposed by the court martial as that person may have already undergone.

131. It shall be the duty of every commanding officer—

Delivery
of naval
offenders
to the civil
powers.

- (a) on an order made in that behalf by a civil court, to surrender to that court any officer or seaman under his command who is charged with, or convicted of, any civil offence before that court, and
- (b) to assist any police officer or any other officer concerned or connected with the administration of justice to arrest any officer or seaman so charged or convicted.

132. (1) Such of the provisions of Article 140 of the Constitution as relate to the grant and issue of writs of mandamus, certiorari, and prohibition shall be deemed to apply in respect of any court martial or of any naval officer exercising judicial powers under this Act.

Issue of
prerogative
writs by Court
of Appeal.

(2) The provisions of Article 141 of the Constitution relating to the issue of writs of habeas corpus shall be deemed to apply in respect of any person illegally detained in custody by order of a court martial or other naval authority.

133. Any action, prosecution, or proceeding against any person for any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act, shall not be instituted or entertained, unless—

- (a) it is commenced within six months next after the act, neglect or default complained of,
- (b) written notice setting out the cause of action or the alleged offence, the name and place of abode of the person intending to be the plaintiff or the complainant, and any relief claimed has been delivered to, or left at the residence or official address of, the person against whom the action, prosecution, or proceeding is intended to be instituted, and
- (c) one month has expired after such notice has been so delivered or left.

PART XIV

RULES OF EVIDENCE

134. Subject to the other provisions of this Part, the rules of evidence to be adopted in proceedings before a court martial shall be the same as those followed in the civil courts in Sri Lanka.

135. Sections 136 to 146, both inclusive, shall apply to proceedings under this Act whether before a court martial or a civil court notwithstanding anything in any other law.

136. The attestation paper purporting to have been signed by a person on his being enlisted as a seaman in the Navy, or the declaration purporting to have been made by a person upon his re-engagement in the Navy, shall be evidence of the fact that he

has given such answers to questions as he is therein represented to have given.

137. The enlistment of a person as a seaman in the Navy may be proved by the production of a copy of his attestation paper certified to be a true copy by the officer having the custody of the attestation paper, without proof of the handwriting of such officer or of his having such custody.

138. A letter, return, or other document stating, in respect of any person, that he—

- (a) has, or has not, at any time served in, or been discharged from, the Navy, or
- (b) has, or has not, held any rank or appointment in, or been posted or transferred to, any part of the Navy, or served in any particular country or place, or
- (c) has been, or has not been, authorized to use or wear any naval decoration, medal, medal ribbon, badge, wound stripe, or emblem, the use or wearing of which by an unauthorized person is an offence under this Act,

and purporting to have been signed by the commanding officer, or the officer having the custody of the records, of that part of the Navy to which such person appears to have belonged or alleges that he belongs or at any time belonged, shall be evidence of the facts stated in such letter, return, or other document.

139. Copies, purporting to have been printed by the Government Printer, of regulations or orders made under this Act shall be evidence of such regulations or orders:

140. A navy list or Gazette purporting to have been published by authority of the President and printed by the Government Printer shall be evidence of the ranks of the officers therein mentioned, and of any appointments held by such officers, and of the parts of the Navy to which such officers belong or at any time belonged.

Proof of enlistment.

Letters, returns, or other documents respecting service.

Copies of regulations and orders printed by Government Printer.

Navy list or Gazette.

Actions against persons for acts done under this Act.

Rules of evidence in proceedings before courts martial.

Application of sections 136 to 146.

Proof of answers given by a person on enlistment or re-engagement as a seaman.

Orders made under this Act by naval authorities.

141. An order made under this Act by a naval authority shall be deemed to be evidence of the matters directed by this Act to be stated therein, and a copy of such order purporting to have been certified to be a true copy by the officer therein alleged to be authorized by the Commander of the Navy to certify it shall be admissible in evidence.

146. A copy of the whole or any part of the proceedings of a court martial purporting to have been certified by the Commander of the Navy, or by any officer thereto authorized by the Commander of the Navy, to be a true copy of such proceedings or of such part, shall be admissible in evidence without proof of the signature of such Commander or officer.

Copy of proceedings of court martial.

Record made in a book of the Navy in pursuance of duty.

142. Where a record is made in any book of the Navy in pursuance of any naval duty and purports to have been signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated. A copy of such record purporting to have been certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

147. Where any person subject to naval law has been tried for any offence by a civil court, the Registrar of such court shall, if requested by the commanding officer of such person or by any other officer authorized in that behalf by such commanding officer, transmit to the officer by whom the request is made a certificate setting out the offence for which such person was tried and the judgment of such court thereon. Such certificate shall, in any proceedings before a court martial or a naval officer exercising judicial powers under this Act, be evidence of the matters stated therein.

Evidence of conviction or acquittal by a civil court.

Descriptive return.

143. A descriptive return, within the meaning of section 151, purporting to have been signed by a Magistrate shall be evidence of the matters therein stated.

Certificate regarding surrender of alleged deserter or absentee without leave.

144. (1) Where any officer or seaman charged with being a deserter or absentee without leave has surrendered to a provost marshal, assistant provost marshal or other officer, a certificate purporting to have been signed by such provost marshal, assistant provost marshal or other officer and stating the fact, date and place of surrender, shall be evidence of the matters so stated.

PART XV

MISCELLANEOUS

(2) Where any officer or seaman charged with being a deserter or absentee without leave has surrendered to a police officer in charge of a police station and has been delivered into naval custody by such police officer, a certificate purporting to have been signed by such police officer and stating the fact, date, and place of surrender shall be evidence of the matters so stated.

148. (1) Where an officer commits in time of war a disciplinary offence, the officer having power to order a court martial to be held may, if he considers that the offence is of such a character as not to necessitate trial by a court martial, in lieu of ordering a court martial, order a disciplinary court, constituted as hereinafter mentioned, to be held for the trial of the offender.

Trial of officers for disciplinary offences in time of war.

(2) A disciplinary court shall be composed of not less than three and not more than five officers, of whom one shall be a commander or of higher rank.

(3) A disciplinary court shall have power to impose any punishment inferior to detention in the scale of punishments, but no greater punishment.

Certificate regarding arrest or surrender of officer or seaman outside Sri Lanka.

145. Where any officer or seaman has been arrested and taken to any office, station, or post, in any place outside Sri Lanka, which corresponds to a police station in Sri Lanka, or has on surrender been taken into custody at any such office, station, or post, a certificate which purports to have been signed by the officer in charge of such office, station, or post, and which states the fact, date, and place of arrest or surrender shall be evidence of the matters so stated.

149. All armed rebels, armed mutineers, and pirates shall be deemed to be enemies within the meaning of this Act.

Armed rebels and mutineers.

Power to arrest offenders.

150. An officer in command of a ship of the Navy or an officer empowered by this Act to exercise judicial powers may, by warrant under his hand, authorize any person to arrest a person subject to naval law for any such offence under this Act as may be mentioned in the warrant. Any such warrant may include the names of more persons than one in respect of several offences of the same nature, and any person named in any such warrant may forthwith, on his arrest, if the warrant so directs, be taken on board the ship to which he belongs, or some other ship of the Navy. Any person authorized by any such warrant to arrest an offender may use force, if necessary, for the purpose of effecting the arrest.

Arrest of deserters and absentees without leave.

151. The following provisions shall have effect with respect to officers and seamen who are deserters or absentees without leave;—

- (a) Upon reasonable suspicion that an officer or a seaman is a deserter or an absentee without leave, it shall be lawful for any police officer, or, if there is no police officer at hand, for any person, to arrest the suspected officer or seaman and forthwith to bring him before a Magistrate's Court.
- (b) Where an officer or a seaman reasonably suspected to be a deserter or an absentee without leave is brought before a Magistrate's Court, the court—
 - (i) if satisfied, either by independent evidence taken on oath or affirmation or by the confession of such officer or seaman, that he is a deserter or an absentee without leave, shall forthwith, as it may seem to the court most expedient with regard to his safe custody, cause him either to be delivered into naval custody or, until he can be so delivered, to be committed to some prison, police station, or other place legally provided for confinement of persons in

custody, for such time as appears to the court reasonably necessary for the purpose of delivering him into naval custody, and

- (ii) where such officer or seaman confesses himself to be a deserter or an absentee without leave and the court is not convinced of the truth of the confession, shall remand him for the purpose of obtaining information as to the truth or falsehood of the confession, and for that purpose the court shall transmit to the Commander of the Navy a descriptive return in such form and containing such particulars as may be prescribed, relating to such officer or seaman.
- (c) The court may, from time to time, remand the officer or seaman referred to in paragraph (b) of this section for a period not exceeding eight days in each instance.
- (d) Where under paragraph (b) (i) of this section a court causes an officer or a seaman either to be delivered into naval custody or to be committed as a deserter or an absentee without leave, the court shall send to the Commander of the Navy a descriptive return relating to such officer or seaman.
- (e) Where an officer or a seaman surrenders himself to a police officer as being a deserter or an absentee without leave, the officer in charge of the police station to which he is brought shall forthwith inquire into the case, and, if it appears to him from the confession of such officer or seaman that such officer or seaman is a deserter or absentee without leave, may cause such officer or seaman to be delivered into naval custody without bringing him before a Magistrate's Court under this section, and in such case shall send

to the Commander of the Navy a certificate signed by himself as to the fact, date, and place of the surrender of such officer or seaman.

152. (1) It shall not be lawful for any person to arrest an officer or a seaman under any warrant, process, or writ issued by any court in a suit for the recovery of a debt due from the officer or seaman, unless the debt was contracted when the debtor was not a member of the Navy, nor unless before the issuing of the warrant, process, or writ, the plaintiff in the suit or some person on his behalf has made an affidavit that the debt due to the plaintiff was contracted at a time when the debtor was not a member of the Navy, nor unless a memorandum of such affidavit is made on the back of the warrant, process, or writ.

(2) Where an officer or a seaman is arrested in contravention of the provisions of subsection (1), the court which issued the warrant, process, or writ under which the arrest was made may, on complaint by such officer or seaman or by his superior officer, investigate the case and, if satisfied that the arrest was made in contravention of such provisions, may make an order for the immediate discharge of the arrested officer or seaman, and may award to him the costs of the complaint, for the recovery of which he shall have the like remedy as the plaintiff in the suit in which the warrant, process, or writ was issued would have on judgment being given in his favour with costs.

153. (1) Every assignment of and every charge on, and every agreement to assign or charge, the pay or any allowance or other emoluments of any officer or seaman, shall be void unless it is approved by the President or any person thereto authorized by the President.

(2) No pay, allowance, or other emoluments of any officer or seaman shall be seized or sequestered under any writ or order issued or made by any civil court.

154. Where a civil court enters a decree or makes an order against a person, who is or subsequently becomes an officer or a seaman, for the payment of any sum as cost of maintenance of his wife or of his

legitimate or illegitimate child or children, the Commander of the Navy may, if a duly certified copy of such decree or order is sent to him, cause to be deducted from the pay of the officer or seaman and to be appropriated towards the payment of that sum such portion of the pay of the officer or seaman as the Commander of the Navy may determine, so however that there shall be left to the officer or seaman not less than one-third of his pay.

155. (1) Where a person subject to naval law is convicted by a court martial of the offence of committing theft or criminal breach of trust of any property, or of receiving any property knowing it to be stolen property, and the property or any part thereof is found in the possession of that person, the court martial or the President may order the property so found to be restored to the person appearing to be the lawful owner thereof.

(2) Where any property found in the possession of a person convicted by a court martial of an offence referred to in subsection (1) appears to the court martial or to the President to have been obtained by the conversion or exchange of any of the property in respect of which that offence was committed, an order similar to an order under that subsection may be made by the court martial or the President,

(3) Where it appears to the court martial mentioned in subsection (1) or to the President, from the evidence given before the court martial, that any part of the property referred to in that subsection was sold to or pawned with any person without any guilty knowledge on the part of that person, the court martial or the President may, on the application of that person and on the restitution of such property to the owner thereof, order that out of the money, if any, found in the possession of the offender, a sum not exceeding the amount of the proceeds of the sale or pawning shall be paid to that person.

(4) An order under this section shall not bar the right of any person, other than the offender or anyone claiming through him, to recover any property delivered in pursuance of such order from the person to whom it is so delivered.

Power as to restitution of stolen property.

Restriction on arrest of officer or seaman for debt.

Assignment, seizure, or sequestration of pay, &c.

Maintenance of wife and children.

(5) In this section "property" includes money.

Members of any foreign naval force attached to the Navy of Sri Lanka.

156. Where any member of any naval force raised outside Sri Lanka is attached to the Navy of Sri Lanka for duty and service or for exercise or training, he shall be subject to the provisions of this Act while he is so attached.

Vesting of naval property in Commander of the Navy.

157. All property belonging to the Navy, other than the property of individual members of the Navy, and the exclusive right to sue for and recover moneys and other property due to the Navy, shall vest in the Commander of the Navy for the time being, with power for him to sue, to make contracts and conveyances, and to do all other lawful things relating to such property; and civil or criminal proceedings taken by virtue of this section by the Commander of the Navy shall not be discontinued and shall not abate by reason of this death, resignation, retirement, or removal from office, but may be carried on by and in the name of his successor in office.

Provisions as to orders by Commander of the Navy.

158. Where any order is authorized by this Act to be made by the Commander of the Navy, such order may be signified under the hand of any officer authorized to issue orders on behalf of the Commander of the Navy; and an order purporting to have been signed by any officer appearing therein to be so authorized shall be evidence of his being so authorized.

Naval ports.

159. Where any port is wholly or mainly used by the Navy, the Minister may, by Order published in the Gazette, declare that port to be a naval port for the purpose of enabling the making of regulations under this Act in regard to matters affecting that port. The limits of every naval port shall be defined in the Order by which the port is declared to be a naval port.

Exclusion or modified application of written law affecting ports.

160. (1) The Minister may by Order published in the Gazette declare that, with effect from such date as may be specified in the Order, any provision of written law (other than this Act and the regulations made thereunder) which is generally or specially mentioned in the Order and which relates to ports or to persons, vessels or

other property in ports or to the carrying on of any undertaking or to the doing of or the omission to do any act in ports, and which is a provision not related to or connected with the imposition, levy or payment of customs duties or the prevention or detection of the smuggling of goods—

- (a) shall not apply, or
- (b) shall apply with such modifications as may be specified in the Order,

to and in relation to the members or vessels of the Navy.

(2) Every Order made by the Minister under subsection (1) shall have the force of law.

161. (1) The Minister may make Regulations, regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary to be prescribed for securing the discipline and good government of the Navy or for giving effect to this Act, and in particular in respect of all or any of the following matters:—

- (a) appointments and promotions in the Navy;
- (b) the pay, allowances, and other emoluments of officers and seamen;
- (c) pensions and gratuities to officers and seamen or the widows, children and other dependants of deceased officers and seamen;
- (d) procedure for obtaining redress of grievances of officers and seamen;
- (e) the summoning of witnesses required to give evidence before courts martial and naval officers exercising judicial powers under this Act;
- (f) the assembly and procedure of disciplinary courts;
- (g) the management and regulation of naval prisons and naval detention quarters;

[§ 2, 11 of 1962.]

- (h) the labour of prisoners in naval prisons and naval detention quarters and the enabling of such prisoners to earn, by special industry and good conduct, a remission of a portion of their sentence;
- (i) the maintenance of discipline among prisoners in naval prisons and naval detention quarters, the punishment by personal correction, restraint or otherwise of offences committed by them, and the temporary release of them in such cases, for such periods, and subject to such conditions, as may be prescribed ;
- (j) the good government of naval establishments, the discipline of persons receiving instructions or training or employed in or in c o n n e x i o n w i t h n a v a l establishments;
- (k) the prohibition or regulation of the entry, departure, movement or anchoring of vessels into, from or in naval ports;
- (l) the provision of port equipment and port facilities to persons requiring them in naval ports, and the fixing of fees for the use of such equipment and facilities;
- (m) the safety of naval ports ;
- (n) the prohibition or regulation of the admission of persons to naval ports;
- (o) the conduct of persons within naval ports;
- (p) the control of traffic within naval ports;
- (q) the prevention of damage to property within naval ports ;
- (r) any other matter affecting naval ports.

(2) The regulations may provide as punishments for breaches thereof, simple or rigorous imprisonment for a term not exceeding three months, or a fine not exceeding two hundred rupees, or both such imprisonment and such fine.

(3) No regulation made in respect of the matters mentioned in paragraph (i) of subsection (1) shall authorize corporal punishment to be inflicted for any offence, nor render the imprisonment or detention more severe than it is, under the law in force for the time being, in any civil prison.

(4) Every regulation made by the Minister under this section shall be published in the Gazette and shall come into operation from the date on which it is so published or, where a later date of operation is specified in the regulation, from such later date.

(5) Every regulation made by the Minister under this section shall, as soon as practicable, be brought before Parliament by motion that such regulation shall be approved.

(6) Any regulation which Parliament refuses to approve shall be deemed to be rescinded but without prejudice to the validity of anything previously done thereunder or to the making of any new regulation. The date on which a regulation shall be so deemed to be rescinded shall be the date on which Parliament refuses to approve it.

(7) Notification of the date on which any regulation made by the Minister under this section is deemed to be rescinded shall be published in the Gazette.

*163. In this Act, unless the context Interpretation. otherwise requires—

" active service " means service rendered in the defence of Sri Lanka in time of war whether actual or apprehended, or in the prevention or suppression of any rebellion, insurrection, or other civil disturbance in Sri Lanka;

" civil court " means any court other than courts martial;

* Section 162 is omitted, as it makes the " King's Regulations " applicable to the Navy, prior to 1972.

- " civil offence " means an offence against any law of Sri Lanka which is not a naval offence;
- " disciplinary offence " means a breach of section 61, 68, 69, 70, 89, or 104 ;
- " Minister " means the Minister in charge of the subject of Defence;
- " naval port " means a port declared by the Minister to be a naval port under section 159;
- " naval prisoner " means a person under sentence of imprisonment or detention passed by a court martial or by a naval officer exercising judicial powers under this Act;
- " officer " means a commissioned officer, warrant officer, or subordinate officer,
- " petty officer " includes a chief petty officer;
- " prescribed " means prescribed by regulation made under this Act;
- " scale of punishments " means the scale of punishments set out in section 120 ;
- " seaman " means a member of the Navy not being an officer;
- " Secretary " means the Secretary to the Ministry charged with the subject of Defence;
- " subordinate officer " means an acting sub-lieutenant, a midshipman, or a cadet;
- " superior officer " includes any officer, petty officer, and non-commissioned officer.

CHAPTER 149

NATIONAL APPRENTICESHIP

Act No.49 of 1971.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE NATIONAL APPRENTICESHIP BOARD AND AN APPRENTICESHIP FUND, AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[3rd November, 1971.]

Short title,

1. This Act may be cited as the National Apprenticeship Act.

established a Board which shall be called the National Apprenticeship Board (hereinafter referred to as "the Board") and which shall consist of the persons who are for the time being members of the Board under this Part.

Division of apprentices into categories.

2. For the purposes of this Act, the Minister may, by Order published in the Gazette, divide apprentices into such different categories as may be specified in the Order, and the expression "category" or "categories" wherever it appears in any context relating to apprentices in the succeeding provisions of this Act shall be read and construed subject to the preceding provisions of this section.

(2) The Board shall by the name assigned to it by subsection (1) be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

Application of succeeding provisions of this Act.

3. (1) The succeeding provisions of this Act shall not apply to any category of apprentices until the Minister, by Order published in the Gazette, declares that such provisions shall so apply to that category. Such Order shall come into force on the date of such publication, or on such later date as may be specified therein.

5. (1) Subject to the provisions of subsection (2), the general objects of the Board shall be—

(2) So long as an Order is in force under subsection (1) in respect of any category of apprentices the succeeding provisions of this Act shall apply to that category, and accordingly the expression "categories" or "category" wherever it appears in any context relating to apprentices in the succeeding provisions of this Act shall be read and construed subject to the preceding provisions of this section.

(a) to formulate, implement and supervise a scheme of training to cover each category of apprentices;

(b) to establish apprenticeship standards in relation to such training, to determine the periods of training for each category of apprentices and the numbers, nature and content or the type and level of training to be undergone by each such category ;

(c) to determine the trade tests to be undergone by each category of apprentices and their proficiency, and to issue certificates to those who qualify;

(d) to determine, in consultation with the Minister, the amount of allowances payable to each category of apprentices;

PART I

THE NATIONAL APPRENTICESHIP BOARD

Establishment of the National Apprenticeship Board.

4. (1) With effect from such date as may be appointed by the Minister by Order published in the Gazette,* there shall be

*16th December, 1971 — See Gazette Extraordinary No. 14988/46 of 1971.12.16-

- (e) to determine the hours and conditions of work, leave entitlements, holidays, and other conditions to be observed by each category of apprentices ; and
- (h) to do all such other things which, in the opinion of the Board, are necessary to facilitate the proper carrying out of its objects or the performance of its duties.

- (f) to do all such other acts or things as are necessary for, or incidental to, the attainment of the objects hereinbefore mentioned.
7. (1) It shall be the duty of the Board— Duties of the Board—

(2) The Board shall carry out its objects in accordance with the provisions of this Act and the regulations made thereunder.

Powers of the Board.

6. The Board may exercise all or any of the following powers:—

- (a) to acquire in any manner whatsoever and hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of, any immovable or movable property;
 - (b) to provide financial assistance, welfare and recreational facilities, houses, hostels and other like accommodation for the persons employed by or serving the Board ;
 - (c) to construct, manufacture, purchase, maintain and repair anything required for attaining the objects of the Board;
 - (d) to make and recover charges for any services rendered, or facilities or equipment provided, by the Board ;
 - (e) to enter into and perform or carry out, whether directly or through any officer or agent authorized in that behalf by the Board, all such contracts or agreements as may be necessary for the exercise of the powers of the Board ;
 - (f) to train, or assist financially the training of, persons to do work which is connected with the attainment of the objects of the Board;
 - (g) subject to the provisions of this Act, to make rules in respect of the administration of the affairs of the Board;and
- (a) to render as far as possible, such services as are contemplated by the objects of the Board for the benefit of the Government, or any agency or Department of Government, or any local authority, or any Government-Sponsored Corporation, or any establishment which is or is to be carried on in Sri Lanka;
 - (b) to advise the Minister on all matters relating to the training of apprentices, either of its own motion or at the request of the Minister; and
 - (c) to take all such measures as may be necessary for the attainment of its objects.
- (2) Nothing in the preceding provisions of this section shall be construed as imposing on the Board, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court, or tribunal to which the Board would not otherwise be subject.
8. (1) The Minister may, from time to time, give directions to the Board in regard to the general policy on apprenticeship training, the terms and conditions of work of apprentices and such other matters as he may deem appropriate. Power of the Minister in relation to the Board.
- (2) The Minister shall, in issuing directions under subsection (1) with regard to any matter affecting the subjects or functions assigned to any other Minister, act in consultation with that Minister.
- (3) The Board shall comply with any directions issued to it by the Minister under subsection (1).
9. (1) The Board shall consist of the following members :— Constitution of the Board.

- (a) the Director of Apprenticeship;
- (b) the prescribed number of members representing employers in private establishments;
- (c) the prescribed number of members representing employers in public establishments;
- (d) the prescribed number of members representing trade unions;
- (e) the prescribed number of members representing the Ministries and Government departments concerned with the subjects or functions of education, training, labour, industry and agriculture ;
- (f) the prescribed number of members representing persons having special knowledge or experience of matters relating to training, labour or industry.

(2) All representative members of the Board shall be appointed by the Minister.

(3) A person shall be disqualified for being appointed, or for continuing, as a representative member of the Board, if he is or becomes a Member of Parliament.

Chairman and vice-Chairman of the Board.

10. (1) The Director of Apprenticeship shall be the Chairman of the Board.

(2) The members of the Board shall from amongst their number elect the Vice-Chairman of the Board.

Term of office of the representative members of the Board.

11. Every representative member of the Board shall, unless he earlier vacates office by death, resignation or removal, hold office for the prescribed period.

Power of the Minister to remove from office a representative member of the Board.

12. (1) The Minister may, if he considers it expedient so to do, remove, by Order published in the Gazette, any representative member of the Board without reason stated.

(2) A representative member of the Board in respect of whom an Order under subsection (1) is made by the Minister shall vacate his office on the date of the publication of such Order in the Gazette.

(3) The removal of any representative member of the Board under subsection (1) shall not be called in question in any court.

13. A representative member of the Board may at any time resign his office by letter addressed to the Minister. Resignation of representative members.

14. (1) If a representative member of the Board dies or resigns or is removed from office, the Minister may, having due regard to the preceding provisions of this Part, appoint any other person to be a representative member in place of the member who dies or resigns or is removed from office. Casual vacancies among representative members.

(2) A representative member appointed under subsection (1) shall, unless he earlier resigns or vacates office by death or removal, hold office for the unexpired part of the term of office of the representative member whom he succeeds.

15. Where a representative member of the Board is by reason of illness, infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may, having due regard to the preceding provisions of this Part, appoint another person to act in his place. Temporary appointments of representative members for Board.

16. Any representative member of the Board who vacates office, other than a member who is removed from office under section 12, shall be eligible for reappointment. Eligibility of representative members for reappointment.

17. No act or proceeding of the Board shall be deemed to be invalid by reason only of the existence of any vacancy amongst its members or defect in the appointment of any member thereof. Acts or proceedings of the Board deemed not to be invalid by reason of any vacancy, or defect in the appointment, of a member.

18. (1) The seal of the Board shall be in the custody of the Board. Application of the seal of the Board.

(2) The seal of the Board may be altered in such manner as may be determined by the Board.

(3) The application of the seal of the Board shall be authenticated by the signature of the Chairman of the Board, and

some other officer of the Board authorized by the Board to authenticate the application of the seal.

Reimbursement of expenses of representative members of the Board.

19. The representative members of the Board shall not be paid any remuneration, but shall be reimbursed from the funds of the Board for such travelling, hotel and incidental expenses as they may incur for the purpose of attending meetings of the Board or for such other purpose connected with the activities of the Board as may be approved by the Minister.

Meetings of the Board.

20. (1) The meetings of the Board shall be held once at least in every two months.

(2) The quorum for any meeting of the Board shall be as prescribed.

(3) The Chairman or in his absence the Vice-Chairman, or in the case of the absence of both, a member chosen by the members present, shall preside at a meeting of the Board.

(4) All questions for decision at any meeting of the Board shall be decided by the vote of the majority of the members present. In case of an equality of votes, the presiding officer shall have a casting vote.

(5) Subject to the preceding provisions of this section, rules may be made under this Act in respect of the meetings of the Board, the procedure to be followed, and the business to be transacted, at such meetings.

The Board deemed to be a scheduled institution within the meaning of the Bribery Act.

21. The Board shall be deemed to be a scheduled institution within the meaning and for the purposes of the Bribery Act, and the provisions of that Act shall be construed accordingly.

Power of the Board to appoint Committees.

22. (1) The Board may establish Committees to assist the Board in the discharge of its functions. The members of any such Committee shall be appointed by the Board from among persons who are or are not members or employees of the Board.

(2) The Board may delegate to any Committee appointed by the Board any of its functions so, however, that such delegation shall not be deemed or construed to preclude the Board from discharging any

such function so delegated. The Board may amend or revoke any decision made by such Committee in consequence of such delegation.

(3) The members of any Committee appointed by the Board may receive such remuneration or allowances out of the funds of the Board as the Minister may determine.

PART II

STAFF OF THE BOARD

23. (1) The Minister may appoint any person, by name or by office, to be or to act as the Director of Apprenticeship (in this Act referred to as "the Director"). The Director shall be the Chairman as well as the chief executive officer of the Board and shall be responsible for carrying out the decisions and directions of the Board.

Appointment of Director of Apprenticeship, &c.

(2) The Minister may appoint persons, by name or by office, to be or to act as Deputy or Assistant Directors of Apprenticeship to assist the Director in the performance of his duties.

(3) The Director may delegate any of his powers, functions or duties to any Deputy or Assistant Director of Apprenticeship, and any such power, function or duty, so delegated shall be exercised, discharged or performed by such Deputy or Assistant Director subject to the general or special directions of the Director.

(4) The Board may appoint to the staff of the Board such other officers and servants as the Board may deem necessary.

(5) The Minister may, if he considers it expedient so to do, remove the Director or any Deputy or Assistant Director from office without reason stated. Such removal shall not be called in question in any court.

24. The terms and conditions of service, including his remuneration, of the Director shall be as determined by the Minister.

Remuneration of Director, &c.

25. Whenever the Director is by reason of absence from Sri Lanka or illness or other infirmity unable to perform the duties of his office, the Minister may appoint some other person to act in his place.

Appointment of acting Director.

Staff of the Board.

26. (1) Subject to the other provisions of this Act, the Board may—

- (a) appoint, dismiss and exercise disciplinary control over the staff of the Board;
- (b) fix the wages or salary or other remuneration of such staff;
- (c) determine the terms and conditions of service of such staff;
- (d) establish and regulate a provident fund or scheme for the benefit of such staff and may make contributions towards such fund or scheme.

(2) Rules may be made under this Act in respect of all or any of the matters referred to in subsection (1).

Appointment of public officers to the staff of the Board.

27. (1) At the request of the Board any officer in the public service may, with the consent of that officer and of the Secretary to the Ministry charged with the subject of Public Administration, be temporarily appointed to the staff of the Board for such period as may be determined by the Board with like consent or be permanently appointed to such staff.

(2) Where an officer in the public service is temporarily appointed to the staff of the Board—

- (a) he shall be subject to the same disciplinary control as any other member of such staff;
- (b) if, at the time of his temporary appointment to the staff of the Board, his substantive post in the public service was a post declared to be pensionable under the Minutes on Pensions—

- (i) he shall, while in the employ of the Board, be deemed to have been absent from duty in the public service on leave granted without salary on grounds of public policy and accordingly, section 10 (i) of those Minutes shall apply to him ; and

(ii) in respect of him, the Board shall pay out of the funds of the Board to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund for every complete month during which he is in the employ of the Board, such sum not exceeding twenty-five *per centum* of the salary payable to him in his substantive post in the public service as may be determined by the Minister in charge of the subject of Finance; and

(c) if, at the time of his temporary appointment to the staff of the Board, he was a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance, his service to the Board shall, for the purposes of that Ordinance, be deemed to be service to the Government, and accordingly he shall, while he is in the employ of the Board, continue to pay to the Public Service Provident Fund such contribution as he was liable under that Ordinance to pay, and in respect of him the Board shall pay at the close of each financial year out of the funds of the Board to the Deputy Secretary to the Treasury to be credited to the officer's account in the Public Service Provident Fund a sum equivalent to such contribution as the Government is liable to pay to the Public Service Provident Fund in respect of him.

(3) Where an officer in the public service is permanently appointed to the staff of the Board—

- (a) he shall be deemed to have left the public service;
- (b) if, at the time of his permanent appointment to the staff of the Board, his substantive post in the public service was a post declared to be pensionable under the Minutes on Pensions—

- (i) he shall be eligible for such an award under those Minutes as might have been made to him if he had been retired from the public service on the ground of ill health on the date of his permanent appointment to the staff of the Board,
- (ii) the amount of any such award made under those Minutes shall not be paid to him unless his employment in the Board is terminated by retirement on account of age or ill health or by the abolition of the post held by him in the Board or on any other ground approved by the Minister in charge of the subject of Finance, and
- (iii) in the event of his death while in the employ of the Board, such an award as might have been made in respect of him under those Minutes if he had died immediately before his permanent appointment to the staff of the Board may be made in respect of him; and
- (c) if, at the time of his permanent appointment to the staff of the Board, he was a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance, he shall, for the purposes of that Ordinance, be deemed to have left the service of the Government upon the determination of contract with the consent of the Government otherwise than by dismissal.

(4) Where the Board employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Board by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

28. (1) The Board may appoint any member of the staff, by name or by office, to be an Inspector for the purposes of this Act.

(2) The powers, functions or duties of an Inspector may be exercised, discharged or performed by the Director so, however, that the provisions of subsection (3) shall not apply to the Director.

(3) Every Inspector shall be furnished with his certificate of appointment as an Inspector by the Board. Such certificate shall be in such form as may be provided by rules made under this Act, and shall, if so required when within any establishment, be produced by the Inspector to the occupier or person holding a responsible position of management at the establishment.

29. (1) Subject to any rules made in Powers of that behalf, an Inspector shall have power Inspectors. to do all or any of the following acts or things, that is to say:—

- (a) to enter, inspect and examine any establishment or part thereof at all reasonable times, by day and night;
- (b) to examine any apprentice employed therein, or to require the production of any register, record or other documents maintained in pursuance of this Act, and to take on the spot or otherwise any statement of any person which he may consider necessary for carrying out the purposes of this Act;
- (c) to make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and the regulations made thereunder are being observed in the establishment;
- (d) to exercise such other powers as may be prescribed;
- (e) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matter which is being investigated by him, every person whom he finds on the premises of the establishment entered by him by virtue of the aforesaid powers or whom he has reasonable ground for believing to be or to have been employed in such establishment or

Appointment of Inspectors.

to be in possession, custody or control of anything referred to in this subsection;

- (f) to require any person referred to in paragraph (b) to appear before him at a time and place fixed by him, and then and there question that person concerning any matter which is being investigated by him.

(2) The occupier of any establishment, his agents and servants, shall at all times furnish the means or labilities required by an Inspector as are necessary for the purpose of exercising his powers under subsection (1).

PART III

FINANCE AND ACCOUNTS

Apprenticeship Fund.

30. (1) There shall be established a Fund called the Apprenticeship Fund, hereinafter referred to as " the Fund ".

(2) All training provided by employers under the provisions of this Act shall be financed from the Fund.

- (3) The Fund shall be made up of—
 - (a) such contributions from the Consolidated Fund as may be authorized by any Appropriation Act or by resolution of Parliament so, however, that such contributions shall not be paid or made available to the Board except on such terms, conditions and instalments as may be determined by the Minister in charge of the subject of Finance;
 - (b) all sums paid or recovered as training cess under this Act;
 - (c) grants or voluntary contributions from other sources; and
 - (d) borrowings from banks or other sources.

(4) Individual establishments which meet the cost of apprenticeship training assigned to them may, with the approval of the Director, set off such cost against the training cess or claim a refund.

(5) The Fund shall be administered by the Director under the general direction of the Board.

31. (1) There shall be levied and paid for each year a training cess in respect of every establishment employing not less than fifty persons. The rate or amount of such cess shall be as determined from time to time by the Minister by Order published in the Gazette.

Training cess to be levied and paid in respect of certain establishments.

(2) Any establishment in respect of which the training cess is payable under subsection (1) is in this Act referred to as an " establishment subject to the cess "

(3) The training cess for any year due in respect of any establishment subject to the cess shall be paid by the proprietor thereof to the Board in the prescribed manner, and before the prescribed date, or before the expiry of the prescribed period, in that year.

(4) Where the training cess for any year due in respect of any establishment subject to the cess is not paid to the Board by the proprietor of that establishment in accordance with subsection (3), the Board may in its discretion order that a sum not exceeding ten *per centum* of the amount of the cess shall be added to the cess and recovered therewith. Any sum so added to the cess shall be deemed to constitute a part of the cess.

(5) Where the training cess for any year due in respect of any establishment subject to the cess is not paid to the Board by the proprietor of that establishment in accordance with subsection (3), such cess may be recovered by the Board from such proprietor in like manner as though it were a debt due to the State.

32. The Board may, with the concurrence of both the Minister and the Minister in charge of the subject of Finance, or in accordance with the terms of any general authority given with like concurrence, borrow, by way of overdraft or otherwise, or negotiate and obtain on credit terms, such sums as the Board may require for meeting the obligations of the Board and exercising, discharging or performing the powers, functions or duties under this Act:

Borrowing powers of the Board.

Provided, however, that the aggregate of the amounts outstanding in respect of any loan raised by the Board under this section shall not at any time exceed such amount as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Apprenticeship allowance.

33. (1) Every apprentice undergoing training shall be paid an apprenticeship allowance from the Fund.

(2) The Board shall, in consultation with the Minister, determine the amount of allowance to be paid to apprentices. Different allowances may be so determined in respect of apprentices having regard to the category to which they belong and their individual educational qualifications and skill.

(3) An apprentice in any establishment—

- (a) shall not be entitled to receive any other payment direct from his employer; or
- (b) shall not be entitled to be paid on the basis of piece work ; or
- (c) shall not be entitled to be paid any sum by way of bonus or incentive payable to other workers in that establishment.

Other training costs.

34. The Board shall determine the manner in which, and the extent to which, other training costs incurred by the establishments should be reimbursed from the Fund.

Surplus moneys.

35. All surplus moneys in the Fund which are not required to meet any immediate expenditure incurred or to be incurred by the Board shall be deposited by the Board in the General Treasury on such terms as may be determined by the Minister in charge of the subject of Finance.

Board to utilize its moneys.

36. The moneys of the Board may be utilized by the Board for the purpose of carrying out its objects or in the exercise, discharge or performance of its powers, functions or duties under this Act.

37. The Board shall, in respect of each financial year, cause proper accounts of its income and expenditure and of all its other transactions to be kept, and shall prepare an annual statement of accounts and statistics relating to its business, in such form and containing such particulars as the Minister may determine.

Accounts of the Board.

38. The financial year of the Board shall be the calendar year.

Financial year of the Board.

39. (1) The accounts of the Board in respect of each financial year shall be submitted to the Auditor-General for audit before the lapse of six months from the end of that year. For the purpose of assisting him in the audit of such accounts, the Auditor-General may employ the services of any qualified auditor or auditors who shall act under his direction and control.

Audit of accounts of the Board.

(2) For the purpose of meeting the expenses incurred by him in auditing the accounts of the Board, the Auditor-General shall be paid from the funds of the Board such remuneration as the Minister may, with the concurrence of the Minister in charge of the subject of Finance, determine. Any remuneration received from the Board by the Auditor-General shall, after deducting any sums paid by him to any qualified auditor employed by him for the purposes of such audit, be credited to the Consolidated Fund.

(3) The Auditor-General and any person assisting him in the audit of the accounts of the Board shall have access to all such books, deeds, contracts, accounts, vouchers and other documents of the Board as the Auditor-General may consider necessary for the purposes of the audit, and shall be furnished by the Board, or its officers with such information within their knowledge as may be required for such purposes.

(4) For the purposes of this section, the expression " qualified auditor " means—

- (i) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute; or

- (ii) a firm of Accountants each of the "resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute.
- (b) if he has attained the age of sixteen years but has not attained the age of eighteen years except with the prior sanction of the Board given in accordance with the succeeding provisions of this section; or
- (c) unless he satisfies the prescribed standards of education and physical fitness applicable in the case of that category.

The Auditor-General's report.

40. (1) The Auditor-General shall examine the accounts of the Board and furnish a report—

- (a) stating whether he has or has not obtained all the information and explanations required by him ;
- (b) stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Board; and
- (c) drawing attention to any item in the accounts which in his opinion may be of interest to Parliament in any examination of the activities and accounts of the Board.

(2) The Auditor-General shall transmit his report to the Board together with the audited accounts.

The Auditor-General's report and the report of the annual activities of the Board to be transmitted to the Minister.

41. The Board shall, on the receipt of the audited accounts and the Auditor-General's report each year, transmit such report and such accounts together with the statement by the Board of its activities during the financial year to which such report relates, to the Minister who shall cause copies thereof to be laid before Parliament within twelve months of the close of the financial year of the Board to which the accounts relate.

PART IV

APPRENTICES AND THEIR TRAINING

Qualifications for being engaged as an apprentice.

42. (1) A person shall not be qualified for being engaged as an apprentice of any category-

- (a) if he is under the age of sixteen years;

(2) The Board shall not grant its sanction to the engagement of a person as an apprentice of any category under paragraph (A) of subsection (1) unless the requirements of that category of apprentices make it necessary that apprentices should be recruited under the age of eighteen years.

(3) Different standards of education and physical fitness may be prescribed in respect of different categories of apprentices.

43. (1) No person shall be engaged as an apprentice unless— Contract of apprenticeship.

- (a) a contract of apprenticeship has been signed by or on behalf of the apprentice and his employer; and
- (b) the contract has been registered with the Director.

(2) Every contract of apprenticeship may contain such terms and conditions as may be determined by the Board so, however, that such terms and conditions shall not be inconsistent with the provisions of this Act or the regulations made thereunder.

(3) The Board may determine from time to time the allowances and conditions of work and training of apprentices.

(4) Subject to the provisions of section 42, a person who is a minor may be engaged as an apprentice only if a contract of apprenticeship has been signed on his behalf by his parent or guardian with his employer.

44. (1) The contract of apprenticeship training of any apprentice shall specify the period of such training. The period so specified shall be determined by reference to the succeeding provisions of this section. Period of apprenticeship training.

(2) Save as otherwise expressly provided by subsection (3), the period of apprenticeship training of any category of apprentices shall be such period as shall be prescribed in respect of that category.

(3) Where any apprentice has undergone institutional training in a school recognized by the Board and has passed the prescribed trade tests conducted by the proper authorities, the period of apprenticeship training of that apprentice shall be such period as shall be determined by the Board.

(4) Different periods of apprenticeship training may be prescribed or determined under the preceding provisions of this section in respect of different categories of apprentices.

Termination of contract of apprenticeship.

45. (1) A contract of apprenticeship shall terminate on the expiration of the period specified therein.

(2) Before a contract of apprenticeship terminates by the effluxion of time, either party to such contract may apply in writing to the Director for a termination of such contract.

(3) Upon the receipt of an application for the termination of a contract of apprenticeship made by a party to the contract under subsection (2), the Director—

- (a) shall give notice of such application to the other party to the contract; and
- (b) shall, after giving each party to the contract an opportunity of being heard, make order either dismissing the application, or allowing the application and terminating the contract.

(4) No order shall be made by the Director under subsection (3) allowing an application for the termination of a contract of apprenticeship unless he is satisfied—

- (a) that it is desirable to do so in the interests of any or each party to the contract; or

(b) that any or each party to the contract has failed to carry out the terms and conditions of the contract.

(5) Where the Director makes an order under this section allowing an application for the termination of a contract of apprenticeship on the ground that any one party to the contract has failed to carry out the terms and conditions of the contract, then,—

- (a) if such party is the employer of the apprentice to whom the contract relates, such employer shall pay to that apprentice such compensation as may be determined by the Director; or
- (b) if such party is that apprentice, he shall refund to such employer as the costs of training such amount as may be determined by the Director; or
- (c) if such party is not satisfied with the decision of the Director, he may appeal to the Board.

46. (1) The Board shall determine the number of apprentices of each category to be trained, and shall give general directions regarding the selection of establishments where the apprenticeship training shall be provided and the method of selection of such apprentices.

Number of apprentices and their selection.

(2) The Director shall, in accordance with the directions of the Board, require employers to take the specified number of apprentices within the prescribed period.

(3) In determining the number of apprentices to be trained in each establishment, the Director shall have regard to the facilities and resources already available in the establishment for such training, . training programmes being undertaken by the establishment as well as the facilities and resources that may have to be made available for the efficient conduct of such training.

(4) The employer shall comply with any requisition made by the Director under the preceding provisions of this section.

(5) Several employers may join together for the purpose of providing apprenticeship training.

(6) Any employer, who is not satisfied with the decision of the Director under subsection (2) or subsection (3), may make a reference to the Board for a review of the decision. The Board, after considering the facts and opinions available, shall decide the reference. The decision of the Board shall be final.

Practical training of apprentices.

47. (1) The Board shall give general directions regarding the nature and extent of training to be undergone by apprentices.

(2) Subject to the general directions of the Board, the Director shall draw up training programmes for the different categories of apprentices.

(3) Every employer shall make suitable arrangements in his establishment for the practical training of all apprentices under his charge in accordance with the training programme prescribed or approved by the Director.

(4) Every employer shall give all reasonable facilities to the Director for the inspection, supervision and testing of the work being done by apprentices so as to ensure that the training is being given in accordance with the approved programme.

(5) (a) If, in the opinion of the Board, it is necessary to supplement the practical training of any apprentice with either institutional training or any related instruction, the Board may make the necessary arrangements for such training or instruction in a school or institution recognized by the Board.

(b) In the case of apprentices who have passed trade tests conducted by the proper authority, after having undergone institutional training, related instruction may be given on such reduced or modified scale as may be considered appropriate by the Board.

(6) The Board may determine the appropriate tests to be undergone by an apprentice so as to make a decision on his

proficiency in the trade, vocation or profession in which he has served his apprenticeship, and may issue an appropriate certificate of proficiency to such apprentice.

48. Without prejudice to the other provisions of this Act, it shall be the duty of every employer of any apprentice—

Obligations of employers.

(a) to provide that apprentice with the training suitable to the category of, apprentices to which he belongs, in accordance with the provisions of this Act and the regulations made thereunder;

(b) to ensure that a duly qualified person is placed in charge of the training of that apprentice, if the employer is not himself so qualified; and

(c) to discharge all his obligations under the contract of apprenticeship.

49. It shall be the duty of every apprentice undergoing training—

Obligations of apprentices.

(a) to attend both practical and instructional classes in accordance with the approved training programme and to endeavour to qualify in the particular trade, vocation or profession in which he is being trained;

(b) to carry out all lawful orders of his employer and supervisors in the establishment in which he is being trained; and

(c) to discharge his obligations under the contract of apprenticeship.

50. (1) The hours of work of an apprentice shall be as determined by the Board.

Conditions of work.

(2) An apprentice shall not be required to work overtime except with the approval of the Director. The Director shall not grant such approval unless he is satisfied that such overtime work is in the interest of the training of the apprentice.

(3) An apprentice shall be entitled to such leave as may be prescribed and such holidays as are observed in the establishment in which he is undergoing training.

(4) The provisions of the Factories Ordinance relating to health and safety of workers shall apply to all apprentices undergoing training in factories.

(5) The provisions of the Workmen's Compensation Ordinance relating to compensation to be paid to workers on account of injury or death by accident shall apply to all apprentices.

(6) The provisions of the Employees' Provident Fund Act relating to the payment of provident fund shall apply to all apprentices covered by this Act.

Conduct and discipline.

51. (1) Save as otherwise expressly provided by this Act, an apprentice undergoing training under the provisions of this Act shall be a trainee and not a worker, and the provisions of any law relating to workers shall not apply to an apprentice.

(2) In all matters of conduct and discipline, an apprentice shall be governed by the internal rules and regulations of the establishment in which he is undergoing training.

PART V

GENERAL

State lands and buildings.

52. The Minister may by Order, with the concurrence of the Minister for the time being in charge of the subject of State lands, transfer to the Board any State land or building, and any State land or building so transferred shall, with effect from the date of the Order, vest in and be the property of the Board.

Exemption from duties.

53. (1) The Board shall be exempt from the payment of any stamp duty on any instrument executed by, or on behalf of, or in favour of, the Board.

(2) The Board shall be exempt from the payment of any customs or excise duty on any goods imported or purchased out of

bond by the Board, if the Minister in consultation with the Minister in charge of the subject of Finance, approves such exemption.

Offences.

54. (1) If any employer—

- (a) engages as an apprentice a person who is not qualified for being so engaged; or
- (b) fails to carry out the terms and conditions of a contract of apprenticeship; or
- (c) contravenes the provisions of this Act, relating to the number of apprentices which he is required to engage under such provisions,

such employer shall be guilty of an offence under this Act, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

(2) If any employer or any other person—

- (a) required to furnish any information or return—
 - (i) refuses or neglects to furnish such information or return; or
 - (ii) furnishes or causes to be furnished any information or return which is false and which he either knows or believes to be false or does not believe to be true ; or
 - (iii) refuses to answer, or gives a false answer to any question necessary for obtaining any information required to be furnished by him; or
- (b) refuses or wilfully neglects to afford the Director or any other officer duly authorized any reasonable facility for making any entry, inspection, examination or inquiry authorized by or under this Act; or

- (c) requires an apprentice to work overtime without the approval of the Director; or
- (d) employs an apprentice on any work which is not connected with his training; or
- (e) makes payment to an apprentice on the basis of piece work; or
- (f) requires an apprentice to take part in any output bonus or incentive scheme ; or
- (g) demands or accepts any payment or benefit in respect (if an apprentice or prospective apprentice in connexion with his apprenticeship; or
- (h) falsely holds out to be an Inspector; or
- (i) makes any relevant statement to an Inspector which is false in any material particular and which he knows to be false; or
- (j) refuses or fails to comply with any lawful direction given by an Inspector; or
- (k) hinders or obstructs an Inspector in the exercise of his powers or duties; or
- (l) fails to comply with any request under section 31,

(b) if that body is a firm, every partner of that firm shall be deemed to be guilty of that offence:

Provided, however, that no such director or partner shall be deemed to be guilty of an offence under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

56. Any person guilty of an offence under this Act, for which no other punishment is expressly provided in this Act, shall, on conviction, after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees. General penalty.

57. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act. Protection for action taken in good faith.

58. Any person who induces or procures any party to a contract of apprenticeship to commit a contravention of this Act or who otherwise incites, instigates, aids or abets such contravention shall be guilty of an offence under this Act. Binding effect of contract.

59. The provisions of this Act shall have effect notwithstanding anything contained in any other written law, and accordingly in the event of any conflict or inconsistency between the provisions of this Act and such other written law, the provisions of this Act shall prevail. This Act to have precedence over other written law.

68. The Board may make rules in respect of all matters for which rules are required or authorized to be made. No such rule shall come into operation until it has been approved by the Minister. Rules.

61. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act, and in respect of matters for which regulations are authorized or required by this Ad to be made, or are required to be prescribed. Regulations.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

such employer or other person shall be guilty of an offence under this Act, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees, or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

55. Where an offence under this Act is committed by a body of persons, then,—

- (a) if that body is a body corporate, every director of that body corporate shall be deemed to be guilty of that offence, and

Offences by bodies of persons.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

(4) Any person who contravenes the provisions of any regulation made under this Act shall be guilty of an offence under this Act.

Protection for action taken under this Act or on the direction of the Board.

62. (1) No suit or prosecution shall lie—

- (a) against the Board for any act which in good faith is done or purported to be done by the Board under this Act; or
- (b) against any member, officer, servant or agent of the Board for any act which in good faith is done or purported to be done by him under this Act or on the direction of the Board.

(2) Any expense incurred by the Board in any suit or prosecution brought by or against the Board before any court shall be paid out of the funds of the Board, and any costs paid to, or recovered by, the Board in any such suit or prosecution shall be credited to the funds of the Board.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Board shall, if the court holds that such act was done in good faith, be paid out of the funds of the Board, unless such expense is recovered by him in such suit or prosecution.

No writ to issue against person or property of a member of the Board.

63. No writ against person or property shall be issued against a member of the Board in any action brought against the Board.

64. All officers and servants of the Board shall be deemed to be public servants within the meaning and for the purposes of the Penal Code. Officers and servants of the Board deemed to be public servants.

65. (1) Every employer shall maintain records of the progress of training of each apprentice undergoing apprenticeship training in his establishment in such form as may be prescribed. Records and returns.

(2) Every employer shall furnish to the Board such information and returns in respect of apprentices undergoing training in his establishment in such form and at such intervals as may be prescribed.

66. The Board shall maintain such records as are necessary in such form as may be prescribed. Records to be maintained by the Board.

67. In this Act, unless the context otherwise requires— Interpretation.

" agency of the Government " means any body, corporate or unincorporate, acting on behalf of the Government;

" apprentice " means any person of either sex who is undergoing apprenticeship training under a contract of apprenticeship entered into under this Act;

" employer" means any person who employs any other person to do work in any establishment for remuneration, and includes any person responsible for the supervision and control of employees in such establishment;

" establishment" means any place where any industry, trade, business or profession is carried on;

" Government-Sponsored Corporation " has the same meaning as in the Government-Sponsored Corporations Act;

" local authority " includes any Municipal Council, Urban Council, Town Council or Village Council;

" member" means a member of the Board;

" representative member" means a member of any class or description referred to in paragraphs (b) to (l) of subsection (1) of section 9.

CHAPTER 470

NATIONAL ARTS COUNCIL, MAHANUWARA

Act
No. 5 of 1980.

AN ACT TO INCORPORATE THE NATIONAL ARTS COUNCIL, MAHANUWARA.

[24th January, 1980.]

Short title.

1. This Act may be cited as the National Arts Council, Mahanuwara (Incorporation) Act.

promotion of the above-mentioned aims and objects.

Incorporation of the National Arts Council, Mahanuwara

2. From and after the date of commencement of this Act, such and so many persons as now are members of the National Arts Council, Mahanuwara (hereinafter referred to as "the Association"), or shall hereafter be admitted members of the Corporation hereby constituted shall be a body corporate (hereinafter referred to as "the Corporation"), with perpetual succession, under the name and style of the "National Arts Council, Mahanuwara" and by that name shall and may sue and be sued in all courts, with full power and authority to have and use a common seal and alter the same at its pleasure.

4. (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation, be administered by a Board of Management consisting of such number of persons to be elected in accordance with the rules in force for the time being of the Corporation.

(2) The first Board of Management of the Corporation shall be the members of the Board of Management of the Association holding office at the time of the coming into operation of this Act.

The first Board of Management shall consist of the following members :—

General objects of the Corporation.

3. The general objects for which the Corporation is constituted are hereby declared to be—

- (a) the setting up of an organization for the protection, training, upliftment, evaluation and development of diverse types of arts and artistes especially in the Kandyan areas and setting up of a fully equipped Institute of Arts and Crafts ;
- (b) the taking of necessary steps for the well-being of such arts and artistes ;
- (c) the planning of programmes for the purpose of promoting unity and mutual co-operation between various schools of arts and artistes ; and
- (d) the taking of all other steps that are necessary and desirable for the

- (1) Mr. Sudath Gunasekera, Honorary President.
- (2) Mr. Dharmapriya Gunaratna, Honorary Secretary.
- (3) Mr. W. Indrapala, Honorary Chief Organizer.
- (4) Mr. O. G. Swarnasingha, Honorary Treasurer.
- (5) Ven. Dr. Pallamure Sorata, Member.
- (6) Mr. A. B. Herath, Member.
- (7) Mr. T. B. Karunaratna, Member.

5. (1) It shall be lawful for the Corporation from time to time, at any general meeting of the members and by a majority of votes, to make rules for admission, withdrawal or expulsion of members; for the conduct of the duties of the Board of Management and of the various officers, agents and servants of the Corporation; for the procedure in the transaction of business; and otherwise generally for the management of the affairs of

of the Corporation and the accomplishment of its objects. Such rules when made may, at a like meeting, be altered, added to, amended or rescinded, subject however to the requirements of subsection (2).

(2) No rule of the Corporation for the time being in force, nor any rule which may hereafter be passed shall be altered, added to, amended or rescinded except by a vote of two-thirds of the members present and voting at a general meeting of the Corporation:

Provided, however, that such alteration, addition, amendment or rescission shall have been approved by the Board of Management.

(3) The rules of the Association in force at the time of the coming into operation of this Act, shall be deemed to be the rules of the Corporation made under this section.

(4) All members of the Corporation shall be subject to the rules in force for the time being of the Corporation.

Debts due by and payable to the Association.

6. All debts and liabilities of the Association existing at the time of coming into operation of this Act shall be paid by the Corporation hereby constituted and all debts due to and subscriptions and contributions payable to the Association shall be paid to the Corporation for the purposes of this Act.

How seal of the Corporation is to be affixed.

7. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of two of the members of the Board of Management, who shall sign their names to the instrument in

token of their presence, and such signing shall be independent of the signing of any person as a witness.

8. The Corporation shall be able and capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise and all such property shall be held by the Corporation for the purposes of this Act and subject to the rules in force for the time being of the Corporation, with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

Corporation may hold property, movable and immovable.

9. It shall be lawful for the Corporation to raise funds for the accomplishment of its objects and for such purpose to create, execute, grant or issue any mortgages, bonds or obligations:

Borrowing powers

Provided that the aggregate of the amounts which may be so raised by the Corporation shall not exceed the sum determined by the Board of Management.

10. The Corporation shall reimburse any member, officer, agent or servant of the Corporation to the extent of payments bona fide made by such member, officer, agent or servant of the Corporation, on behalf of the Corporation and for its benefit.

Reimbursement

11. Nothing in this Act contained shall prejudice or affect the rights of the Republic, of any body politic or corporate, or of any other persons, except such as are mentioned in this Act, and those claiming by, from, or under them.

Saving of rights of the Republic and others.

CHAPTER 54

NAVAL AND VICTUALLING STORES

Ordinance
No. 7 of 1867.

AN ORDINANCE FOR THE MORE EFFECTUAL PROTECTION OF THE NAVAL AND
VICTUALLING STORES OF THE REPUBLIC.

[18th October. 1867.]

- Short title. 1. This Ordinance may be cited as the Naval and Victualling Stores Ordinance. Provided that if the value of such stores does not exceed fifty rupees such person shall be liable to be tried before a Magistrate's Court, and shall be subject to such punishment as it shall be lawful for the Magistrate's Court to inflict. Where-stores do not exceed fifty rupees in value.
- Marks in Schedule appropriated for the naval and victualling stores of the Republic. 2. The marks described in the Schedule may be applied by the officers of the Navy, their contractors and workmen, in or on the naval and victualling stores of the Republic, to denote the property of the Republic in stores so marked. If any person without lawful authority (proof of which authority shall lie on the party accused) applies any of the said marks in or on any such stores, he shall be guilty of an offence, and shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour. 5. For the purposes of this Ordinance stores shall be deemed to be in the possession or keeping of any person if he knowingly has them in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field, or place, open or enclosed whether occupied by himself or not, and whether the same are so had for his own use or benefit or for the use or benefit of another. Criminal possession explained.
- Offence- 3. If any person, with intent to conceal the property of the Republic in any naval or victualling stores, takes out, destroys, or obliterates wholly or in part any such mark as aforesaid, he shall be guilty of an offence, and shall be liable in the discretion of the court before which he shall be tried, to be imprisoned for any term not exceeding two years, with or without hard labour. 6. It shall not be lawful for any person, without permission in writing from the officers of the Navy, or from some person authorized by such officers in that behalf, to creep, sweep, dredge, or otherwise search for stores in the sea or any tidal water within hundred yards from any vessel belonging to the Republic or in the service of the Republic, or from any mooring place or anchoring place appropriated to such vessels, or from any moorings belonging to the Republic, or from any of the wharves or docks, victualling, or steam factory yards of the Republic. If any person acts in contravention of this provision, he shall be liable to a penalty not exceeding fifty rupees, or to be imprisoned for any term not exceeding three months, with or without hard labour. No unauthorized person to creep, sweep, &c., for stores within hundred yards of dockyards, &c.
- Obliteration with intent to conceal the property of the Republic an offence. 4. If any person without lawful authority (proof of which authority shall lie on the party accused) receives, possesses, keeps, sells, or delivers any naval or victualling stores bearing any such mark as aforesaid, knowing them to bear such mark, he shall be guilty of an offence, and shall be liable to be imprisoned for any term not exceeding one year, with or without hard labour.
- Knowingly receiving, Ac., marked stores an/ offence.

NAVAL AND VICTUALLING STORES

SCHEDULE

MARKS APPROPRIATED FOR USE IN OR ON NAVAL AND VICTUALLING STORES
OF THE REPUBLIC

| Stores | Marks |
|---|---|
| Hempen cordage and wire rope | White, black, or coloured worsted threads laid up with the yarns and the wire respectively. |
| Canvas, fearnought, hammocks, and seamen's bags.. | A blue line in a serpentine- form. |
| Bunting | A double tape in the warp. |
| Candles | Blue or red cotton threads in each wick, or wicks, of red cotton. |
| Timber, metal, and other stores not before enumerated | The broad arrow. |

CHAPTER 431

NON-EPISCOPALIAN CHURCHES

Ordinances
Nos. 5 of 1864,
3 of 1883.

AN ORDINANCE TO REGULATE THE TEMPORAL AFFAIRS OF CHURCHES, NOT PROVIDED FOR IN THE EPISCOPAL CHURCHES ORDINANCE.

[24th October, 1864.]

Preamble. Whereas the Episcopal Churches Ordinance makes provision for regulating the temporal affairs of certain Episcopal Churches, and it is expedient that like provision should be made for and in respect of churches other than those referred to in that enactment:

Provided that if the church belong to or be vested in any person, society, or corporation, no proceedings can be taken to bring the same within the operation of this Ordinance without the consent, previously obtained, of such person, society, or corporation; any proceeding taken without such consent shall be null and void.

It is enacted as follows :—

Short title. **1.** This Ordinance may be cited as the Non-Episcopalian Churches Ordinance.

4. Every meeting so convened shall be held at the time and place appointed, and at every such meeting it shall be lawful for the subscribers to any church not completed and used for public worship at the time such meeting is held, or for the seatholders or members of the congregation of the church, if the same shall then have been completed and used, to determine whether such church is to be brought within the provisions of this Ordinance, and, if this be decided in the affirmative, to elect three trustees :

Interpretation. **2.** For the purposes of this Ordinance, except when otherwise provided—

the word " church " shall be construed to mean any place set apart for the purposes of Christian worship other than those referred to in the Episcopal Churches Ordinance;

" the trustees " shall mean the trustees elected or appointed under the provisions of this Ordinance; and

" the minister " shall mean the person usually officiating in such church and conducting the public worship therein.

Provided that no subscriber or seatholder or member of the congregation shall be entitled to give more than one vote or to give any vote except in person, and that no person shall be entitled to vote who shall not be twenty-one years of age; and the person or persons who shall have convened such meeting shall record the names of the voters, and (if the meeting proceed to the election of trustees) of the persons for whom their votes shall have been given, and shall at the close of the meeting declare the determination of the voters and (if any election shall have taken place) the names of the three persons elected to be trustees by the greatest number of votes, and shall grant to such persons certificates under their hands of such election.

Notice of election of trustees.

3. It shall be lawful for the minister or ministers of any church already erected, or for any five or more persons who shall have subscribed for the erection thereof, or who attend it for purposes of worship, or for the building committee or persons in charge of the building of any church proposed to be erected, or whilst the same is in course of erection, to fix a place and a day for holding a general meeting in manner hereinafter appointed, giving notice thereof in three successive Gazettes:

5. In case of the death, incapacity, resignation, or departure of any trustee, or

in case any such trustee shall become a person of unsound mind, or otherwise disqualified to act, the remaining trustees shall fix a place and a day for holding an election of a new trustee and shall give notice thereof in the three successive Gazettes published next immediately preceding such day; and the election shall be held by the said trustees according to the forms hereinbefore prescribed for election of trustees.

Trustee resigning to render account.

6. No trustee shall be permitted to resign his office until he shall have duly accounted, to the satisfaction of his co-trustees, for all sums of money at any time received by him in his trust.

Annual election of trustees.

7. No trustee shall, unless re-elected, continue in office beyond the thirty-first day of December next after his election or appointment. A general meeting shall be held on the first Monday in the month of December in every year, for the election of three new trustees for the year commencing on the first of January next ensuing; and such election shall be held according to the forms hereinbefore prescribed for the election of trustees.

First Monday in December.

Proceeding where no meeting is fixed.

8. If the trustees shall for the period of one month neglect to fix a place and a day for holding an election of a trustee, in the room of one who may have vacated his office, then any six of the subscribers or seatholders, as the case may be, may fix the place and day, and give notice of the same in manner hereinbefore appointed; and the election shall be held before the minister or ministers of the church. If no election shall be held within two months from the time above prescribed, it shall be lawful for the minister or ministers, or should the minister or ministers fail to do so, or disagree, for the trustees of the preceding year to appoint one or more persons as trustees, and every such trustee so appointed shall continue in office until the thirty-first day of December next ensuing.

Chairman of trustees.

9. The Minister shall, whenever present at any meeting of the trustees, be ex officio chairman of such meeting, and if more ministers than one usually officiate at such church, each shall be chairman in turn. When no minister is present the trustees

shall elect their own chairman. All matters before the trustees, in cases where they differ, shall be decided by a majority of their votes, each trustee having one vote on each matter or case, and in the event of an equality of votes the chairman shall have the casting vote. Three trustees, or two trustees with the ex officio chairman, shall form a quorum.

Quorum.

10. The trustees shall have power from time to time to make by-laws (not inconsistent with this Ordinance) for their general guidance, which laws shall be equally binding on their successors until repealed or altered.

Trustees may make by-laws

11. The meetings of the trustees shall take place on days agreed to by a majority, for the transaction of ordinary business, and if the meeting be extraordinary or special, seven days' notice thereof, and of its object, shall be given in writing to each of the trustees and to the minister, and two trustees may at any time convene a special meeting.

Meetings of trustees.

12. The real estate and property in the church, and in the minister's dwelling or burial ground attached to the church, and their appurtenances respectively, and in all lands, moneys, and chattels belonging thereto, shall be vested in the trustees, for the purposes of their trust.

Property vested in trustees.

13. The trustees may make and execute and compel the performance and execution of all contracts, agreements, matters, and things, and may commence and maintain all suits necessary to their trust. All contracts and agreements shall and may be entered into and enforced, and all suits be brought by them in the name of the trustees, specifying the name of the church without specifying the trustees; and no suit shall abate by the death or vacancy in the office of any trustee. All suits, the cause of which shall accrue to any person from any contract, agreement, or other matter made, executed, done, or performed by the trustees, as such, shall be brought against the trustees under the name and title aforesaid.

Trustees to make arguments.

14. The trustees may from time to time set out and apportion the sittings in the church, and fix a rent for such sittings, and make agreements with any person desirous to engage the same.

Trustees to appoint sittings-

NON-EPISCOPALIAN CHURCHES

[Cap. 431

Subscribers entitled to sittings.

15. Where seats are apportioned, every subscriber to the church bona fide resident within twenty miles of the same shall be entitled to engage the number of sittings therein which he may require for the use of himself and family, and the priority of choice amongst the subscribers shall be determined by the trustees.

ground round about it, or digging or making any vault in the burial ground, by and with the permission aforesaid, shall have a right to maintain and keep up such monument or vault, according to the terms of the permission, to and for the sole and separate use of the said person, and his heirs for ever:

Trustees to collect moneys.

16. The trustees shall collect, or shall cause to be collected, the rents due for sittings, and all subscriptions and donations to the church, and all other revenues arising out of any land or other property belonging to the church, and all fees and payments for vaults and tombstones; and shall appoint, suspend, and remove all officers and servants of the church, and manage the temporalities of the church, and provide the articles necessary for Divine worship therein; and shall fix the salaries or wages of the officers and servants, and shall pay the said salaries or wages, as well as other expenses incident to the church or its property, from the rents and fees and other funds arising out of the property of the church.

Provided always that it shall not be lawful to bury any body within the church or within the enclosed ground round about it.

No burial.

18. One person, not being a trustee, shall be elected at the general meeting for the election of trustees, to be an auditor of the accounts of the trustees for the year succeeding his appointment.

Appointment of auditor.

19. The trustees shall keep a written account of all moneys received and paid by them, which account the auditor may inspect at all reasonable times, and the account, together with any report of the auditor thereon, shall be open to the inspection of the seatholders or members of the congregation at all reasonable times.

Trustees to keep account

Erection of monuments, &c.

17. The trustees may, with the previous consent of the ministers, and with their approval of any proposed epitaph or inscription, permit any monument to be erected or placed in a convenient part of the church, or of the enclosed ground round about it, or of the burial ground belonging to it, or may permit vaults to be dug and made in the burial ground, upon payment to the trustees, for such permission, of such charges as the trustees shall appoint, provided that the same shall in no case exceed the charges set forth in the Schedule. Any person erecting or placing any monument in the church or the enclosed

20. The trustees may accept and take from private persons, or from the State, gifts or grants of land for the site of a minister's dwelling, with a garden and other appurtenances, or for a burial ground, or any lands for the maintenance of the church, or of the ministers; and the land so given or granted shall be for ever vested in the trustees, in trust for the purpose for which it is given or granted.

Trustees may accept lands.

21. Nothing in this Ordinance contained shall be construed to affect the Presbyterian Church (Kandy) Ordinance, but the same shall be of full force, anything in this Ordinance to the contrary notwithstanding.

The Presbyterian Church (Kandy) Ordinance.

SCHEDULE

[Section 17.]

Erecting a tablet or monument in the church, not less than fifty nor more than two hundred rupees.

Erecting a monument in the gound adjoining the church, not being a burial ground, any sum not less than thirty rupees.

Burial in brick or stone grave in the burial ground, ten rupees.

Headstone or footstone (each), five rupees.

A stone covering over such grave, ten rupees.

A vault, for each person it is capable of containing, ten rupees; and on every occasion of its being opened, ten rupees.

A raised tomb over a vault, for each person it is capable of containing, fifteen rupees.

**NATIONAL COUNCIL OF THE YOUNG MEN'S
CHRISTIAN ASSOCIATIONS**

[Cap.449]

CHAPTER 449

**NATIONAL COUNCIL OF THE YOUNG MEN'S
CHRISTIAN ASSOCIATIONS**

Act
No. 7 of 1967.

AN ACT TO INCORPORATE THE NATIONAL COUNCIL OF THE YOUNG MEN'S CHRISTIAN
ASSOCIATIONS OF CEYLON.

[28th March, 1967]

Short title.

1. This Act may be cited as the National Council of the Young Men's Christian Associations of Ceylon (Incorporation) Act.

rules of the Council in force for the time being, and an Executive Committee may be appointed to administer the affairs of the Council in accordance with the said rules.

Incorporation of National Council of the Y.M.C.A.s of Ceylon,

2. From and after the passing of this Act, the President, Vice-Presidents and members for the time being of the National Council of the Young Men's Christian Associations of Ceylon shall be and become a corporation forever under the name and style of "The National Council of the Young Men's Christian Associations of Ceylon", (hereinafter referred to as "the Council"), and by that first-mentioned name shall and may sue and be sued in all courts with full power and authority to have and use a common seal and alter the same at their pleasure.

(2) The first Council under this Act shall consist of:—

President—E. W. Kannangara, Esq.

Vice-Presidents—Fred E. de Silva, Esq.,
Dr. G. N. R. Nathaniel.

Hony. Treasurer—T. L. V. Perera, Esq.

National General Secretary—R. O. Buell, Esq.

Representatives from member Associations:

Amparai:—Col. A. J. Sextone, President,
Hugh Canagasabey, Esq., Hony. General Secretary.

Colombo:—S. J. C. Schokman, Esq.,
President. L. G. G. Wijesinghe, Esq.,
General Secretary. B. E. Fernando, Esq.,
Representative. P. de Vaz, Esq., Chairman,
Central Branch.

Dehiwala:—Major L. V. Gooneratne,
Chairman. A. C. Rebera, Esq., Hony. Joint
Secretary. C. S. Mendis, Esq., Hony. Joint
Secretary.

Mt. Lavinia:—Dr. A. M. Fernando,
Chairman. H. E. de Silva, Esq., Hony.
Secretary.

Galle:—C. Cotelingam, Esq., President.
Dr. Austin W. Perera, Hony. General
Secretary,

General objects of the Council.

3. The general objects for which the Council is constituted are hereby declared to be to facilitate the work of the Young Men's Christian Associations in Sri Lanka, to represent the Young Men's Christian Associations of Ceylon in national and international organizations, to provide leadership and guidance to local Associations in all aspects of their programme, to provide leadership in the extension of the Young Men's Christian Association Movement in Sri Lanka, to organize All-Ceylon Conferences, Camps, Inter Young Men's Christian Association Tournaments and other activities and to recruit and train Secretaries, Instructors, Lay Leaders and other workers for the Young Men's Christian Associations in Sri Lanka.

Management.

4. (1) The Council shall consist of the persons appointed in accordance with the

NATIONAL COUNCIL OF THE YOUNG MEN'S CHRISTIAN ASSOCIATIONS

Jaffna.—C. A. W. Edwards, Esq., President. J. G. Arasaratnam, Esq., Hony. General Secretary.

Jaffna College.—A. R. Kadirgamar, Esq., President. Dr. J. B. Selliah, Hony. General Secretary.

Kandy :—,G. T. R. Perinpanayagam, Esq., Hony. General Secretary. Dr. W. R. C. Paul, Representative.

Matale:—Dr. E. V. P. Jesudason, President. P. Sangiah, Esq., Hony. General Secretary.

Moratuwa:—Douglas R. T. de Silva, Esq., Hony. General Secretary. J. L. D. Perns, Esq., Representative. Dr. H. A. Aponso, Representative. Boyd I. Perera, Esq., Representative. Neil A. Fernando, Esq., Representative.

Navaly:—Rev. S. S. Arulampalam, President. A. Gnanasigamony, Esq., Hony. General Secretary. I. T. Joseph, Esq., Representative.

Paranthan :—S. Sebaratnem, Esq., President. Rev. A. C. Thambyrajah, Hony. General Secretary

and

R. H. de Mel, Esq., Rev. Celestine Fernando, H. A. J. Hulugalle, Esq., Kenneth J. Somanander, Esq.

Rules of the Council.

5. The rules set forth in the Schedule* hereto shall for all purposes be the rules of the Council:

Provided, however, that nothing in this section contained shall be held or construed to prevent the Council at all times hereafter, at a duly constituted general meeting, from making fresh rules, or from altering,

amending, adding to, or cancelling any of the rules set forth in the Schedule* or which hereafter may be made by the Council.

6. No rule in the Schedule*, nor any rule which may hereafter be passed at a general meeting of the Council, shall be altered, added to, amended, or cancelled, except by a vote of two-thirds of the persons present and entitled to vote at any general meeting, and unless such amendment or cancellation shall have been previously circulated among local Associations which are affiliated to the Council and any comments thereon made by such local Associations are placed before the meeting at which such amendment or cancellation comes up for decision. Such amendment may be passed by such general meeting with or without modification.

Amendment of rules.

7. The seal of the Council shall not be affixed to any instrument whatsoever except in the presence of two of the members of the Council, who shall sign their names to the instrument in token of their presence and such signing shall be independent of the signing of any person as a witness.

How Seal of the Council is to be affixed.

8. The Council shall be capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition, or otherwise, and all such property shall be held by the Council for the purpose of this Act; and subject to the rules for the time being of the said Council with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

Council may hold property, movable and immovable.

9. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Act, and those claiming by, from, or under them.

Saving rights of the Republic and others.

* Schedule omitted.—Private enactment.

CHAPTER 308

NATIONAL DEVELOPMENT BANK OF SRI LANKA

Act No. 2 of 1979. AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE NATIONAL DEVELOPMENT BANK OF SRI LANKA, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[24th January. 1979.]

Shorttitle. 1 This Act may be cited as the National Development Bank of Sri Lanka Act.

(b) by stimulating the further development of the investment, share and security markets of Sri Lanka;

PART I

CONSTITUTION AND POWERS OF THE NATIONAL DEVELOPMENT BANK OF SRI LANKA AND ITS BOARD OF DIRECTORS

Establishment of the National Development Bank of Sri Lanka. 2. There shall, on the appointed date or as soon as may be thereafter, be established a Bank which shall be called the "National Development Bank of Sri Lanka", hereinafter referred to as "the Bank", and which shall consist of the persons who are for the time being shareholders of the Bank.

(c) by mobilizing internal and external capital for investment in industrial, agricultural, commercial and other enterprises; and

(d) by engaging in the promotion of the industrial, agricultural, commercial and other development of the economy of Sri Lanka.

Bank to be a body corporate. 3. The Bank shall by the name assigned to it by section 2 be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

(2) In carrying out its purposes, the Bank shall whenever it is feasible and desirable act in participation or co-operation with approved credit institutions.

6. Subject to the other provisions of this Act, in carrying out its purposes the Bank may exercise all or any of the following powers:— Powers of the Bank in carrying out its purposes.

Head office and branch offices of the Bank. 4. The head office of the Bank shall be in Colombo. Such branch offices of the Bank as the Board of Directors may consider necessary may be established in places in Sri Lanka, other than in Colombo.

(a) to grant loans and advances to any enterprises engaged or about to engage in industry, agriculture or commerce;

Purposes of the Bank. 5. (1) The purposes of the Bank shall be to promote the industrial, agricultural, commercial and other development of the economy of Sri Lanka having regard *inter alia* to the development of the rural sector, in accordance with the provisions of this Act—

(b) to guarantee loans raised or to be raised by industrial, agricultural and commercial enterprises from approved credit institutions;

(c) to guarantee obligations of financial institutions arising out of the underwriting of capital issues of industrial, agricultural and commercial enterprises;

(a) by providing medium-term and long-term credit and other forms of assistance to industrial, agricultural, commercial and other enterprises ;

(d) to participate in the equity of industrial, agricultural and commercial enterprises, and to

- subscribe to, or to purchase or underwrite, the issue of stocks, shares, bonds or debentures of any such enterprises, and to sell and deal in such securities;
- (e) to grant loans and advances by way of re-finance of any loans or advances granted by approved credit institutions, and other institutions approved by the Bank to industrial, agricultural and commercial enterprises, and for that purpose to fix the minimum and maximum periods of maturity of loans granted by such banks and institutions;
- (f) to provide such services as technical and administrative advice and assistance which serves its purposes and comes within its functions to industrial, agricultural and commercial enterprises;
- (g) to incur, during the first five years after the commencement of its business, expenditure up to an amount not exceeding two *per centum* of its paid-up capital in furnishing the services referred to in paragraph (f) on a non-reimbursable basis, and thereafter to charge to the funds of the Bank with the expenditure incurred in continuing to provide such services where necessary on a non-reimbursable basis;
- (h) to establish subsidiary companies to assist it in carrying out its purposes and exercising and performing its powers and duties;
- (i) to promote the establishment of industrial, agricultural, commercial and other enterprises;
- (j) to acquire or purchase any movable or immovable property, or any industrial, agricultural, commercial or other enterprise, and to manage or arrange for the management of such property or enterprise, and to sell or otherwise dispose of such property or enterprise;
- (k) to invest temporarily the funds of the Bank in foreign securities;
- (l) to participate in loans, equities, underwriting arrangements and guarantees with approved credit institutions;
- (m) subject to such conditions as may be determined by the Board of Directors, to accept, discount, rediscount, buy, sell and deal in bills of exchange, promissory notes, coupons, drafts, debentures, certificates, scrip and other instruments and securities whether transferable or negotiable or not, of industrial, agricultural and commercial enterprises;
- (n) to undertake development projects, including pilot projects, in order to achieve the purposes of the Bank;
- (o) to engage in the construction of warehouses, godowns, stores and buildings required for agricultural, industrial and commercial activities;
- (p) to lease, let on hire, sell outright, or sell on a hire-purchase basis warehouses, godowns, stores and buildings, machinery, equipment and other goods;
- (q) to guarantee loans raised by any industrial, agricultural or commercial enterprise, being loans which are floated in the open market;
- (r) to guarantee deferred payments due from any industrial, agricultural or commercial enterprise;
- (s) to convert a part or whole of its loans to industrial, agricultural or commercial enterprises, and its subscriptions to bonds or debentures issued by any such enterprise into equity capital;
- (t) to subscribe to, or to purchase, or to underwrite the issue of, stocks, shares, bonds or debentures of approved credit institutions;

- (u) to receive, in consideration of the functions the Bank may be performing, such commission, brokerage, interest, remuneration or fees, as the Board of Directors may, from time to time, determine;
- (v) to open deposit accounts in the Central Bank, any commercial bank, or any bank or financial institution outside Sri Lanka;
- (w) to accept term deposits from any person in such amounts and for such periods as may be determined by the Board of Directors;
- (x) to grant and issue letters of credit and circular notes;
- (y) to buy, sell and deal in bullion and specie and engage in operations in exchange; and
- (z) generally to do, directly or indirectly, all such acts or things as may be connected with, or are in furtherance of, the exercise, discharge or performance of the powers, functions or duties of the Bank under this Act or any other law.

Special powers of the Bank in relation to officers, delegations, contracts, &c.

7. The Bank may exercise all or any of the following powers:—

- (a) to appoint a General Manager who shall be the chief executive officer of the Bank;
- (b) to appoint such other officers and servants as may be necessary for carrying out the work of the Bank;
- (c) to establish "a provident fund, and provide welfare and recreational facilities, houses, hostels and other like accommodation for persons employed by the Bank;
- (d) to enter into and perform all such contracts, whether in or outside Sri Lanka, as may be necessary for the exercise of the powers and the performance of the duties of the Bank;
- (e) to make rules in relation to its officers and servants, including their appointment, promotion,

remuneration, disciplinary control, conduct and the grant of leave to them;

- (f) to make rules in respect of the administration of the affairs of the Bank; and
- (g) to do all other things which, in the opinion of the Board of Directors, are necessary to facilitate the proper carrying on of the business of the Bank.

8. (1) The Bank shall have a Board of Directors consisting of— Board of Directors.

- (a) the person holding office for the time being as the Secretary to the Ministry charged with the subject of Finance (in this Act referred to as "ex officio Director");
- (b) a Deputy Governor of the Central Bank appointed by the Monetary Board, with the concurrence of the Minister;
- (c) a senior officer of the Bank of Ceylon appointed by its Board of Directors with the concurrence of the Minister;
- (d) a senior officer of the Peoples Bank appointed by its Board of Directors with the concurrence of the Minister;
- (e) two persons nominated by the Minister;
- (f) one other member elected by the shareholders (in this Act referred to as the "elected Director") other than the Government, Central Bank, Bank of Ceylon, People's Bank and participants, if any, provided their subscription to the share capital is not less than *ten per centum* of the total paid-up capital of the Bank:

Provided, however, that if their subscription to the share capital is less than *ten per centum* of the total

paid-up capital of the Bank the Minister shall nominate a Director to represent the interests of the shareholders or of any other interests as he may deem necessary.

(2) In this Act, the persons appointed as Directors under paragraphs (b) to (d) (both inclusive) of subsection (1) are referred to as "appointed Directors" and the persons nominated as Directors under paragraph (e), and in the proviso to paragraph (f) of subsection (1) of this section as "nominated Directors".

(3) In the absence of the ex officio Director, the person holding office for the time being as Deputy Secretary to the Treasury shall act as that member's alternate at Board meetings and have the right to vote thereat.

(4) Where an appointed Director or a nominated Director is by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the appointing authority in the case of appointed Directors and the Minister in the case of nominated Directors may appoint or nominate a suitable person to act as his alternate at Board meetings and such person shall have the right to vote thereat.

(5) The Minister may, without assigning any reasons, remove a nominated Director from office. Such removal shall not be called in question in any court.

(6) A nominated Director may resign his office by letter addressed to the Minister.

(7) Subject to the provisions of subsections (6) and (7), the term of office of a nominated Director shall be four years.

Powers, functions, &c., of the Board of Directors.

9. (1) The general superintendence, direction and control of the affairs and business of the Bank shall vest in the Board of Directors.

(2) The Board of Directors may exercise, discharge and perform all the

powers, functions and duties of the Bank under this Act or any other law and do all acts and things which may be done by the Bank under this Act or any other law.

(3) In the exercise, discharge and performance of its powers, functions and duties, the Board of Directors shall, subject to the provisions of this Act, act in accordance with sound business principles, and shall have due regard to the interest of industry, agriculture and commerce and to the public interest generally.

10. All or any of the Directors may be paid such remuneration out of the funds of the Bank, as may be determined by the Minister.

Remuneration of Directors.

11. A Director who is directly or indirectly Interested in any loan or contract proposed to be made by the Bank shall disclose the nature of his interest at a meeting of the Board of Directors. The disclosure shall be recorded in the minutes of such meeting and such Director shall not take part in any deliberation or decision of such Board with respect to such loan or contract.

Director to disclose interest in contracts proposed to be made by the Bank.

12. (1) Meetings of the Board of Directors shall be held at least once in every month and, in addition, as frequently as are necessary for the purpose of discharging its responsibilities under this Act.

Meetings of the Board of Directors, quorum and regulation of procedure.

(2) At any meeting of the Board of Directors, four Directors shall constitute a quorum.

(3) Subject to the other provisions of this Act, the procedure to be followed in regard to the transaction of business at meetings of the Board of Directors, shall be as determined by rules made by the Board of Directors.

13. (1) The Board of Directors may delegate to the General Manager or any other employee of the Bank any of its powers and duties.

Delegation of powers and duties of the Board of Directors.

(2) Every delegate appointed under subsection (1) shall exercise or perform the power or duty delegated to him subject to the general or special directions of the Board of Directors.

Board of Directors may act despite a vacancy or defect.

14. No act or proceeding of the Board of Directors shall be deemed to be invalid by reason only of a vacancy in the office of a Director or any defect in the nomination of a Director.

Chairman of the Board of Directors.

15. (1) The Minister shall appoint a Chairman from amongst the members of the Board of Directors.

(2) The term of office of the Chairman shall, subject to the provisions of subsection (3), be for a period of four years commencing on the date of appointment,

(3) In the event of the vacation of office by the Chairman before the expiration of his term of office, another person shall be appointed in his place to hold office during the unexpired part of the term of office of the Chairman so vacating office.

(4) Any person vacating office as Chairman by effluxion of time shall be eligible for reappointment.

(5) The Minister may, without assigning any reason, remove the Chairman from office. Such removal shall not be called in question in any court.

(6) In the absence of the Chairman, a member chosen by the majority of the members present at any meeting of the Board of Directors shall preside at such meeting.

(7) The Chairman or other member of the Board of Directors who presides at any meeting of the Board shall have in addition to his vote, a casting vote,

Seal of the Bank.

16. (1) The seal of the Bank shall be in the custody of the General Manager.

(2) The seal of the Bank may be altered in such manner as may be determined by the Board of Directors.

(3) The seal of the Bank shall not be affixed to any instrument except in the presence of the General Manager or the acting General Manager and two Directors all of whom shall sign the instrument in token of their presence.

17. (1) The Board of Directors may appoint agents of the Bank in and outside Sri Lanka.

(2) The Bank may act as agent in and outside Sri Lanka for other institutions.

18. (1) The Board of Directors may appoint Special Committees consisting of such number of persons as it may deem necessary for the purpose of assisting and advising such Board in the exercise and performance of its powers and duties.

(2) The persons qualified for appointment as members of any Special Committee shall be the members of the Board of Directors, employees of the Bank, and such other persons as the Board of Directors may deem to be qualified for such appointment. The term of office of any such member shall be as determined by such Board.

19. The members of any Special Committee other than any employee of the Bank who is a member of such Committee may be paid such remuneration out of the funds of the Bank for their attendance at meetings of any such Committee and the discharge of their functions as may be determined by rules which are hereby authorized to be made for that purpose under this Act.

20. The Bank shall not commence business until the initial contributions referred to in section 22 (1) have been made:

Provided, however, that nothing in this section shall be deemed or construed to preclude the Minister from authorizing the Bank to commence business on an earlier date by Order published in the Gazette.

PART II

FINANCE

21. The authorized capital of the Bank shall be two thousand million rupees divided into twenty million shares of one hundred rupees each.

Agency.

Appointment of Special Committees.

Remuneration of members of Special Committees.

Commencement of business.

Bank-

Contributions to the capital of the Bank.

22. (1) The following shall, within one year after the appointed date, make an initial contribution of six hundred million rupees to the capital of the Bank in such amounts and in such manner as hereinafter provided and shall by virtue of such contributions be deemed to be shareholders of the Bank:—

- (a) the Government of Sri Lanka—four hundred million rupees in cash;
- (b) the Central Bank of Ceylon—twenty-five million rupees in cash and seventy-five million rupees in the form of a promissory note payable on demand;
- (c) the Bank of Ceylon—twelve million five hundred thousand rupees in cash and thirty-seven million five hundred thousand rupees in the form of a promissory note payable on demand;
- (d) the People's Bank—twelve million five hundred thousand rupees in cash and thirty-seven million five hundred thousand rupees in the form of a promissory note payable on demand.

(2) The Bank shall, after commencement of business, offer the shares referred to in section 2! to the public for subscription at such time or times, in such amount or amounts and in such manner as may be determined by the Board of Directors, and shall allot such shares.

(3) The Board of Directors may, from time to time, solicit and accept further contributions to the capital of the Bank from any or all of the shareholders.

(4) No contribution to the capital of the Bank shall be made or accepted except in pursuance of the provisions of this section or section 57.

Liability of shareholders.

23. The liability of any shareholder shall be limited to the amount, if any, unpaid on his shares.

24. The Bank may, under and in accordance with the succeeding provisions of this Part of this Act, raise such sums of money in or outside Sri Lanka, by way of loan or otherwise, as may be necessary for carrying out its purposes and exercising and performing its powers and duties.

General borrowing powers of the Bank.

25. The Bank may, from time to time, borrow from the Government, and the Government may, from time to time, lend to the Bank from the Consolidated Fund any sum of money, subject to such terms and conditions as may be determined by the Government.

Borrowing from the Government.

26. (I) The Bank may, from time to time, borrow sums of money from the Central Bank for periods not exceeding six months, subject to such terms and conditions as to the interest thereon and the repayment thereof as may be determined by the Monetary Board.

Temporary borrowings from the Central Bank.

(2) Borrowings by the Bank under subsection (1) shall at no time exceed a sum equivalent to ten *per centum* of the paid-up capital and free reserves of the Bank.

27. The Bank may, with the approval of the Monetary Board from time to time, borrow from any foreign Government, or any other source whatsoever outside Sri Lanka, any sum of money on such terms and conditions as to the interest thereon and the repayment thereof as may be determined by agreement between the Bank, and such Government or such other source, as the case may be.

Borrowing from foreign Governments, &c.

28. (1) The Board of Directors may create and issue debentures and stock, and the debentures and stock so created and issued shall in this Act be referred to as "National Development Bank Debentures" and "National Development Bank Stock", respectively.

National Development Bank Debentures and Stock.

(2) National Development Bank Debentures and National Development Bank Stock shall be issued, transferred, dealt with, redeemed and cancelled in accordance with such terms and conditions as may be determined by the Board of Directors.

Government to
guarantee
repayments,
&c.

29. (1) The Government may guarantee the repayment of the principal sum, and the payment of the interest on—

- (a) any National Development Bank Debentures, and any National Development Bank Stock, created and issued by the Board of Directors; and
- (b) any loan raised by the Bank from any foreign Government, or any other source under this Part of this Act.

(2) Any sum required for the settlement of any guarantee provided under subsection (1) shall be charged on the Consolidated Fund.

Government
guarantee on
foreign
borrowings.

30. (1) The Government is hereby authorized to guarantee, on such terms and conditions as the Government may determine, any loan raised by the Bank from any international or regional lending institution, or from any other international or foreign organization approved by the Government. Any loan authorized to be guaranteed under this subsection may be denominated in foreign currency.

(2) All sums payable by the Government under any guarantee given under subsection (1) are hereby charged on the Consolidated Fund.

(3) All sums payable by the Bank in respect of principal, interest and other charges on any loan to the Bank from any international or regional lending institution or from any other international or foreign organization approved by the Government, under any guarantee given under subsection (1) shall, notwithstanding anything to the contrary in any written or other law, be paid—

- (a) without deduction for, and free from, any taxes, duties or fees now or hereafter imposed by or under any written or other law ; and
- (b) free from all restrictions now or hereafter imposed by or under any written or other law ;

Provided, however, that the preceding provisions of this subsection shall not apply to any taxes, duties, fees or restrictions

upon payments under any bond or promissory note to a holder thereof other than any international or regional lending institution or any other international or foreign organization approved by the Government when such bond or promissory note is beneficially owned by an individual or a corporation resident in Sri Lanka.

(4) For the purposes of subsection (3), the question whether an individual or a Corporation is or is not resident in Sri Lanka shall be determined in accordance with the provisions of section 67 of the Inland Revenue Act (No. 28 of 1979).

(5) Every guarantee agreement between the Government and any international or regional lending institution, or any other international or foreign organization approved by the Government pursuant to this Act and every guarantee given by the Government pursuant to any such guarantee agreement shall, notwithstanding anything to the contrary in any law, be valid and enforceable in accordance with their respective terms.

(6) In the case of any loan made to the Bank, by any international or regional institution or any other international or foreign organization approved by the Government, and guaranteed by the Government, the Government shall bear any loss, and be entitled to any profit, resulting from any revaluation of the Sri Lanka rupee in relation to the currency or currencies in which that loan is expressed or repayable in whole or in part.

The amount of every such loss is hereby charged on the Consolidated Fund.

(7) Notwithstanding anything in any other written law, no agreement, bond or other document executed by the Bank in respect of any loan which may be raised by the Bank from any international or regional lending institution, or from any other international or foreign organization approved by the Government, shall be subject to, or be charged with, any stamp duty or duties whatsoever.

Administered Resources Fund.

31. (I) The Bank shall establish a fund which shall be known as the " Administered Resources Fund ", in this Act referred to as " the Fund " The Fund shall not form part of the general funds of the Bank, but shall be a special fund which shall be administered by the Bank separately from the general funds of the Bank for and on behalf of the Government, or of any such foreign Government, foreign or international organization or person or persons as may be approved by the Government.

(2) The purposes of the Fund shall be to enable loans, advances, or other accommodation or grants to be made or given, under and in accordance with the provisions of this Act, from the Fund to industrial, agricultural, commercial or Other enterprises.

(3) The Bank, in terms of any agreement entered into between the donor and the Bank, is hereby authorized to make or give from the Fund any loan, advance, grant, or other accommodation to any industrial, agricultural, commercial or other enterprise.

(4) There shall be credited to the Fund by the Bank the amount of all donations and grants made, for the purposes of the Fund, by the Government, any foreign Government and any other source, whether in or outside Sri Lanka. In addition the Fund shall be credited with the net income or interest arising from the operations of the Fund.

(5) All financial commitments or liabilities of the Bank arising from, or incurred in connexion with, any act or thing done by the Bank with the object of carrying out the purposes of the Fund shall be charged on the Fund.

(6) The Board of Directors may invest temporarily the excess resources of the Fund which cannot be utilized immediately in pursuance of the objectives of the Fund in such securities as it may deem appropriate, without prejudice to the long term interests of the Fund.

(7) Rules may be made under this Act in respect of all or any of the following matters :—

- (a) the manner in which the accounts of the Fund shall be kept;

- (b) the establishment of reserves in the Fund for bad and doubtful debts, the depreciation of assets, and for such other contingencies as may accord with normal banking practice;

- (c) the closure or winding up of the Fund; and

- (d) any other matters connected with or incidental to any of the matters aforesaid.

(8) Notwithstanding anything in any other written law, the Bank shall be exempt from the payment of income tax upon the profits and income of the Fund,

32. (1) All sums of money received by the Bank or the Board of Directors— Funds of the Bank-

- (a) as contributions towards the capital of the Bank;

- (b) in carrying out the purposes of the Bank ;

- (c) in exercising and performing the powers and duties of the Bank or such Board; and

- (d) in conducting the business and administration of the Bank,

shall be credited to the funds of the Bank.

(2) All financial commitments or liabilities of the Bank or the Board of Directors arising from, or incurred in connexion with—

- (a) the carrying out of the objects and purposes of the Bank;

- (b) the exercise and performance of the powers and duties of the Bank or such Board ; and

- (c) the conduct of the business and administration of the Bank,

shall be charged on the funds of the bank.

33. The profits of the Bank shall be utilized for the purpose of— Utilization of the profits of the Bank;

- (a) the establishment and maintenance of a General Reserve;

- (b) the establishment and maintenance of a special reserve for bad or doubtful debts;

- (c) the establishment and maintenance of such other reserve funds as may be necessary for specific purposes; and
- (d) the payment of dividends.

Exemption of Bank from income tax.

34. The Bank shall be exempt from the payment of income tax upon the profits and income of the Bank, for a period of ten years after the date of the commencement of its business.

Registered address of borrower, &c.

- 35.** (1) Every person—
- (a) to whom any loan, advance or other accommodation is granted by the Bank, or
 - (b) who has obtained probate of the will or letters of administration to the estate of a person to whom any loan, advance or other accommodation has been granted by the Bank, or who, upon application made in that behalf by the Board of Directors, has been appointed by court to represent such estate, or
 - (c) to whom any right, title or interest whatsoever in any immovable property mortgaged to that Bank as security for any loan, advance or other accommodation has passed, whether by voluntary conveyance or by operation of law,

shall register with the Bank an address to which all notices to him may be addressed.

(2) Any notice which is required to be served on any person to whom subsection (1) applies shall be deemed to have been duly served on that person if it is sent by post in a registered letter directed to that person at the address registered by him under that subsection, and service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course of post:

Provided that, where any such person fails to register his address under subsection

(1), the Bank shall publish, in the Gazette and in at least three daily newspapers in the Sinhala, Tamil and English languages, a notice addressed to him, and such notice shall be deemed to be duly given to him on the day on which such notice is last published.

36. Any loan, advance or other accommodation may be granted by the Bank on the security of—

Security on which loans, &c; may be granted by the Bank.

- (a) a mortgage of any movable or immovable property;
- (b) any stocks, bonds, debentures, shares, assignments of mortgages or other securities, other than National Development Bank Debentures and National Development Bank Stock;
- (c) any warehouse receipts, bills of lading, or such other instruments as may be approved, from time to time, by the Board of Directors for the purpose of such security;
- (d) any goods, wares or merchandise; or
- (e) any guarantee given by any enterprise or individual and accepted by the Board or Directors.

37. Where default is made in the payment of any sum payable as an instalment in repayment of the amount of any loan, advance or other accommodation granted by the Bank on the mortgage of any immovable property or as interest on that loan, advance or other accommodation, default shall be deemed to have been made in respect of the whole of such portion of the amount of that loan, advance or other accommodation as has not been repaid to the Bank and the interest due thereon.

Default of payment.

38. (1) Where under the provisions of this Act, default is made or is deemed to have been made in respect of the whole of the unpaid portion of any loan and the interest due thereon, the Board of Directors

Action by Board of Directors where default is made.

may, in its discretion, take action as specified either in section 39 or in section 41:

Provided that where the Board has in any case taken action, or commenced to take action, in accordance with section 39, nothing shall be deemed to prevent the Board at any time from subsequently taking action in that case by resolution under section 41 if the Board deems it necessary or advisable to do so.

(2) For the purposes of this section and sections 39 to 53, the term " loan " means a loan or an advance or any other accommodation granted by the Bank.

Authorization of manager to take possession of mortgaged property.

39. Subject to the provisions of section 42, the Board of Directors may by resolution to be recorded in writing authorize any person specified in the resolution to enter upon any immovable property mortgaged to the Bank as security for any loan in respect of which default has been made, to take possession of and to manage and maintain such property, and to exercise the same powers in the control and management of such property as might have been exercised by the mortgagor if he had not made default.

Procedure where manager is appointed.

40. (1) Any person authorized by resolution of the Board of Directors under section 39 in respect of any property shall be entitled generally to take action in terms of the resolution and in particular—

- (a) to sell the produce of such property;
- (b) to receive the rents, profits, or other income from such property;
- (c) to pay the expenses incurred in the control and management of such property out of the income from such property;
- (d) to appropriate to himself out of such income such sum (if any) as the Board may deem fit to fix as remuneration for his services;
- (e) to remain in possession of such property until all moneys due to the Bank under the mortgage on such property have been fully paid or until he is directed by the Board to yield possession of such property under subsection (2).

(2) Every person authorized by resolution of the Board of Directors under section 39 in respect of any property shall—

- (a) pay monthly, out of the income of such property, such sum (if any) as the Board may in its discretion fix, to the mortgagor for his maintenance;
- (b) pay quarterly or as otherwise directed by the Board to such person or persons and in such manner as the Board may direct the balance of the income from such property remaining after the payments hereinbefore authorized have been made;
- (c) keep and render to the Board at such intervals as the Board may determine clear and accurate records of all sums received or paid out by him in respect of such property;
- (d) yield possession of such property to the mortgagor or some other person as directed by the Board and pay to the Board any balance of the income from such property remaining in his hands after the payments hereinbefore authorized have been made.

(3) The Board shall, when all sums due to the Bank under the mortgage have been fully paid, surrender possession of the mortgaged property to the mortgagor and return to him any balance remaining of the income from such property.

41. Subject to the provisions of section 42, the Board of Directors may by resolution to be recorded in writing authorize any person specified in the resolution to sell by public auction any immovable property mortgaged to the Bank as security for any loan in respect of which default has been made in order to recover the whole of the unpaid portion of such loan, and the interest due thereon up to the date of the sale, together with the moneys and costs recoverable under section 48.

Authorisation of sale of mortgaged property.

Where borrower is dead.

42. (1) Save as otherwise provided in subsection (2), the provisions of sections 39 and 41 shall apply in the case of any default notwithstanding that the borrower may have died or that any right, title or interest whatsoever in the property mortgaged as security for the loan may have passed by voluntary conveyance or by operation of law to any other person.

(2) Where the borrower is dead and probate of his will or letters of administration to his estate have not been issued, the District Court of Colombo or the District Court having jurisdiction over the place where that property is situate may, upon application made in that behalf by the Board of Directors and after service of notice of the application on such persons, if any, as the court may order, and if satisfied that the grant of probate or the issue of letters of administration is likely to be unduly delayed, appoint a person to represent the estate of the borrower for the purposes of this section ; and the provisions of sections 39 and 41 shall not apply in the case of any default made by the borrower unless and until a representative of his estate is appointed under this section.

Notice of resolution of Board of Directors to sell mortgaged property.

43. Notice of every resolution under section 41 authorizing the sale of any property shall be published in the Gazette and in at least three daily newspapers in the Sinhala, Tamil and English languages and copies of such notice shall be served on the borrower, if he is alive, and on every person who has, in respect of that property, registered his address under section 35.

Notice of sale.

44. Notice of the date, time and place of every sale shall, not less than fourteen days before the date fixed for the sale, be published in the Gazette and copies of such notice shall be—

- (a) served on the borrower, if he is alive and on every person on whom notice of any resolution is required to be served under section 43 ;
- (b) posted on or near the property which is to be sold ; and
- (c) affixed to the walls of the Kachcheri and the several District Courts,

Magistrate's Courts and Primary Courts within the jurisdiction of which the property is situate.

45. (1) If the amount of the whole of the unpaid portion of the loan (together with all interest due thereon according to the terms of the mortgage), and of the moneys and costs, if any, recoverable by the Board of Directors under section 48 is tendered to the Board at any time before the date fixed for the sale, the property shall not be sold and no further steps shall be taken in pursuance of the resolution under section 41 for the sale of that property.

(2) If the amount of the instalment or other payment in respect of which default has been made, together with any interest due thereon according to the terms of the mortgage, and of the moneys and costs, if any, recoverable by the Board of Directors under section 48, is tendered to the Board at any time before the date fixed for the sale, the Board may, in its discretion, direct that the property shall not be sold, and that no further steps shall be taken in pursuance of the resolution under section 41 for the sale of that property.

46. The Board of Directors may fix an upset price below which the property shall not be sold to any person other than the Bank-

47. In any case where two or more loans have been granted by the Bank on the security of the same property and default is made in the payment of any sum due upon any one or more of such loans, the foregoing provisions of this Act shall apply notwithstanding that default may not have been made in respect of the other loan or any of the other loans, and the Board of Directors may, in any such case, by resolution under section 41 authorize the sale of the property for the recovery of the total amount due to the Bank in respect of both or all the loans, as the case may be, and the provisions of this Act shall apply accordingly.

Recovery of expenses and costs incurred by the Bank.

48. In addition to the amount due on any loan, the Board of Directors may recover from the borrower, or any person acting on his behalf—

- (a) all moneys expended by the Bank in accordance with the covenants contained in the mortgage bond executed by the person to whom the loan was made, in the payment of premia and other charges in respect of any policy of insurance effected on the property mortgaged to the Bank, and in the payment of all other costs and charges authorized to be incurred by the Bank, under the covenants contained in such mortgage bond; and
- (b) the costs of advertising the sale and of selling the mortgaged property:

Provided that the costs incurred under this paragraph shall not exceed such percentage of the loan as may from time to time be fixed by resolution of the Board.

Payment of excess balance.

49. If the mortgaged property is sold, the Board of Directors shall, after deducting from the proceeds of the sale the amount due on the mortgage and the money and costs recoverable under section 48, pay the balance remaining, if any, either to the borrower or any person legally entitled to accept the payments due to the borrower, or, where the Board is in doubt as to whom the money should be paid, into the District Court having jurisdiction over the place where the mortgaged property is situate.

Certificate of sale.

50. (1) If the mortgaged property is sold, the General Manager on a specific authorization by the Board of Directors, shall issue a certificate of sale and thereupon all the right, title and interest of the borrower to and in the property shall vest in the purchaser; and thereafter it shall not be competent for any person claiming through or under any disposition whatsoever of the right, title or interest of the borrower to and in the property, made or registered after the date of the mortgage of the property to the Bank, in any court to move to invalidate the sale for any cause whatsoever or to maintain any right, title or interest to or in the property as against the purchaser.

(2) A certificate signed by the General Manager under subsection (1) shall be conclusive proof, with respect to the sale of any property, that all the provisions of this Act relating to the sale of that property have been complied with.

(3) If the purchaser is some person other than the Bank, the certificate shall be substantially in the Form A in the Schedule to this Act; if the purchaser is the Bank, the certificate shall be substantially in the Form B in the Schedule to this Act.

(4) Every certificate of sale shall be liable to stamp duty and charges as if it were a conveyance of immovable property and to any registration and other charges authorized by law, all of which shall be payable by the purchaser.

51. (1) The purchaser of any immovable property sold in pursuance of the preceding provisions of this Act shall, upon application made to the District Court of Colombo or the District Court having jurisdiction over the place where that property is situate, and upon production of the certificate of sale issued in respect of that property under section 50, be entitled to obtain an order for delivery of possession of that property.

Order for delivery of possession.

(2) Every application under subsection (1) shall be made, and shall be disposed of, by way of summary procedure in accordance with the provisions of Chapter XXIV of the Civil Procedure Code ; and on all documents filed for the purpose of each application and on all proceedings held thereupon, stamp duties and other charges shall be payable at the respective rates payable under any written law for the time being in force, on applications for, and proceedings connected with or incidental to, the execution of a decree of a District Court for the delivery of possession of any immovable property of the same value as the land to which such application relates.

(3) Where any immovable property sold in pursuance of the preceding provisions of this Act is in the occupancy of the debtor or of some person on his behalf or of some person claiming under a title created by the debtor subsequently to the mortgage of the

property to the Bank, the District Court shall order delivery to be made by putting the purchaser, or any person whom he may appoint to receive possession on his behalf, in possession of the property.

(4) Where any immovable property sold in pursuance of the preceding provisions of this Act is in the occupancy of a tenant or other person entitled to occupy the same, the District Court shall order delivery to be made by affixing a notice that the sale has taken place, in the Sinhala, Tamil and English languages, in some conspicuous place on the property, and proclaiming to the occupant by beat of tom-tom, or in such other mode as may be customary, at some convenient place, that the interest of the debtor has been transferred to the purchaser. The cost of such proclamation shall be fixed by the court and shall in every case be prepaid by the purchaser,

(5) Every order under subsection (3) or subsection (4) shall be deemed, as the case may be, to be an order for delivery of possession made under section 287 or 288 of the Civil Procedure Code, and may be enforced in like manner as an order so made, the debtor and the purchaser being deemed, for the purpose of the application of any provision of that Code, to be the judgment-debtor and judgment-creditor, respectively.

Cancellation of sale.

52. Where the property sold has been purchased on behalf of the Bank, the Board of Directors may at any time before it re-sells that property, cause the cancellation of the sale by an endorsement to that effect made by the General Manager on a certified copy of the certificate of sale, upon the debtor or any person on his behalf paying the amount due in respect of the loan for which the property was sold (including the costs of seizure and sale) and interest on the aggregate sum at a rate not exceeding the prescribed rate. Such an endorsement shall, upon registration in the office of the Registrar of Lands, re-vest the property in the debtor as though the sale under this Act had not been made.

Re-sale by the Bank.

53. If the property so sold has been purchased on behalf of the Bank, and the sale is not cancelled under section 52, the

Board of Directors may, at any time, re-sell the property and transfer to the purchaser by causing an endorsement to be made by the General Manager on a certified copy of the certificate referred to in subsection (3) of section 50, all the right, title and interest which would have been acquired by the purchaser at the original sale. The endorsement shall be liable to the same stamp duty and charges as a certificate to a purchaser at the original sale, and shall, when it is registered in the office of the Registrar of Lands, vest such right, title and interest as aforesaid in the purchaser.

PART III

AUDIT AND ACCOUNTS

54. The financial year of the Bank shall be the calendar year. Financial year of the Bank-

55. (1) The Auditor-General shall audit the accounts of the Bank at such intervals not exceeding a period of twelve months as the Board of Directors may decide. Audit.

(2) Notwithstanding the provisions of subsection (1), the Minister may, in consultation with the Auditor-General appoint a qualified auditor or auditors to audit the accounts of the Bank, where such appointment has been made by the Minister, the Auditor-General may, in writing inform such auditor or auditors that he proposes to utilize his or their services for the performance and discharge of the Auditor-General's duties and functions in relation to the Bank and thereupon such auditor or auditors shall act under the direction and control of the Auditor-General.

(3) Every qualified auditor appointed under the provisions of subsection (2) shall submit his report to the Minister and also submit a copy thereof to the Auditor-General.

(4) The Auditor-General shall examine the accounts of the Bank and ascertain the correctness of the balance sheet and report to the Board of Directors—

(a) whether or not he has obtained all the information and explanations he has required ; and

(b) whether in his opinion the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the Bank's affairs according to the best of his information and explanations given to him and as shown by the books of the Bank.

(5) For the purpose of ascertaining the correctness of the balance sheet the Auditor-General may, with the sanction of the Board of Directors and the Minister, accept, in respect of any branch of the Bank, any copies or abstracts from the books and accounts of such branch which have been transmitted to the head office of the Bank and which have been certified to be correct by an officer of the Bank authorized in that behalf by the Board of Directors.

(6) In this section "qualified auditor" means—

- (a) an individual who being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other institute established by law, possesses a certificate to practise as an accountant issued by the Council of such Institute ; or
- (b) a firm of accountants, each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other institute established by law, possesses a certificate to practise as an accountant issued by the Council of such Institute.

Documents to be transmitted to the Minister to be laid before Parliament.

56. (1) The Board of Directors shall, on receipt of the Auditor-General's report in respect of any year, cause a copy of each of the following documents relating to that year to be transmitted to the Minister and to all the shareholders:—

- (a) Auditor-General's report;
- (b) balance sheet;
- (c) profit and loss account; and
- (d) report of the Chairman of such Board giving an account of the work of the Bank.

(2) The Minister shall lay copies of the documents transmitted to him under subsection (1) before Parliament.

PART IV

AGREEMENT FOR PARTICIPATION IN UNDERTAKING OF BANK

57. (1) The Board of Directors is hereby authorized to conclude an Agreement for Participation, Agreement with any international or regional financial institution for participation by such institution in the business of the Bank; and where such Agreement is concluded, such institution shall become a Participant for the purposes of this Act with effect from such date as may be specified in that behalf in the Agreement.

(2) Any Agreement referred to in subsection (1) may contain such covenants and conditions as the Board of Directors may consider necessary, in addition to the provisions required or authorized by this Act to be contained therein.

(3) All rights or powers exercisable under or for the purposes of this Act by a Participant may be exercised on behalf of the Participant by such person or persons, and in such manner, as may be specified in that behalf in the Agreement, and if so exercised, shall be deemed for the purposes of this Act to have been duly exercised by the Participant.

58. The provisions of sections 59 to 63 (both inclusive) shall apply only so long as there is at least one Participant. Application of this Part.

59. (1) Subject to the provisions of subsection (3), a Participant shall make an initial contribution to the capital of the Bank of such amount as may be specified in the Agreement referred to in section 57 (1) to which he is a party or, if it is not so specified, as may be determined by the Board of Directors. A Participant's contribution to the capital of the Bank.

(2) Subject to the provisions of subsection (3), where any further amount is contributed by the shareholders to the capital of the Bank, a Participant may make a further contribution to the capital of the Bank of such amount as may be determined by the Board of Directors.

(3) The provisions of subsections (1) and (2) shall be subject to the following limitations and conditions, namely—

- (a) that, where there is only one Participant, his initial contribution under subsection (1), or the total sum of his contributions under subsections (1) and (2), to the capital of the Bank, shall not exceed forty-nine *per centum* of the capital for the time being of the Bank; or
- (b) that, where there are two or more Participants, the total sum of their initial contributions under subsection (1), or the total sum of their contributions under subsections (1) and (2), to the capital of the Bank shall not exceed forty-nine *per centum* of the capital for the time being of the Bank.

encumber any shares in the Bank, except with the prior consent in writing of the Board of Directors and except to or in favour of a person approved by such Board for the purpose.

(2) If any Agreement concluded under section 57 contains provision specifying the circumstances in which the consent of the Board of Directors to any proposed sale or alienation of the shares of a Participant who is a party to such Agreement shall not be withheld, such provision shall have effect as though it were herein enacted.

(3) No shares of a Participant in the Bank shall, except with the prior consent of the Board of Directors conveyed in writing to the Participant by the General Manager, be or be liable to be sold in execution of any order or decree of any court or by any assignee in insolvency of the Participant, or if the Participant is a company, by any liquidator or otherwise in the course of any proceedings for the winding-up of the company.

(4) Where application is made to the Board of Directors for such prior consent as is required by subsection (1) or subsection (3), the Board may, in lieu of granting such consent, determine that the shares to which the application relates shall be acquired by any of the other shareholders.

(5) The preceding provisions of this section shall have effect notwithstanding anything in any written or other law, and in the event of any conflict or inconsistency between such preceding provisions and anything in any written or other law, such provisions shall prevail.

Participants to be shareholders in Bank.

60. (1) A Participant shall, by virtue of his contribution to the capital of the Bank, be a shareholder in the Bank and accordingly certificates for shares, each of a nominal value of one hundred rupees shall be issued by the Bank to the Participant, up to an amount equal to the contribution made by the Participant.

(2) The right of a Participant to transfer or dispose of any shares held by him shall be subject to the provisions contained in that behalf in this Act and in the Agreement concluded under section 57 (1) to which he is a party; and if any such shares are duly transferred to any other person, such shares shall be held by such other person in all respects in like manner and subject to the same provisions (whether contained in this Act or in the Agreement) as though such person were the Participant.

Liquidation.

61. The shares held by the shareholders in the Bank shall entitle them in the event of the dissolution of the Bank to participate *pro rata*, according to the nominal value of the shares held, in the amount realized by the sale of the assets of the Bank, after payment of liabilities to other persons, if any.

Restriction of sale of shares of Participant.

62. (1) A Participant shall not be entitled to sell, assign, charge or otherwise in any manner whatsoever to alienate or

63. Where the shares or any of the shares of a Participant are to be acquired by a shareholder in pursuance of a determination under subsection (4) of section 62, the value of the shares which are to be so acquired shall be determined in such manner and upon such terms and conditions as shall be contained in that behalf in the Agreement under section 57 to which he is a party.

Valuation of Participant's shares.

Payment for shares acquired by shareholder **64.** Payment for the shares or any of the shares in the Bank of a Participant which are acquired or purchased by a shareholder under the preceding provisions of this Act shall be paid by the shareholder.

- (ii) by a court of law, or
- (iii) by the persons to whom such matters relate;

PART V

GENERAL

Certain written laws not to apply to the Bank. **65.** The provisions of the following written laws shall not apply to the Bank-

- (a) the Money Lending Ordinance; and
- (b) the Debt Conciliation Ordinance.

The Bank deemed to be a credit institution.

66. The Bank shall be deemed to be a credit institution for the purposes of the Monetary Law Act and accordingly the Bank may borrow from the Medium and Long Term Credit Fund of the Central Bank such sums as the Board of Directors may from time to time determine.

70. Every Director, auditor, manager, secretary or other officer of the Bank shall, except when required to do so by a court or by any law, decline to answer any question concerning the business of the Bank which may be put to him on any occasion whatsoever, if he considers that the answer to such question would disclose or tend to disclose the secrets of the Bank or the business or affairs of -any customer of the Bank. Right to refuse to answer questions.

Officers of the Bank to furnish security.

67. The Board of Directors may determine which classes of officers of the Bank shall give security to the satisfaction of such Board for the due and faithful performance of their duties. Every officer of the Bank belonging to any class so determined shall give such security.

71. A receipt signed by the General Manager or by any person expressly authorized by the General Manager of the Bank to give receipts, shall be an effectual discharge for moneys paid to the Bank. Receipts when valid-

No liability for damage or loss caused otherwise than by misconduct or wilful default.

68. No Director or officer of the Bank shall be liable for any damage or loss suffered by the Bank, unless such damage or loss was caused by his misconduct or wilful default.

72. (1) Contracts on behalf of the Bank may be made as follows:— Contracts,

- (a) a contract which if made between private persons would be by law required to be in writing, may be made on behalf of the Bank in writing under the common seal of the Bank,
- (b) a contract which if made between private persons is by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the Bank in writing signed by any person or persons duly authorized thereto as hereinafter provided; and
- (c) a contract which if made between private persons would by law be valid although made by parol only and not reduced into writing, may be made by parol on behalf of the Bank by any person or persons duly authorized thereto as hereinafter provided.

Declaration of secrecy,

69. Every Director, manager, auditor, officer, servant, agent, accountant, or other person employed in the business of the Bank, shall before entering upon his duties sign a declaration pledging himself to observe strict secrecy respecting all transactions of the Bank, its customers, and the state of accounts with any person and all matters relating thereto and shall by such declaration pledge himself not to reveal any other matters which may come to his knowledge in the discharge of his duties except—

- (a) when required so to do—
 - (i) by the Board of Directors, or

(2) A contract made according to this section shall be effectual in law and shall bind the Bank and all other parties thereto and their legal representatives.

(3) A contract made according to this section may be varied or discharged in the same manner in which it is authorized by this section to be made.

Bills of exchange and promissory notes.

73. A bill of exchange or promissory note shall be deemed to have been made, executed, or endorsed on behalf of the Bank, if made, executed, or endorsed in the name of, or by or on behalf of or on account of the Bank by any person or persons duly authorized thereto as hereinafter provided.

Persons authorized to act on behalf of the Bank.

74. No person, other than the General Manager and the persons thereto expressly authorized by the Board of Directors and acting within the limits of the authority so conferred on them, shall have any authority to make, draw, accept or endorse any promissory note, bill of exchange, cheque or order for the payment of money in the name or on behalf of the Bank or to enter into any contract so as to impose thereby any liability on the Bank or otherwise to pledge the credit of the Bank.

Execution of deeds abroad.

75. (1) The Bank may, by writing under its common seal, empower any person generally or in respect of any specific matter, as its attorney, to execute deeds on its behalf in any place outside Sri Lanka.

(2) A deed signed by such attorney on behalf of the Bank and under his signature or seal shall bind the Bank and have the same effect as if it were under its common seal.

Rules.

76. The Board of Directors may make rules, which are not inconsistent with the provisions of this Act or with sound banking principles in respect of—

- (a) any matter required by this Act to be prescribed;
- (b) any matter for which rules are required or authorized to be made under this Act, and

(c) any matter necessary to enable the Bank to effectively carry out its purposes, exercise and perform its powers and duties, and carry on its business.

77. (1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment. Offences.

(2) Where an offence under this Act is committed by a body of persons, then,—

- (a) if that body of persons is a body corporate, every director and officer of that body corporate; or
- (b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence :

Provided, however, that a director or officer of such body corporate, or a partner of such firm, shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

78. (1) Notwithstanding the provisions of sections 117 and 118 of the Monetary Law Act, Central Bank is hereby to subscribe to the capital of, and to purchase, guarantee or accept as security, any shares, stock, debentures, promissory notes or other securities issued by the Bank. Special provisions relating to the shareholders.

(2) Notwithstanding anything to the contrary in any other written law the Bank of Ceylon and the People's Bank are hereby authorized to subscribe to the capital of the Bank.

79. The Minister may from time to time give general or special directions in writing as to the performance of the duties and the exercise of the powers of the Bank and it shall be the duty of the Bank to comply with such directions. Minister to give directions.

Interpretation. 80. In this Act, unless the context otherwise requires—

- " appointed date " means the 24th day of January 1979;
- " approved credit institution" has the same meaning as " credit institution " in section 88F of the Monetary Law Act, and includes such other institutions as the Board of Directors may, from time to time, determine to be approved credit institutions for the purposes of this Act;
- " Board of Directors " means the Board of Directors of the Bank;
- " Central Bank " means the Central Bank of Ceylon established under the Monetary Law Act;
- " Monetary Board " means the Monetary Board of the Central Bank of Ceylon constituted under section 8 of the Monetary Law Act;

- " Bank of Ceylon " means the Bank of Ceylon established under the Bank of Ceylon Ordinance;
- " People's Bank " means the People's Bank established under the People's Bank Act;
- " Director" means a member of the Board of Directors;
- " enterprise " means any body of persons, whether corporate or unincorporate, by whatsoever name or designation called, and includes a corporation sole or a sole proprietorship;
- " industry * includes tourism, and tourist services within the meaning of the Ceylon Tourist Board Act, mining and fisheries; and the expression " industrial" shall be construed accordingly;
- " shareholder " means a shareholder of the Bank.

SCHEDULE

FORM A

[Section 50 (3).]

FORM OF CERTIFICATE OF SALE

WHEREAS the sum of, rupees is due to the National Development Bank of Sri Lanka from and the land called hereinafter more fully described, has been mortgaged by the said on bond No. as security for its payment in the manner provided by the said bond ;

And whereas a sum due in respect of the said bond has not been paid by the said

And whereas the said land was sold in conformity with the National Development Bank of Sri Lanka Act (Chapter 308) on the day of and the same was purchased by of for the sum of rupees, which has been duly paid by the said :

Now know Ye that I, (the General Manager of the National Development Bank of Sri Lanka), by virtue and in the exercise of the power vested in me in this behalf by the said Act and rules made thereunder, do hereby certify that the following property, to wit, (here describe the property with accuracy by metes and bounds), has been sold to and purchased by the said for the sum of rupees, which he has duly paid, and that the said property is and shall henceforth be vested in the said his heirs, executors, administrators, and assigns.

Given under the Seal of the Bank at Colombo on this day of in the presence of the General Manager of the Bank.

General Manager.

FORM B

**[Section 50
(3).]**

FORM OF CERTIFICATE OF SALE

WHEREAS The sum of rupees is due to the National Development Bank of Sri Lanka from as the land called hereinafter more fully described, has been mortgaged by the said on bond No as security for its payment in the manner provided by the said bond :

And whereas a sum due in respect of the said bond has not been paid by the said :

And whereas the said land was sold in conformity with the National Development Bank of Sri Lanka Act (Chapter 308) on the ... day of and the same was purchased for and on behalf of the National Development Bank of Sri Lanka by , for the sum of ...,- rupees, which has been duly credited to the said Bank in part (or full. as the case may be) satisfaction of the sum due as aforesaid :

Now know Ye that I, (the General Manager of the National Development Bank of Sri Lanka), by virtue and in exercise of the power vested in me in this behalf by the said Act and rules made thereunder, do hereby certify that the following property, to wit, (here describe the property with special accuracy by metes and bounds) has been sold and purchased by the said for and on behalf of the said Bank for the sum of rupees, and that the said premises are and shall henceforth be absolutely vested in the said Bank.

Given under the Seal of the Bank at Colombo on this day of in the presence of the General Manager of the Bank.

General Manager.

CHAPTER 366

NATIONAL FILM CORPORATION OF SRI LANKA

Acts Nos.47 of 1971, 45 of 1980. AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A NATIONAL FILM CORPORATION IN SRI LANKA.

[21st January, 1972.]

Short title, [§ 2, 45 of 1980.] **1.** This Act may be cited as the National Film Corporation of Sri Lanka Act.

material or accessories for the production or exhibition of films;

PART I

CONSTITUTION, POWERS AND DUTIES, &C., OF THE NATIONAL FILM CORPORATION OF SRI LANKA

Establishment of the National Film Corporation of Sri Lanka. [§ 2, 45 of 1980.] **2.** (1) There shall be established a corporation which shall be called the National Film Corporation of Sri Lanka (hereinafter referred to as "the Corporation"), and which shall consist of the persons who are for the time being members of the Corporation under section 3.

(d) to establish, instal and operate studios and cinemas and to provide facilities for the production of films in Sri Lanka;

(dd) to ensure the provision by cinemas and studios of adequate services and facilities necessary for the convenience and safety of patrons of, and workers in, cinemas and studios; [§ 3, 45 of 1980.]

(2) The Corporation shall by the name assigned to it by subsection (1) be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in its corporate name.

(e) to engage in and to assist financially or otherwise in the production of films in Sri Lanka;

(f) to promote, encourage and develop the film industry and maintain high standards in regard to films produced in Sri Lanka, by—

Members of the Corporation. **3.** The members of the Board of Directors shall be the members of the Corporation.

(i) awarding prizes and distinctions of recognition to producers of films of outstanding merit,

General objects of the Corporation. **4.** The general objects of the Corporation shall be—

(ii) sponsoring and holding conferences and seminars,

(a) to import films, photographic equipment and material or accessories necessary for the production or exhibition of films;

(iii) holding or participating in film festivals, and

(b) to export films, including the purchase and stocking of such films for the purpose of such exportation;

(iv) publishing film journals and magazines;

(c) to distribute and supply films, photographic equipment and

(g) to promote and expand the demand for and trade in films produced in Sri Lanka both within and outside Sri Lanka,

- (h) to conduct market research on films in Sri Lanka and outside Sri Lanka;
- (i) to foster co-operation and co-ordination among persons connected with or engaged in the film industry in and outside Sri Lanka;
- (j) to advise the Minister on matters connected with the film industry.

Powers of the Corporation.

5. The Corporation shall have such powers, rights and functions as may reasonably be necessary to carry out its objects and in particular may—

- (a) acquire in any manner whatsoever and hold and take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of, any movable or immovable property;
- (b) acquire, establish, instal and operate studios and cinemas;
- (bb) to control, supervise and inspect cinemas and studios or institutions engaged in the film industry;
- (bbb) to control the establishment and installation of cinemas;
- (c) acquire by purchase or otherwise any rights or privileges considered necessary for the purpose of the business of the Corporation ;
- (d) exercise the exclusive right to import, sell, hire, supply and distribute films, equipment and raw material necessary for the production and exhibition of films;
- (e) export films produced in Sri Lanka;
- (f) engage in the production of films either alone or in collaboration with any other organization or person;
- (g) register, inspect, control and regulate contracts and agreements relating to the production of films in Sri Lanka,

[§ 4,45 of 1980.]

[§ 4, 45 of 1980.]

- (h) appoint, employ, remunerate and have disciplinary control over its officers, servants and agents;
- (i) establish and maintain provident funds, and provide welfare and recreational facilities for its employees;
- (j) make rules in respect of the administration of the affairs of the Corporation;
- (k) delegate to any Director, officer or agent of the Corporation any such function as may be considered necessary for the efficient transaction of its business ;
- (l) levy fees or charges for services, facilities or equipment provided by the Corporation;
- (m) establish, maintain and operate training institutions for technicians, artistes or other personnel engaged in or connected with the film industry for the purpose of advancing the skill of such persons;
- (n) provide credit facilities for the production of films ; and
- (o) adopt all such measures as may be considered necessary for, conducive or incidental to the attainment of the objects of the Corporation,

6. In the exercise of its powers and the carrying out of its objects under this Act, the Corporation shall comply with the general policy of the Government with respect to the film industry and with any general or special directions issued by the Minister in relation to such policy.

Corporation to exercise its powers under the directions of the Minister.

7. (1) The Corporation shall have a Board of Directors consisting of—

Board of Directors of the Corporation.

- (a) three ex officio members, namely—
 - (i) the Director of Information,
 - (u) the Director of Cultural Affairs,
 - (iii) the Director-General of Broadcasting; and

- (b) six members appointed by the Minister of whom—
- (i) two shall represent the Universities and shall be appointed in consultation with the Minister in charge of the subject or function of Higher Education, and
 - (ii) two at least shall be from persons who appear to the Minister to have had experience in matters relating to the film industry.
- (2) A person shall be disqualified for being appointed, or for continuing, as a Director—
- (a) if he is a Member of Parliament; or
 - (b) if he, directly or indirectly, by himself or by any person on his behalf or for his use or benefit, holds or enjoys any right or benefit under any contract made by or on behalf of the Corporation; or
 - (c) if he has any such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a Director.
- (3) (a) Where a Director appointed under paragraph (b) of subsection (1) dies or resigns or is removed from office, the Minister may, having regard to the provisions of that paragraph of that subsection, appoint any other person to be a Director in place of the Director who dies, resigns or is removed from office.
- (6) Any Director appointed under paragraph (a) of this subsection, unless he earlier resigns or vacates his office by death or removal, shall hold office for the unexpired part of the term of office of the Director whom he succeeds.
- (4) Where a Director appointed under paragraph (b) of subsection (1) is, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may, having regard to the provisions of that paragraph, appoint any person to act in his place.
- 8.** (1) Every Director appointed under paragraph (b) of subsection (1) of section 7 shall, unless he vacates office earlier by death, resignation or removal, hold office for a period of three years.
- (2) Every ex officio Director shall hold office as long as he holds the post by virtue of which he was appointed as a Director.
- 9.** (1) The Minister may, if he considers it expedient to do so, remove, by Order published in the Gazette, any Director appointed under paragraph (b) of subsection (1) of section 7 without reasons stated.
- (2) A Director in respect of whom an Order under subsection (1) is made by the Minister shall vacate his office on the date of the publication of such Order in the Gazette.
- (3) The removal of any Director under subsection (1) shall not be called in question in any court.
- 10.** A Director, other than an ex officio Director, may at any time resign his office by letter addressed to the Minister.
- 11.** Any Director who vacates his office, other than a Director who is removed from office under section 9, shall be eligible for reappointment.
- 12.** No act or proceeding of the Corporation shall be deemed to be invalid by reason only of the existence of any vacancy among its Directors or defect in the appointment of any Director thereof.
- 13.** All or any of the Directors may be paid such remuneration out of the funds of the Corporation, as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.
- 14.** A Director who is directly or indirectly interested in a contract proposed to be made by the Corporation shall disclose the nature of his interest in such contract at a meeting of the Directors of the Corporation.

Term of office of Directors.

Power of Minister to remove from office a Director.

Resignation of Directors.

Eligibility for reappointment as Director.

Acts or proceedings of the Corporation deemed not to be invalid by reason of any vacancy or defect in the appointment of a Director.

Remuneration of Directors.

Directors to disclose interest in contract proposed to be made by the Corporation.

NATIONAL FILM CORPORATION OF SRI LANKA [Cap. 366]

Corporation and shall not take part in any deliberation or decision of the Directors with respect to such contract.

Meetings of the Corporation.

15. (1) Rules may be made under this Act in respect of the meetings of the Corporation and the quorum for and the procedure to be followed at such meetings.

(2) The financial year of the Corporation shall be the period of twelve months commencing on the first day of January.

Chairman of any meeting of the Board to have a casting vote.

16. The Chairman of any meeting of the Board of Directors shall, in addition to his own vote, have a casting vote.

Board of Directors to administer the affairs of the Corporation.

17. The Board of Directors shall administer the affairs, may exercise the powers, and shall perform the duties, of the Corporation.

Delegation of powers and duties of Board of Directors.

18. (1) The Board of Directors may delegate to the Chairman or any other Director or any employee of such Board any of its powers and duties.

(2) The Chairman, other Director or employee to whom any of the powers or duties of the Board have been delegated under subsection (1) shall exercise or perform the powers or duties so delegated subject to the general or special directions of the Board.

Chairman of Board of Directors. [§ 5, 45 of 1980.]

19. (1) The Minister shall appoint a Chairman of the Board of Directors from among the Directors. The Chairman shall be the chief executive officer of the Corporation.

(2) If the Chairman is, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint one of the Directors to act in his place.

(3) The Minister may, without assigning a reason, terminate the appointment of the Chairman. The termination of the appointment of the Chairman shall not be called in question in any court.

(4) The Chairman may resign the office of Chairman by letter addressed to the Minister.

(5) Subject to the provisions of subsection (3) and subsection (4), the term of office of the Chairman shall be the period of his membership of the Board of Directors.

20. (1) The seal of the Corporation shall be in the custody of the Board of Directors.

Seal of the Corporation.

(2) The seal of the Corporation may be altered in such manner as may be determined by the Board of Directors.

(3) The seal of the Corporation shall not be affixed to any instrument or document except in the presence of a Director who shall sign the instrument or document in token of his presence.

PART II

EMPLOYEES OF THE CORPORATION

21. The Corporation may appoint to the staff of the Corporation such officers and servants as may be necessary for the purposes of the Corporation.

Appointment of officers and servants. [§ 6, 45 of 1980.]

22. (1) Subject to the other provisions of this Act, the Corporation may—

Powers of the Corporation in regard to the staff of the Corporation.

(a) appoint, dismiss and exercise disciplinary control over the staff of the Corporation;

(b) fix the wages or salary or other remuneration of such staff;

(c) determine the terms and conditions of the service of such staff; and

(d) establish and regulate provident funds and schemes for the benefit of such staff, and make contributions to any such fund or scheme.

(2) Rules may be made under this Act in respect of all or any of the matters referred to in subsection (1).

(3) At the request of the Corporation, any officer in the public service may, with the consent of that officer and the Secretary to the Ministry charged with the subject of Public Administration, be temporarily

appointed to the staff of the Corporation for such period as may be determined by the Corporation with like consent or be permanently appointed to such staff.

(4) Where any officer in the public service is temporarily appointed to the staff of the Corporation, subsection (2) of section 9 of the Motor Transport Act, No. 48 of 1957*, shall *mutatis mutandis* apply to and in relation to him.

(5) Where any officer in the public service is permanently appointed to the staff of the Corporation, subsection (3) of section 9 of the Motor Transport Act, No. 48 of 1957*, shall *mutatis mutandis* apply to and in relation to him.

Officers and servants of the Corporation deemed to be public servants.

23. All officers and servants of the Corporation shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

The Corporation deemed to be a scheduled institution within the meaning of the Bribery Act.

24. The Corporation shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

PART III

FINANCE

Capital of the Corporation.

25. (1) The initial capital of the Corporation shall be ten million rupees.

(2) The amount of the initial capital of the Corporation shall be paid to the Corporation out of the Consolidated Fund in such instalments as the Minister in charge of the subject of Finance may, after consultation with the Minister, determine.

(3) The capital of the Corporation may be increased from time to time by such amount as may be determined by resolution of Parliament and that amount shall be paid out of the Consolidated Fund.

(4) The capital of the Corporation contributed by the Government by way of grants shall not be reduced except in such manner as may be determined by resolution of Parliament.

* Repealed by Law No. 19 of 1978.

(5) The Board of Directors may request the Minister for such advances from the Consolidated Fund as may be necessary for meeting the obligations of the Corporation or the discharge of its duties under this Act and the Minister may in consultation with the Minister in charge of the subject of Finance authorize such advances as may be required by way of loan carrying interest, repayable in such instalments and under such terms and conditions as may be determined by the Minister in charge of the subject of Finance.

26. The Corporation may with the concurrence of both the Minister and the Minister in charge of the subject of Finance or in accordance with the terms of any general authority given with like concurrence, borrow by overdraft or otherwise, or negotiate and obtain on credit terms, such sums as the Corporation may require for meeting the obligations of the Corporation or carrying out its objects :

Borrowing powers.

Provided that the aggregate of the amounts outstanding in respect of any loans raised by the Corporation under this section shall not at any time exceed such sum as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

27. Any funds of the Corporation which are not immediately required for the purposes of the business of the Corporation may be invested by the Board of Directors in such manner as the Board may determine with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance.

Investment of the funds of the Corporation.

28. The revenue of the Corporation in any year shall be applied in defraying the following charges in the order of priority set out hereunder:—

Application of the revenue of the Corporation.

(a) the working and establishment expenses (including allocations to the insurance reserve and depreciation reserve), in connexion with the exercise and performance of the powers and duties of the Corporation, properly chargeable to revenue account and the payment of taxes;

- (b) the interest on any temporary loan raised by the Corporation;
- (c) any sums required to be transferred to any sinking fund or redemption fund; and
- (d) the interest on, and the repayment of, the principal of any Government loan to the Corporation.

Appropriation of net surplus revenue of the Corporation.

29. (1) The net surplus for any year out of the revenue of the Corporation after defraying the charges mentioned in section 28, and after payment of the contribution to the Consolidated Fund, may be appropriated by the Board of Directors for any or all of the following purposes with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance :—

- (a) writing off the preliminary expenses incurred in the formation of the Corporation;
- (b) writing off any accumulated losses brought forward;
- (c) writing off any unproductive expenditure not properly chargeable to revenue;
- (d) transfers to any assets replacement reserve which the Board of Directors may establish and maintain;
- (e) transfers to any loan redemption reserve which the Board of Directors may establish and maintain;
- (f) transfers to any development reserve which the Board of Directors may establish and maintain.

(2) No debits against or transfers out of the reserves mentioned in subsection (1) shall be made by the Board of Directors except with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance.

Accounts and audit of accounts.

30. (1) The Board of Directors shall cause proper accounts of the income and expenditure of the Corporation and of all its

other transactions to be kept and shall prepare an annual statement of accounts and statistics relating to the business of the Corporation in such form and containing such particulars as the Minister with the concurrence of the Minister in charge of the subject of Finance may from time to time specify.

(2) The accounts of the Corporation for each financial year shall be submitted to the Auditor-General for audit within four months of the close of the financial year. For the purpose of assisting him in the audit of such accounts, the Auditor-General may employ the services of any qualified auditor or auditors who shall act under his direction and control.

(3) For the purpose of meeting the expenses incurred by him in the audit of the accounts of the Corporation, the Auditor-General shall be paid by the Corporation such remuneration as the Minister may, with the concurrence of the Minister in charge of the subject of Finance, determine. Any remuneration received from the Corporation by the Auditor-General shall, after deducting any sums paid by him to any qualified auditor or auditors employed by him for the purposes of such audit, be credited to the Consolidated Fund.

31. (1) The Auditor-General and any person assisting the Auditor-General in the audit of the accounts of the Corporation shall have access to all such books, deeds, contracts, accounts, vouchers and other documents of the Corporation as the Auditor-General may consider necessary for the purposes of the audit, and shall be furnished by the Corporation and officers of the Corporation with such information within their knowledge as may be required for such purposes.

Powers of the Auditor-General, &c.

(2) The Auditor-General shall examine the accounts of the Corporation and furnish a report:—

- (a) stating whether he has or has not obtained all the information and explanations required by him;
- (b) stating whether the accounts referred to in the report are properly drawn

up so as to exhibit a true and fair view of the affairs of the Corporation; and

- (c) drawing attention to any item in the accounts which in his opinion may be of interest to Parliament in any examination of the activities and accounts of the Corporation.

(3) The Auditor-General shall transmit his report to the Corporation within four months of the receipt of the accounts of the Corporation by him.

(4) For the purposes of this section, the expression "qualified auditor" means—

- (a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute; or
- (b) a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute.

Report of the Board of Directors and copies of the auditor's report, the Auditor-General's comments and supplement and the statement of accounts and statistics to be sent to the Minister and laid before Parliament.

32. (1) The Board of Directors shall, as soon as possible after the end of each financial year of the Corporation, make to the Minister a report on the exercise and performance by such Board of its powers and duties during that year and on its policy and programme. Such report for any year shall set out any direction given by the Minister to the Board of Directors during that year.

(2) The Board of Directors shall, on receipt of the Auditor-General's report in respect of any year, cause a copy of each of the following documents relating to that year to be transmitted to the Minister:—

- (a) the Auditor-General's report;
- (b) the balance sheet;

(c) the operating and profit and loss accounts;

(d) the statement of accounts and statistics prepared under subsection (I) of section 30; and

(e) the report of the Chairman of such Board giving an account of the work of the Corporation.

(3) The Minister shall lay copies of the documents transmitted to him under subsection (2) before Parliament before the end of the year next following the year to which such report and accounts relate.

33. The Corporation shall before the first day of November in each financial year transmit to the Minister for his approval a programme of the work involving capital expenditure which is to be undertaken by the Corporation during the next financial year, and the Corporation shall have regard to any directions given by the Minister in respect of that programme.

Programme of work to be undertaken by the Corporation during a financial year to be transmitted to the Minister for his approval.

PART IV

ACQUISITION, REQUISITION AND USE OF PROPERTY FOR OR BY THE CORPORATION

34. (1) Where any immovable property whatsoever, other than notified property, is required to be acquired for any purpose of the Corporation and the Minister, by Order published in the Gazette, approves of the proposed acquisition, that property shall be deemed to be required for a public purpose and may accordingly be acquired under the Land Acquisition Act and be transferred to the Corporation.

Acquisition of immovable property under the Land Acquisition Act.

(2) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act for the Corporation shall be paid by the Corporation.

35. (1) Any officer of the Corporation authorized by the Minister may, by notice (in this Act referred to as a "notice of claim") published in the Gazette declare that such movable or immovable property, other than money, as has been, or is being, or is, or was intended to be, used by any person

Notice of claim or disclaimer in respect of property required for purposes of the Corporation.

NATIONAL FILM CORPORATION OF SRI LANKA [Cap. 366]

for the purpose of engaging in or carrying on any business which is similar or substantially similar to any business of the Corporation, is required for the purposes of the Corporation. Such property is in this Act referred to as " notified property ".

(2) The publication of a notice of claim made under subsection (1) in respect of any property shall be conclusive proof that such property is required for the purposes of the Corporation.

(3) Where a notice of claim is published under subsection (1), any officer of the Corporation authorized by the Minister may from time to time, by notice (in this Act referred to as a " notice of disclaimer ") published in the Gazette, disclaim the need, for the purposes of the Corporation, of the whole or any part of the property included in the notice of claim and specified in the notice of disclaimer.

(4) No person shall lease, hypothecate, alienate, transfer or dispose of in any manner whatsoever to any person, other than the Corporation, the whole or any part of—

(a) any property which is specified in a notice of claim and is not disclaimed by a notice of disclaimer; or

(b) any rights in respect of that property.

(5) Any lease, hypothecation, alienation, transfer -or disposal made or effected in contravention of the provisions of subsection (4) shall be null and void, and shall be of no force or avail in law.

(6) Any person shall, if requested by any authorized officer so to do, furnish to such person as shall be specified in the request information with regard to any movable or immovable property included in a notice of claim as shall be so specified.

(7) Any person who—

(a) leases, hypothecates, transfers, or otherwise disposes of any notified property in contravention of subsection (4); and

(b) wilfully fails to furnish the information referred to in subsection (6), or who wilfully withholds all or any part of such information, or who furnishes information knowing such information to be false or inaccurate; or

(c) wilfully or negligently destroys or damages or causes to be destroyed or damaged any notified property; or

(d) removes, changes the situation or location, or alters the character, or causes such removal, change or alteration, of any notified property,

shall be guilty of an offence under this Act.

(8) For the purposes of this section, the expression " authorized officer " means the Chairman of the Board of Directors, or any Director or officer of the Corporation authorized in that behalf by such Chairman.

36. The Chairman of the Corporation may— Report on condition of any notified property.

(a) cause a report to be prepared as to the condition of any notified property;

(b) cause a copy of such report to be sent by registered post to persons having an interest in the property to which the report relates ; and

(c) require such persons to notify in writing to the Chairman whether or not they agree with such report and if they are not in agreement, to specify any objections they may have and the grounds of such objections and to produce all documents relied on by them in support of such objections.

37. (1) The Minister may, by Order (in this Act referred to as a " vesting Order ") published in the Gazette, vest in the Corporation, with effect from such date as shall be specified in the Order, any such notified property as has not been disclaimed by a notice of disclaimer. Compulsory transfer to the Corporation of certain property.

(2) Before a vesting Order takes effect, the Minister may from time to time, after consultation with the Board of Directors, alter, by Order published in the Gazette, the date on which such vesting Order takes effect.

(3) A vesting Order shall have the effect of giving the Corporation absolute title to any property specified in the Order with effect from the date specified therein and free from all encumbrances.

Requisitioning of notified property for the purpose of the Corporation.

38. (1) The Minister may by Order (in this Act referred to as a "requisitioning Order") published in the Gazette, requisition, with effect from such date as shall be specified in the Order, any notified property as is movable or immovable property in order that it may be temporarily used by the Corporation for the purposes of any business of the Corporation.

(2) Before a requisitioning Order takes effect the Minister may from time to time, after consultation with the Board of Directors, alter, by Order published in the Gazette, the date on which such requisitioning Order takes effect.

(3) A requisitioning Order shall have the effect of authorizing the Corporation, with effect from the date specified in the Order, to take possession of the property specified in the Order and to use such property temporarily for the purposes of any business of the Corporation.

(4) Where any property is requisitioned by a requisitioning Order, the Minister may, by Order (hereinafter in this Act referred to as "derequisitioning Order") published in the Gazette, derequisition such property with effect from such date as shall be specified in the derequisitioning Order.

(5) Before a derequisitioning Order takes effect, the Minister may from time to time, after consultation with the Board of Directors, alter by Order published in the Gazette, the date on which such derequisitioning Order takes effect.

(6) Where, immediately before the date on which any property is requisitioned for the Corporation, a person, other than the

owner of such property, was entitled to possession of such property under the terms of a lease, that lease shall be deemed for all purposes to have expired on that date.

(7) Where any property is derequisitioned by a derequisitioning Order, such Order shall be deemed to have the effect of reviving any lease subsisting on the date on which the property was requisitioned, and any question which may arise as to any right, title or interest, in or over that property shall be determined accordingly.

39. Where any property requisitioned for the Corporation is permanently required for the purposes of any business of the Corporation, such property may be vested in the Corporation by a vesting Order.

Compulsory acquisition of requisitioned property.

40. (1) Notwithstanding that any movable or immovable property has vested in the Corporation by virtue of a vesting Order, the Minister may, at any time before a determination as to compensation is made in respect of that property under this Act, by subsequent Order published in the Gazette (in this section referred to as a "divesting Order") revoke that vesting Order.

Revocation of vesting Orders.

(2) The following provisions shall apply in any case where a vesting Order in respect of any movable or immovable property is revoked by a divesting Order:—

(a) that property shall be deemed never to have vested in the Corporation by virtue of that vesting Order, and any question which may arise as to any right, title or interest, in or over that property shall be determined accordingly;

(b) that property shall be deemed to have been and to be property which was requisitioned by a requisitioning Order with effect from the date on which that vesting Order took effect and was derequisitioned by a derequisitioning Order with effect from the date of the revocation of that vesting Order;

(c) all claims made under this Act to the compensation payable in respect of that property and all proceedings

NATIONAL FILM CORPORATION OF SRI LANKA [Cap. 366]

taken under this Act in regard to such claims before that vesting Order was revoked shall be deemed to be null and void, and fresh claims to compensation in respect of that property may be made under this Act.

(3) The preceding provisions of this section shall have effect notwithstanding anything in any other provision of this Act or in any other written law.

Taking possession of property vested in or requisitioned for the Corporation.

41. (1) Any officer of the Corporation specially or generally authorized in that behalf by the Chairman of the Board of Directors may take possession of any property vested in or requisitioned for the Corporation.

(2) Any officer of the Corporation authorized in that behalf by the Chairman of the Board of Directors shall, by notice given to the person in occupation or in possession of any property vested in or requisitioned for the Corporation or exhibited in some conspicuous place on or in the vicinity of such property,—

- (a) inform such person that such authorized officer intends to take possession of such property for and on behalf of the Corporation on such date and at such time and place as shall be specified in the notice; and
- (b) require any person interested or his authorized agent to be present on the date and at the time and place so specified, and to allow and assist such authorized officer to take possession of such property for and on behalf of the Corporation.

Where such property is a motor vehicle, the notice aforesaid may be given to the registered owner of that vehicle within the meaning of the Motor Traffic Act instead of being given to the person in possession of that motor vehicle.

(3) Any notice required to be given to any person under the preceding provisions of this section shall be deemed to be given

to him if such notice is sent to him by registered letter.

(4) Any person who contravenes any requirement of any notice given to him under this section shall be guilty of an offence under this Act.

42. (1) Every person who—

- (a) prevents, obstructs, or resists, or
- (b) directly or indirectly causes anyone to prevent, obstruct or resist,

Prevention of or obstruction to taking possession of property for and on behalf of the Corporation.

any person from or in taking possession, under section 41 of any property for and on behalf of the Corporation shall be guilty of an offence under this Act.

(2) Where an officer authorized by the Chairman of the Board of Directors under section 41 to take possession of any property for and on behalf of the Corporation is unable or apprehends that he will be unable to take possession of such property because of any obstruction or resistance that has been or is likely to be offered, he shall, on his making an application in that behalf to the Magistrate's Court having jurisdiction over the place where that property is ordinarily kept or situated, be entitled to an order of the Court directing the Fiscal to deliver possession of that property to him for and on behalf of the Corporation.

(3) Where an order under subsection (2) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute that order and shall in writing report to the Court the manner in which that order was executed.

(4) Where an order under subsection (2) is issued to the Fiscal by a Magistrate's Court the execution of such order shall not be stayed in any manner by reason of any step taken or proposed to be commenced in any court with a view to questioning, varying or setting aside such order.

(5) For the purpose of executing an order issued by a Magistrate's Court under subsection (2), the Fiscal or any person acting under his direction may use such force as may be necessary to enter any place

where any movable property to which that order relates is kept and seize such movable property, or to enter any land, building, structure or other immovable property to which that order relates and eject any person in occupation thereof, and to deliver possession of such movable property, land, building, structure or other immovable property to the person who is authorized to take possession thereof for and on behalf of the Corporation.

Grants or leases of immovable property to the Corporation under the State Lands Ordinance.

43. Where any immovable property of the State is required for the purpose of any business of the Corporation, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the State Lands Ordinance, and accordingly the provisions of that Ordinance shall apply to a special grant or lease of such property to the Corporation.

Power to require information and to inspect.

44. (1) The Chairman of the Board of Directors, or any person authorized in that behalf by such Chairman, may—

(a) inspect any movable or immovable property which had been, or is being or is or was intended to be, used for engaging in or carrying on any business similar or substantially similar to the business of the Corporation;

(b) inspect any movable or immovable property which had been, or is being or is or was intended to be, used for the engaging in or carrying on of such other business as may be incidental or conducive to any business referred to in paragraph (a) of this subsection;

(c) request any person to furnish information with regard to any matter within his knowledge relating to any movable or immovable property referred to in paragraph (a) or paragraph (b) of this subsection; and

(d) request any person to furnish information with regard to any matter within his knowledge

relating to any business referred to in paragraph (a) of this subsection, whether carried on by himself or any other person, and the persons employed for the purposes of such business.

(2) Any person who fails, without reasonable cause, to comply with the provisions of subsection (1) (c) or subsection (1) (d), or who furnishes information knowing such information to be false, or obstructs any person in the exercise of the powers conferred on him by subsection (1) (a) or subsection (1) (b), shall be guilty of an offence under this Act.

45. Any person who engages in or carries on any business similar or substantially similar to any business of the Corporation shall, if a written request in that behalf is made to him by the Corporation, make available for use by the Corporation any equipment or facilities maintained by him for the purpose of that business subject to such terms and conditions (including terms as to charges to be made for such use) as may be determined by the Minister.

Power of Corporation to make use of equipment and facilities of other persons.

PART V

COMPENSATION

46. (1) The amount of compensation to be paid under this Act in respect of any property vested on any date in the Corporation shall be the actual price paid by the owner for the purchase of such property and an additional sum which is equal to the reasonable value of any additions and improvements made to such property by any person who had an interest in such property, or if such purchase price is not ascertainable, be an amount equal to the price which such property would have fetched if it had been sold in the open market on the day on which the property was vested in the Corporation :

Compensation in respect of property vested in the Corporation.

Provided, however, that where such property consists of movable property a reasonable amount for depreciation shall be deducted from the amount which represents the price actually paid for its purchase by

the person entitled to the compensation payable in respect of such property, if such compensation is based on such price.

(2) Where any interest in any movable or immovable property derived under the terms of any lease is vested in the Corporation, the amount of compensation to be paid under this Act shall be the actual price paid by the holder for the acquisition of such interest:

Provided that a proportionate amount shall be deducted on account of the period for which the holder has enjoyed such interest.

Compensation in respect of property requisitioned for the Corporation.

47. In respect of any property requisitioned for the Corporation, the Corporation shall pay compensation equal to the amount which might reasonably be expected to be payable for the temporary use of such property.

No compensation for damage or loss incurred by reason of the fact that the exclusive right to engage in or carry on any business is vested in the Corporation.

48. No person shall be entitled to compensation for any loss incurred by him, whether directly or indirectly, or by way of business or otherwise, by reason of the fact that the exclusive right to engage in or carry on any business has been vested in the Corporation by virtue of the operation of the provisions of this Act or any Order made thereunder.

Interest on compensation.

49. Any compensation payable, less any deduction that may be made from such compensation under this Act, shall carry interest, as from the date on which it accrues due until payment, at such rate as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Date of commencement of accmement of compensation.

50. The compensation payable in respect of any property shall be considered as accruing due from the date on which that property was vested in or requisitioned for the Corporation.

Mode of payment of compensation.

51. The mode of payment of compensation shall be determined by the Minister in consultation with the Minister in charge of the subject of Finance.

Determination of compensation.

52. (1) The Board of Directors shall refer to the Chief Valuer the determination of the compensation payable in respect of

any property, and such Valuer shall submit his determination to the Board of Directors for final decision thereon.

(2) The Chief Valuer shall, before making his determination of the compensation payable in respect of any property, give the person from whom that property was acquired or requisitioned for the Corporation, an opportunity to adduce before such Valuer, by himself or by a representative authorized by him in that behalf, evidence with regard to the value of that property.

(3) The Board of Directors shall communicate in writing to the person from whom any property was acquired or requisitioned for the Corporation the final decision of the compensation payable in respect of that property.

(4) The Board of Directors shall cause a notice to be published in the Gazette and in at least one Sinhala, one Tamil and one English newspaper, specifying the compensation that it proposes to pay in respect of any property, being the compensation determined by the Board of Directors, and inviting any person who had any interest in that property, immediately before that property was vested in or requisitioned for the Corporation and who claims any compensation in respect of that property, to communicate to the Chairman of the Board of Directors his claim in writing, stating the nature and the basis thereof, before such date as shall be specified in the notice.

53. (1) Where no claim to the compensation payable in respect of any property is received in response to the notice under section 52 from any person other than the person from whom that property was acquired or requisitioned for the Corporation, the Chairman of the Board of Directors shall cause such compensation, less any sum required by or under this Act to be deducted therefrom, to be paid to the person from whom that property was so acquired or requisitioned.

(2) Where any claim to compensation payable in respect of any such property is received in response to the notice under

section 52 from any person other than the person from whom that property was acquired or requisitioned for the Corporation, then, if every such claimant and the person from whom that property was so acquired or requisitioned amicably agree in writing as to the persons entitled to the compensation and the apportionment of the compensation among them, the Chairman of the Board of Directors shall cause the compensation, less any sum required by or under this Act to be deducted therefrom, to be apportioned and paid to such person according to such agreement. If there is no such agreement, the Chairman of the Board of Directors shall cause the compensation, less any sums required by or under this Act to be deducted therefrom, to be paid to any District Court or Primary Court, according as the amount to be so paid exceeds or does not exceed one thousand five hundred rupees to be drawn by the persons entitled thereto.

Provision for cases where compensation is not accepted, &c.

54. Where any compensation payable to any person under this Act is not accepted by him when it is tendered to him, or where such person is dead or is not in existence or is not known, it shall be paid to any District Court or Primary Court, according as the amount of compensation exceeds or does not exceed one thousand five hundred rupees, to be drawn by the person or persons entitled thereto.

Deduction from compensation.

55. (1) Where a person is entitled to compensation in respect of any property vested in or requisitioned for the Corporation, the Board of Directors shall pay from the amount of such compensation to the Commissioner-General of Inland Revenue any sum certified under the hand of the Commissioner-General of Inland Revenue to the Corporation to be due from such person as tax on income or profits, or as personal tax.

(2) For the purposes of this section, the expression "compensation" includes any interest which has accrued due on such compensation.

Appeal from determination of compensation.

56. Any person dissatisfied with the determination of compensation under this Part may within thirty days of the

communication of such decision appeal therefrom to the Minister whose decision thereon shall be final and conclusive and shall not be called in question in any court.

PART VI

GENERAL

57. (1) Subject to the provisions of section 58, on or after such date* (hereafter in this Act referred to as the "relevant date ") as the Minister may specify by Order published in the Gazette*, no person shall import into Sri Lanka or sell, supply or distribute within Sri Lanka any films, photographic equipment or any material, equipment or accessory necessary for the production or exhibition of films, without the written authority of the Chairman.

Prohibition of the importation or distribution of films, &c., by any person other than the Corporation.

(2) On or after the relevant date, no person shall, except with the written authority of the Chairman of the Board of Directors, exhibit any film which has not been distributed through the Corporation.

(3) A certificate under the hand of the Chairman of the Board of Directors that any person has not complied with the provisions of subsection (2) shall be received in any proceedings as conclusive evidence of such non-compliance.

58. All contracts and agreements, entered into or made by any person prior to the relevant date, for the importation into Sri Lanka or the distribution within Sri Lanka of any film, photographic equipment or any material, equipment or accessory necessary for the production of films, as may be declared by the Minister by Order published in the Gazette, shall be deemed to be contracts and agreements of the Corporation and all subsisting rights and obligations under such contracts and agreements so declared shall be deemed to be rights and obligations of the Corporation, and may be enforced or acted upon as fully and effectually as if the Corporation had been a party to or had made such contracts or agreements.

Provisions relating to contracts or agreements for the importation or distribution of films existing on the relevant date.

* 2nd August, 1973 — See Gazette Extraordinary No. 69/4 of 1973.07.25.

Special provisions relating to employees of persons who were carrying on business as importer and seller, &c., of films, &c.

59. (1) No person other than the Corporation who on the relevant date, was carrying on business as exhibitor of films or as importer, seller, supplier or distributor of any films, photographic equipment or any equipment or accessory for the production or exhibition of films shall terminate the employment of any person (hereafter referred to as an "employee") employed by him except with the written approval of the Commissioner, and otherwise than in accordance with the terms and conditions subject to which such approval is granted.

A person who was carrying on the business referred to in the preceding provisions of this subsection is hereafter in this section referred to as an "employer".

(2) The following provisions shall apply in the case of the exercise of the powers conferred on the Commissioner to grant his approval to an employer terminating the employment of any employee :—

- (a) Such approval may be granted or refused on application in that behalf made by such employer.
- (b) The Commissioner may, in his absolute discretion, decide to grant or refuse such approval.
- (c) The Commissioner may, in his absolute discretion, decide the terms and conditions subject to which his approval should be granted, including in particular terms and conditions relating to the payment by such employer to such employee of a gratuity or compensation for the termination of employment.
- (d) Any decision made by the Commissioner under the preceding provisions of this subsection shall be final and conclusive, and shall not be called in question in any court, whether by way of writ or otherwise.

(3) Where, on or after the relevant date, any employer has granted or grants to any employee, in addition to any benefit such employee was or would be entitled to receive in the ordinary course of his

employment, any *ex gratia* gratuity or compensation or other benefit (hereafter in this subsection referred to as "*ex gratia* benefits"), then, every person who was an employee of that employer on the relevant date, shall be entitled, with the approval of the Commissioner given upon application in that behalf made by such person, to receive the same *ex gratia* benefits so however that the amount thereof shall be as determined by the Commissioner. The preceding provisions of this subsection shall apply to any person notwithstanding that he ceased or ceases to be an employee of that employer after the relevant date, "for any reason whatsoever other than misconduct. Any approval or determination of the Commissioner under the preceding provisions of this subsection shall be final and conclusive, and shall not be called in question in any court, whether by way of writ or otherwise.

(4) Where an *ex gratia* gratuity or compensation or other benefit is granted by any employer to an employee, such employer shall furnish to the Commissioner, within thirty days of the grant thereof, full details of the gratuity, compensation or other benefit so granted. Such details shall be furnished in such form and manner as may be determined by the Commissioner.

(5) In this section, "Commissioner" means the Commissioner of Labour, and includes a Deputy Commissioner of Labour.

60. (1) The Corporation may make rules in respect of all or any matters for which rules are authorized or required by this Act to be made.

Power of Corporation to make rules.

(2) No rule made by the Corporation under this Act shall have effect until it has been approved by the Minister.

61. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

Regulations.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of all or any of the following matters:—

- (a) the control, supervision, inspection, maintenance and operation of

cinemas and studios or institutions engaged in the film industry;

[§ 7.45 of 1980.]

(aa) the provision by cinemas and studios of adequate facilities necessary for the convenience and safety of patrons of, and workers in, cinemas and studios;

[§ 7.45 of 1980.]

(aaa) the control of the establishment and installation of cinemas;

(b) the exhibition of films and the prices and rates chargeable by the Corporation for the purposes of section 5 (d);

(c) the form and manner in which contracts may be entered into by the Corporation;

(d) the allocation of screen time for the exhibition of local and foreign films, for advertisements and for Government newsreels;

(e) the rates to be charged at cinemas;

(f) the fees to be charged for the use of studios of the Corporation by film producers;

(g) the provision of financial or other assistance to the producers of films in Sri Lanka;

(h) the regulation of the import of foreign films or the production of films in Sri Lanka;

(i) the regulation of the use and distribution of raw film;

(j) the dubbing of films;

(k) the registration of film societies ;

(l) all matters conducive or incidental to the attainment of any of the objects of the Corporation or to the exercise of its powers.

(3) Every regulation made by the Minister under this Act shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after the date of its publication, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

62. (1) Every person who—

Offences..

(a) knowingly makes any false or incorrect statement in any return or other document made or furnished under or for the purposes of this Act or of any regulation made thereunder; or

(b) fails or refuses to furnish any information or return required by this Act, or any regulation made thereunder, to be so furnished by him; or

(c) resists or obstructs any person in the exercise, discharge or performance of any power, function or duty conferred or imposed upon that person by or under this Act, or any regulation made thereunder; or

(d) contravenes or fails to comply with any provision of this Act or any regulation made thereunder,

shall be guilty of an offence under this Act.

(2) Every person who commits an offence under this Act shall on conviction after summary trial before a Magistrate be liable to imprisonment of either description for a period not exceeding one year or to a fine not exceeding one thousand rupees or to both such fine and imprisonment, and the Magistrate may order the forfeiture of any property in respect of which the offence was committed.

(3) Notwithstanding anything to the contrary in the First Schedule to the Code of Criminal Procedure Act, every offence under this Act shall be a cognizable offence within the meaning of that Act.

63. Where an offence under this Act is committed by a body of persons, then—

Offences by bodies of persons.

(a) if that body of persons is a body corporate, every director and officer of that body corporate, or

(b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence :

Provided, however, that a director or an officer of such body corporate or a partner of such firm shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Protection for action taken under this Act or on the direction of the Board of Directors. [§ 8, 45 of 1980.]

63A. (1) No suit or prosecution shall lie—

(a) against the Corporation for any act which in good faith is done or purported to be done by the Corporation under this Act; or

(b) against any member, officer, servant or agent of the Corporation for any act which in good faith is done or purported to be done by him under this Act or on the direction of the Board of Directors.

(2) Any expense incurred by the Corporation in any suit or prosecution brought by or against the Corporation before any court shall be paid out of the funds of the Corporation, and any costs paid to, or recovered by, the Corporation in any such suit or prosecution shall be credited to the funds of the Corporation.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or purported to be done by him under this Act or on the direction of the Board of Directors shall, if the court holds that such

act was done in good faith, be paid out of the funds of the Corporation, unless such expense is recovered by him in such suit or prosecution.

63B. No writ against person or property shall be issued against a member of the Corporation in any action brought against the Corporation.

No writ to issue against person or property of a member of the Corporation. [§ 8, 45 of 1980.]

64. The provisions of this Act shall have effect notwithstanding anything contained in any other written law, and accordingly in the event of any conflict or inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail.

This Act to prevail over other written law.

65. In this Act unless the context otherwise requires—

Interpretation.

" Board of Directors " means the Board of Directors constituted under this Act;

" Director " means a member of the Board of Directors;

" Director of Cultural Affairs " means the person for the time being holding office as the Director of Cultural Affairs;

" Director of Information " means the person for the time being holding office as the Director of Information;

" Director-General of Broadcasting " means the person for the time being holding office as the Director-General appointed under the Sri Lanka Broadcasting Corporation Act.

CHAPTER 551

NURSING HOMES (REGULATION)

Acts AN ACT TO PROVIDE FOR THE REGISTRATION OF NURSING HOMES AND GENERALLY
Nos.16of 1949, FOR THF REGULATION, SUPERVISION AND INSPECTION OF NURSING HOMES SO
12 of 1952, REGISTERED.
29 of 1953.

[26th March. 1949.]

Short title. **1.** This Act may be cited as the Nursing Homes (Regulation) Act.

Nursing homes to be registered. **2.** (1) On and after the 1st day of October, 1949, no premises shall be used for the purpose of a nursing home unless such premises are for the time being registered under this Act as a nursing home, and the person carrying on a nursing home at such premises is for the time being registered as the proprietor thereof.

(2) Where any premises are used as a nursing home in contravention of the provisions of subsection (1), the occupier of the premises and the person for the time being in charge of the nursing home shall each be guilty of an offence under this Act.

Registration, renewal of registration, &c. **3.** (1) Every application for the registration of any premises as a nursing home shall be made in writing to the Director.

(2) Every such application shall be in the prescribed form, shall be signed by the person maintaining or proposing to establish and maintain the nursing home, and shall be accompanied by a fee of one hundred rupees.

(3) Save as otherwise provided in section 4, the Director shall on receipt of an application under the preceding provisions of this section—

- (a) register the premises as a nursing home and register the applicant as the proprietor of the home ; and
- (b) issue to the applicant a certificate of registration in the prescribed form.

(4) The registration of any premises as a nursing home shall, unless earlier

cancelled as hereinafter provided, be effective for a period of twelve months commencing on such date as may be specified therein ; but such registration may, from time to time, be renewed by the Director for further periods of twelve months, upon payment in respect of each such renewal of a fee of fifty rupees. Where such registration is so renewed the Director shall issue a certificate of renewal in the prescribed form in respect of the nursing home.

(5) It shall be the duty of the person for the time being registered as the proprietor of a nursing home to cause the certificate of registration or the certificate of renewal issued in respect of that home to be kept affixed in a conspicuous place in the home.

4. (1) The Director may, by order, refuse to register any premises as a nursing home, if satisfied—

Power to refuse or cancel registration.

(a) that the applicant or any person employed or proposed to be employed by him at the nursing home is not a fit person, whether by reason of infirmity or otherwise, to maintain or to be employed at a nursing home of the description specified in the application ; or

(b) that for reasons connected with situation, construction, accommodation, staffing or equipment, the premises used or proposed to be used for the purposes, of the home or in connexion therewith, are not fit to be used for a nursing home of the description specified in the application, or that such premises are used or are to be used for purposes

NURSING HOMES (REGULATION)

which are in any way improper or undesirable in the case of such a nursing home; or

(c) in the case of a nursing home, other than a maternity home,—

(i) that the home is not or will not be under the charge of a person who is either a duly qualified medical practitioner or a registered nurse and is resident in the home, or

(ii) that there is not or will not be a proper proportion of registered nurses among the persons employed in the nursing of patients in the home; or

(d) in the case of a maternity home,—

(i) that the nursing of patients in the home is not or will not be under the superintendence of a person who is either a registered nurse or a registered midwife and is resident in the home, or

(ii) that any person, who is not either a duly qualified medical practitioner or a registered nurse or a registered midwife, is or will be employed in attendance on women in the home in childbirth or in nursing any patient in the home.

(2) Subject to the provisions of subsection (3), the Director may, by order, cancel the registration of any nursing home or refuse to renew such registration—

(a) on any ground on which an order refusing to register a nursing home is authorized by subsection (1) to be made; or

(b) if the proprietor of the home or any person employed at the home is convicted of an offence under this Act committed in or in respect of that home;

Provided that any such order of cancellation or refusal shall not take effect until the expiry of a period of one month from the date on which it is made, or in the event of an appeal being duly preferred against the order under section 5, unless and until the order is confirmed in appeal.

(3) No order of cancellation of the registration of any nursing home shall be made under paragraph (a) of subsection (2) unless—

(a) the Director has, by written notice sent by registered post to the proprietor of that nursing home, informed the proprietor that an order of cancellation will be made upon the expiry of a period specified in the notice if such measures as are specified by the Director in the notice are not taken by the proprietor before the expiry of such period ; and

(b) the proprietor has failed to take such measures before the expiry of the period so specified.

5. (1) Where any order is made under section 4 refusing any application for the registration or the renewal of the registration of any nursing home, or cancelling the registration of any nursing home, a copy of the order—

Appeal against refusal or cancellation of registration.

(a) shall be sent by the Director by registered post to the applicant or the proprietor; and

(b) such applicant or proprietor, if aggrieved by such order may, before the expiry of a period of fourteen days from the date of the receipt of the copy of the order, appeal against the order to the Magistrate's Court having jurisdiction in the area in which the nursing home is or is proposed to be maintained.

(2) Upon the hearing of any appeal preferred under subsection (1), the court shall after hearing any representations or

evidence that may be made or adduced by or on behalf of the appellant or of the Director, give such decision upon the appeal as to the court may seem just.

(3) The decision of the Magistrate's Court on any appeal preferred under subsection (1) shall be final and conclusive, and in any case where such decision is that an application for the registration or the renewal of the registration of a nursing home shall be allowed, it shall be the duty of the Director to register the nursing home or to renew the registration of the nursing home.

6. (1) The Director, or any medical practitioner or registered nurse authorized in writing in that behalf by the Director, may at any reasonable time enter any registered nursing home and may inspect the home and the premises appertaining thereto and the records required by any regulation to be maintained thereat, for the purpose of ascertaining whether the nursing home is being maintained with due regard to the health, safety and proper care and treatment of patients and whether the provisions of any regulations applicable in the case of nursing homes of the class to which the home belongs are being complied with.

(2) The Director may, if he has reasonable grounds for suspecting that any premises, not being a registered nursing home, have been or are being used for the purposes of a nursing home, by writing authorize any medical practitioner to enter and inspect such premises for the purposes of ascertaining whether or not a contravention of the provisions of section 2 has been or is being committed in respect of such premises.

(3) Nothing in the preceding provisions of this section shall be deemed or construed to authorize any person to inspect any medical record relating to any patient in a nursing home.

(4) Any person who resists or obstructs the Director or any other officer or person in the exercise of the powers conferred by the preceding provisions of this section shall be guilty of an offence under this Act.

7. (1) The Minister may make all such Regulations. regulations as may be necessary for the purpose of securing the proper maintenance and administration of nursing homes, and generally for securing the health, safety and proper care and treatment of patients in such homes.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters:—

- (a) all matters stated or required by this Act to be prescribed;
- (b) the forms to be used for the purpose of applications for the registration of nursing homes under this Act, the forms of certificates issued under this Act, and the form of registers to be maintained for the purposes of this Act by the Director;
- (c) the records and books which shall be maintained in registered nursing homes and the particulars to be entered therein;
- (d) the conditions which shall be complied with in relation to registered nursing homes, including conditions as to—
 - (i) the construction, maintenance and cleanliness of all buildings and premises,
 - (ii) the minimum size of wards or rooms and the minimum floor space which shall be allotted for each patient,
 - (iii) the provision of adequate latrine and bathing facilities for patients and persons employed in such homes,
 - (iv) equipment, furnishing and staffing of such homes,
 - (v) the circumstances in which cases of infectious diseases may be admitted for treatment and the precautions to be taken in such cases,

Powers of entry and inspection.

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- (vi) the immunization against typhoid fever, smallpox or any other specified disease of persons employed in such homes,
 - (vii) the prohibition or restriction of the admission of tuberculosis cases and of suspected carriers of any specified disease,
 - (viii) the prohibition of the admission of midwifery cases, except to maternity homes or other nursing homes having separate blocks set apart for the treatment of such cases, and
 - (ix) the prohibition or restriction of the admission of cases other than midwifery cases into maternity homes or separate blocks set apart for midwifery cases;
- (e) the returns to be furnished, from time to time, in respect of registered nursing homes and the particulars to be contained therein, including particulars as to the number and description of cases admitted or treated and as to the staff employed therein; and
- (f) the fixation of the rates of fees and charges which may be made at nursing homes generally, or at nursing homes of any specified class or description or at any specified nursing home.
- (3) Every regulation shall be brought before Parliament for approval; and every such regulation which is approved by Parliament shall come into effect on the date of its publication in the Gazette or on such later date as may be specified therein and be deemed to be as valid and effectual as though it were herein enacted.
- (4) Every person who contravenes or fails to comply with the provisions of any regulation shall be guilty of an offence under this Act; and the person for the time

being registered as the proprietor of the nursing home in or in relation to which such offence was committed, as well as the person for the time being in charge of the nursing home, shall each be guilty of an offence under this Act unless he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the said offence.

8. (1) Every offence under this Act shall be punishable with a fine not exceeding fifty rupees and in the case of a continuing offence to a further fine not exceeding twenty rupees in respect of each day on which the offence continues after conviction. Penalty for offences.

(2) Where the person convicted of an offence under this Act is a body corporate, every person who, at the time of the commission of the offence, was a director or officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the said offence.

9. (1) There shall be, for the purposes of this Act, a Nursing Homes Advisory Board (hereinafter referred to as "the board") consisting of— Nursing Homes Advisory Board.

(a) the Director as chairman; and

(b) six other persons appointed by the Minister to be members of the board.

(2) It shall be the function of the board to advise the Minister and the Director upon matters affecting the administration of this Act and the exercise of the powers and functions conferred by this Act.

(3) Three of the persons appointed by the Minister under subsection (1) to be members of the board shall be chosen for such appointment by the Minister from among persons recommended for the purpose by the Independent Medical Practitioners' Association. A person shall not be eligible for such recommendation unless he is a member of that association.

(4) Every member of the board shall, unless he earlier vacates office by resignation, or by removal from office by the Minister or otherwise, hold office for a period of two years from the date of his appointment. Any member who vacates office by resignation or by effluxion of time shall be eligible for reappointment.

(5) In the absence of the Director from any meeting of the board, the Deputy Director of Health (Medical Services) shall preside at that meeting, and shall be deemed for the purposes of that meeting to be a member of the board.

(6) Regulations may be made under section 7 prescribing the procedure to be followed at meetings of the board. In the absence of any such regulations, the board may regulate its own procedure.

Approval of nurses pending the coming into operation of provision for registration of nurses.

10. Until the date of the coming into operation of any written law by which provision is made for the registration of nurses* in Ceylon, the Director may, from time to time, and either generally or specially, recognize persons practising nursing as qualified nurses for the purposes of this Act; and any person so recognised shall, until the date aforesaid, be deemed to be a registered nurse within the meaning of this Act.

Interpretation.

11. In this Act, unless the context otherwise requires—

" Director " means the Director of Health Services,

" maternity home " means any premises used or intended to be used for the reception of pregnant women for delivery or of women for treatment immediately after childbirth;

" nursing home " means any premises (howsoever described) used or intended to be used for the reception of and the providing of nursing and treatment for persons suffering from any sickness, injury or infirmity, and includes a maternity home, but does not include a house of observation, mental hospital, or any premises maintained or controlled by a Government department or local authority or by any other prescribed body or authority;

" registered midwife " means a person for the time being registered under the Medical Ordinance as a midwife ;

" registered nurse " means a person for the time being registered as a nurse under the provisions of any written law in that behalf,* and includes a person who is under the provisions of section 10 of this Act deemed to be a registered nurse ;

" regulation " means a regulation made by the Minister under section 7.

* See section 20 (I) (e) of the Medical Ordinance.

CHAPTER 185

NATIONAL INSTITUTE OF BUSINESS MANAGEMENT

Law
No. 23 of 1976.

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE NATIONAL INSTITUTE OF BUSINESS MANAGEMENT AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1st January. 1977.]

Short title.

1. This Law may be cited as the National Institute of Business Management Law.

the various functional areas of management for advice, consultancy and special assignments;

PART 1

CONSTITUTION. OBJECTS. POWERS AND FUNCTIONS OF THE NATIONAL INSTITUTE OF BUSINESS MANAGEMENT

Establishment of the National Institute of Business Management.

2. (I) There shall be established an institute which shall be called the National Institute of Business Management (hereinafter in this Law referred to as the "Institute") which shall consist of the persons who are for the time being members of the Institute under section 6.

(c) to assist Government and private organizations to improve productivity, establish performance standards, determine rational monetary compensation systems and evolve appropriate programmes for human relations;

(d) to actively co-operate with other organizations, groups and individuals in management training, research and related activities in Sri Lanka and abroad;

(2) The Institute shall, by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in its corporate name.

(e) to disseminate information on the functions and activities of the Institute to the public and relevant institutions;

(3) The members of the Board of Governors shall be the members of the Institute.

(f) to train and educate workers for creative participation in management and appreciation of organizations, functions and problems;

General objects of the Institute.

3. (1) The general objects of the institute shall be—

(a) to train and educate managerial and supervisory staff of industrial and commercial undertakings of the public and private sector and other persons in modern management and productivity, and to award certificates and diplomas, in connection therewith;

(g) to represent the Institute before appropriate national and international bodies and conferences;

(b) to make available to the Government and the country the services of a group of specialists, in

(h) to undertake research and to gather data on aspects of management and relevant socio-economic phenomena for a better appreciation of environmental context;

- (i) to provide a forum for critical appraisal and modification of management and organization theories for application in the special circumstances of Sri Lanka;
 - (j) to sponsor and hold conferences and seminars and publish books, journals and magazines in connexion with management and productivity, with the assistance of approved national or international organizations where necessary;
 - (k) to co-ordinate and liaise with approved management and productivity bodies in Sri Lanka and other countries.
- (2) It shall be the duty of the Institute to advise the Minister and the Government on any or all of the matters referred to in subsection (1) and on any other matter that may be referred to the Institute for advice by the Minister and the Government.

Powers of the Institute.

4. The Institute shall have such powers, rights and functions as may reasonably be necessary to carry out its objects and duties and in particular may—

- (a) acquire in any manner whatsoever and hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of, any movable or immovable property;
- (b) establish and operate management training and education centers;
- (c) conduct, assist, co-ordinate and encourage research into all aspects of management;
- (d) appoint, employ, remunerate and exercise disciplinary control over its officers and servants;
- (e) levy fees or charges for any service rendered by the Institute ;
- (f) pay fees or charges for any services rendered to the Institute ;
- (g) import plant, machinery and equipment required for the purposes of the Institute, and receive equipment, funds, personnel and any other assistance for carrying out the objects of the Institute,

- (h) establish work performance standards for its own personnel, evaluate such performance and take reasonable action thereupon;
- (i) establish and maintain welfare and recreational facilities for its employees;
- (j) make rules in relation to its officers and servants including the appointment, training, promotion, remuneration, disciplinary control, conduct and grant of leave ;
- (k) make rules in respect of the general administration of the Institute ;
- (l) do all other things which are necessary or conducive or incidental to the attainment of the objectives and functions of the Institute.

5. In the exercise of its powers and the carrying out of its objects the Institute shall comply with the general policy of the Government and with any general or special direction issued by the Minister in relation to such policy.

Institute to exercise its powers under the directions of the Minister.

6. (1) The Institute shall have a Board of Governors (hereinafter in this Law referred to as the " Board "), consisting of the following members appointed by the Minister, namely—

Constitution of the Board of Governors.

- (a) a Chairman who shall be the person for the time being holding office as Director-General of the Institute ;
- (b) the person for the time being holding office as Secretary to the Ministry charged with the subject of Industries, or his accredited nominee;
- (c) the person for the time being holding office as Secretary to the Ministry charged with the subject of Planning, or his accredited nominee;
- (d) the person for the time being holding office as Secretary to the Ministry charged with the subject of Finance, or his accredited nominee;

- (e) the person for the time being holding office as Secretary to the Ministry charged with the subject of Labour, or his accredited nominee ;
- (f) the person for the time being holding office as Secretary to the Ministry charged with the subject of Overseas and Inland Trade, or his accredited nominee;
- (g) a person who in the opinion of the Minister has distinguished himself or otherwise specially qualified in relation to trade union activities;
- (h) a person for the time being holding office as elected Head of a recognized Employers Federation or Chamber of Commerce.

(2) A person shall be disqualified from being appointed, or for continuing, as a member of the Board—

- (a) if he is or becomes a Member of Parliament; or
- (b) if he, directly or indirectly, holds or enjoys any right or benefit under any contract made by or on behalf of the Institute; or
- (c) if he has any such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the Board.

Term of office of members of the Board.

7. (1) Every member appointed under subsection (1) of section 6 shall, unless he vacates office earlier by death, resignation or removal, hold office for a period of three years.

(2) (a) Where a member of the Board appointed under subsection (1) of section 6 dies or resigns or is removed from office, the Minister may, having regard to the provisions of that subsection, appoint another person to be a member in place of the member who dies, resigns or is removed from office.

(b) Any member of the Board appointed under paragraph (a) of this subsection, shall, unless he earlier resigns or vacates his office by death or removal, hold office for the unexpired part of the term of office of the member whom he succeeds.

(3) Where a member of the Board appointed under subsection (1) of section 6 is, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may, having regard to the provisions of that paragraph, appoint any person to act in his place.

8. (1) The Minister may, if he considers it expedient so to do, remove by Order published in the Gazette any member of the Board appointed under subsection (1) of section 6 without reasons stated.

Power of the Minister to remove from office a member of the Board.

(2) The removal of any member under subsection (1) shall not be called in question in any Court.

9. A member of the Board may at any time resign his office by letter addressed to the Minister.

Resignation of members of the Board.

10. Any member who vacates his office, other than a member who is removed from office under section 8, shall be eligible for reappointment.

Eligibility for reappointment as member of the Board.

11. No act or proceeding of the Institute shall be deemed to be invalid by reason only of the existence of any vacancy in the Board or defect in the appointment of any member of the Board.

Acts or proceedings of the Institute deemed not to be invalid by reason of any vacancy or defect in the appointment of a member.

12. Ail or any of the members of the Board may be paid such remuneration out of the funds of the Institute as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Remuneration of members of the Board.

13. (1) The meetings of the Board shall be held once at least every month.

Meetings of the Board.

(2) The Chairman shall summon a special meeting of the Board within seven days after being requested in writing to do so by two members of the Board.

(3) The Chairman shall give at least seven days' notice in writing of every meeting of the Board to each of the

members, and shall specify in such notice the business to be dealt with at such meeting,

(4) Five members shall form a quorum at any meeting of the Board.

(5) The Chairman shall preside at meetings of the Board and in the absence of the Chairman from any meeting of the Board a member chosen by the majority of members present shall preside at such meeting.

(6) If the Chairman is by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint one of the members to act in his place.

(7) Where there is an equality of votes on any matter or thing decided at a meeting of the Board, the Chairman at such meeting shall, in addition to his vote, have a second or casting vote.

(8) Subject to the provisions herein contained the Board may determine its own procedure.

Board to administer the affairs of the Institute

14. The Board shall administer the affairs, may exercise the powers, and shall perform the duties of the Institute.

Delegation of powers and duties of the Board.

15. The Board may delegate to the Director-General or any other member of Institute or any body or committee of employees any of its powers and duties.

PART II

APPOINTMENT OF THE DIRECTOR-GENERAL OF THE INSTITUTE AND OTHER OFFICERS AND SERVANTS OF THE BOARD

Appointment of the Director-General of the Institute.

16. (1) The Minister shall appoint a person suitably qualified in relation to the work of the Institute as the Director-General of the Institute hereinafter in this Law referred to as the " Director-General ".

(2) The Director-General may be paid such remuneration as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(3) The Director-General shall execute or perform such powers, functions and duties as may be delegated to him.

17. (I) Subject to the other provisions of this Law the Board may—

Powers of the Board in regard to appointments and training of the staff of the Institute.

(a) appoint to the staff of the Institute such other officers and servants as may be necessary for the purposes of the Institute;

(b) dismiss and exercise disciplinary control over the staff of the Institute;

(c) fix the wages or salaries or other remuneration of the staff;

(d) determine the terms and conditions of service of such staff; and

(e) do anything for the purpose of advancing the skill of persons employed by the Institute or the efficiency of the equipment of the Institute or the manner in which that equipment is operated including the provision by others of facilities for training persons required to carry out the work of the Institute.

(2) Rules may be made under this Law in respect of all or any of the matters referred to in subsection (1).

18. (1) The Board may delegate to the Director-General of the Institute all or any of its powers relating to the appointment of other officers or servants to the staff of the Institute. The conditions of employment including remuneration of any of the members of the professional staff appointed by the Director-General under the powers delegated to him shall be determined by him with the concurrence of the Board.

Delegation of powers of the Board in regard to appointments to the Director-General.

(2) Any person aggrieved by any decision made by the Director-General under this section may appeal therefrom in writing to the Board and the decision of the Board on such appeal shall be final.

(3) The dismissal by the Director-General of any member of the professional staff of the Institute shall not take effect unless it is approved by the Board.

Determination of duties,

19. The Director-General shall determine the duties of the officers and servants of the Institute.

Appointment of public officers to the staff of the Institute,

20. (I) At the request of the Board any officer in the public service may, with the consent of that officer and of the Secretary to the Ministry charged with the subject of Public Administration, be temporarily appointed to the staff of the Institute for such period as may be determined by the Board with like consent, or be permanently appointed to such staff.

(2) Where any public officer is temporarily appointed to the staff of the Institute, the provisions of subsection (2) of section 9 (other than the provisions of paragraph (a) of that subsection) of the Motor Transport Act, No. 48 of 1957,* shall *mutatis mutandis* apply to and in relation to such officer.

(3) Where any public officer is permanently appointed to the staff of the Institute, the provisions of subsection (3) of section 9 of the Motor Transport Act, No. 48 of 1957,* shall *mutatis mutandis* apply to and in relation to such officer.

(4) Any officer or servant of a State Corporation! may, with the consent of such officer or servant and the Board of Directors of such Corporation, be temporarily or permanently appointed to the staff of the Institute on such terms and conditions, including those relating to the Provident Fund rights, as may be agreed upon by the Board of Directors of that Corporation and the Board of Governors of the Institute.

(5) Where the Institute employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service by that person shall be

regarded as service to the Government for the purpose of discharging the obligations of such contract.

21. No officer of the Institute shall render paid services to any other person or persons without the consent of the Director-General and the Board.

Rendering of services by employees of the Institute to other employers.

PART 111

FINANCE

22. (1) The Institute shall have its own fund.

The fund of the Institute.

(2) There shall be credited to the fund of the Institute:—

(a) all such sums of money as may be voted from time to time by Parliament for the use of the Institute; and

(b) all sums of money received by the Institute in the exercise, discharge and performance of its functions, powers and duties.

(3) All sums of money required to defray any expenditure incurred by the Board in the exercise, discharge and performance of its functions, powers and duties shall be charged on the fund.

23. The financial year of the Institute shall be the period of twelve months commencing on the first day of January.

Financial year of Institute.

24. The provisions of the Public Corporations (Financial Control) Act shall *mutatis mutandis* apply to the financial control and accounts of the Institute.

Application of the provisions of Public Corporations (Financial Control) Act.

PART IV

GENERAL

25. All members, officers and servants of the Institute shall be deemed to be public servants within the meaning of and for the purposes of the Penal Code.

Members and employees of the Institute deemed to be public servants.

* Repealed by Law No. 19 of 1978.

!The designation "State Corporation" as used in this Law is not found either in the 1972 or 1978 Constitutions. It is presumed that this is a reference to "public corporation" referred to in both Constitutions.

The Institute deemed to be a scheduled institution within the meaning of the Bribery Act.

26. The Institute shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

(2) A contract made according to this section shall be effectual in law and shall bind the Institute and all persons thereto and their legal representatives.

Secrecy.

27. (1) No member of the Board or an officer or servant of the Institute shall disclose to any person except to, the Minister, or for the purposes of the performance of his duties, or the exercise of his functions or when required to do so before a court or under any law, any information acquired by him in the performance of his duties or the exercise of his functions:

29. (1) Where any immovable property is required to be acquired for the purpose of the Institute and the Minister, by Order published in the Gazette approves of the proposed acquisition, that property shall be deemed to be required for a public purpose and may accordingly be acquired under the Land Acquisition Act and be transferred to the Institute.

Acquisition of immovable property under, the Land Acquisition Act for the Institute.

Provided, however, that no information in relation to matters which the Institute is bound to treat as confidential by any agreement with another party other than the Government shall be disclosed under the preceding provisions of this section.

(2) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act for the Institute shall be paid from the fund of the Institute.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.

30. (1) Where any immovable property of the State is required for the purpose of the Institute, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the State Lands Ordinance and accordingly the provisions of that Ordinance shall apply to a special "grant or lease of such property to the Institute.

State property both movable and immovable to be made available to the Institute.

Contracts.

28. (1) Contracts on behalf of the Institute may be made as follows :—

(a) a contract which if made between private persons would be by law required to be in writing, may be made on behalf of the Institute in writing under the common seal of the Institute;

(2) Where any movable property of the State is required for the purpose of the Institute, the Minister may, by Order published in the Gazette, transfer to and vest in the Institute the possession and use of such property.

(b) a contract which if made between private persons would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the Institute in writing signed by any person or persons duly authorized thereto by the Board ;

31. The State may provide for the use of the Institute such land, building and other facilities as may be deemed necessary.

The State to make available premises, &c.. for the use of the Institute,

(c) a contract which if made between private persons would by law be valid although made by parol only and not reduced into writing, may be made on parol on behalf of the Institute by any person or persons duly authorized thereto by the Board.

32. (1) Except with the written approval of the Minister no person other than the Institute shall carry on any activity, business, trade or occupation under the designation which contains the words " National Institute of Business Management" or such other words the use of which would imply that such person is carrying on such activity, business^ trade or occupation in association with or with the approval of or under the authority of the " National Institute of Business Management. "

Restriction on use of words " National Institute of Business Management".

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence,

done by him under this Law or on the direction of the Board.

Power of the Minister to give special or general directions to the Board.

33. (1) The Minister may give special or general directions in writing as to the performance of the duties and the exercise of the powers of the Board, and the Board shall give effect to such directions-

(2) Any expense incurred by such person as is referred to in subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done by him under this Law or on the direction of the Board shall, if the court holds that the act was done in good faith, be paid out of the funds of the Board.

Rules.

(2) The Minister may from time to time direct the Board to furnish to him in writing such information as he may require relating to the work of the Institute.

34. (1) The Institute may make rules in respect of all or any of the matters for which rules are authorized or required by this Law to be made.

36. No writ against person or property shall be issued against a member of the Board in any action brought against the Board.

No writ to issue against person or property of a member of the Board.

(2) No rule made by the Institute shall have effect until it has been approved by the Minister.

37. Every person who commits an offence under this Law shall on conviction after trial before a Magistrate be liable to imprisonment of either description for a period not exceeding six months or to a fine not less than five hundred rupees or to both such fine and imprisonment.

Offences and penalties.

Protection for action taken under this Law or on the direction of the Board.

- 35.** (1) No suit or prosecution shall lie—
- (a) against the Board for any act which in good faith is done or purported to be done by the Board under this Law; or
 - (b) against any member, officer, servant or agent for any act which in good faith is done or purported to be

38. The Institute shall be the successor to the Management Development and Productivity Centre and all contracts, obligations, assets, liabilities, staff and equipment shall accordingly be deemed to be part of the contracts, obligations, assets, liabilities, staff and equipment of the Institute.

Institute to succeed to contracts, obligations, assets, liabilities, &c., of the Management Development Productivity Centre.

CHAPTER 301

NINDAGAMA LANDS

Act
No. 30 of 1968.

AN ACT TO ABOLISH THE SERVICES DUE FROM THE TENANTS AND HOLDERS OF NINDAGAMA LANDS TO THE PROPRIETORS THEREOF, TO MAKE SUCH TENANTS AND HOLDERS THE ABSOLUTE OWNERS OF SUCH LANDS. TO PROVIDE FOR THE REGISTRATION OF SUCH TENANTS AND HOLDERS AS ABSOLUTE OWNERS THEREOF, AND TO PROVIDE FOIL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[22nd June, 1968.]

Short title.

1. This Act may be cited as the Nindagama Lands Act.

PART I

ABOLITION OF SERVICES DUE IN RESPECT OF NINDAGAMA LANDS, AND THE DECLARATION OF TENANTS OR HOLDERS AS OWNERS OF SUCH LANDS.

Abolition of services due in respect of madiguu luKte.

2. The services due from any tenant or holder of any nindagama land to any proprietor thereof are hereby abolished, and accordingly—

- (a) no such proprietor shall be entitled to demand the performance of such services or to demand or receive any sum of money (due or which may fall due) in commutation of such services, from any tenant or holder thereof; and
- (b) no such tenant or holder shall be liable to perform such services, or to pay such sum of money.

Declination of a tenant or holder of any nindagama land to be the owner thereof.

3. Every tenant or holder of any nindagama land is hereby declared to be the owner thereof.

No compensation payable for any loss or damage incurred or suffered by reason of the abolition of services due in respect of nindagama lands.

4. No tenant or holder of any nindagama land shall be liable to pay compensation to the proprietor thereof or to any other person for any loss or damage incurred or suffered by such proprietor or other person, whether directly or indirectly, by reason of the abolition of the services due by such tenant or holder in respect of that land.

5. No tenant or holder of any nindagama land shall be liable to pay compensation to the proprietor thereof or to any other person for any loss or damage incurred or suffered by such proprietor or other person, whether directly or indirectly, by reason of his becoming an owner thereof.

No compensation payable for loss or damage incurred or suffered by reason of any tenant or holder of any nindagama land becoming the owner thereof.

PART II

CLAIMS FOR AN AWARD AS TO TITLE IN RESPECT OF NINDAGAMA LANDS, AND REFERENCE OF SUCH CLAIMS TO THE BOARD

6. (1) After the appointed date,* any new owner of any nindagama land who desires to have his title as such owner registered shall, before the expiration of the prescribed period after that date, make a written claim for an award as to title in respect of that land to the Board through the competent authority for the district in which that land is situated.

Claim for an award as to title in respect of any nindagama land and reference of such claim to the Board.

(2) Regulations may be made under this Act—

- (a) prescribing—
 - (i) the form in which any claim for an award as to title may be made to the Board, and the particulars that shall be specified in that form, and
 - (ii) the documents which shall be forwarded along with such claim;

* 3rd January, 1970, fixed by Order published in Gazette No. 14,884 dated 13th December, 1969.

(b) providing for all such other matters as may be necessary in relation to the making of such claim; and

(2) A person shall be disqualified for being appointed, or from continuing in office, as a member of the Board—

(c) providing for the appointment by a competent authority, either of his own motion or on application made by or on behalf of any person, of a fit and proper person to be the agent of such person, if such authority is satisfied that such person is entitled to make a claim for an award as to title in respect of any nindagama land and is a minor or a person of unsound mind.

(a) if he is, or becomes, a Member of Parliament; or

(b) if he is, or becomes, a person having a right, title or interest in or over any nindagama land.

9. Every member of the Board shall, unless he earlier vacates office, hold office for a period of three years. Any member of the Board who vacates office by effluxion of time shall be eligible for reappointment.

Term of office of members of the board

Reference of claims for awards as to title to the Board.

7. (1) Upon the receipt by a competent authority of a claim for an award as to title in respect of any nindagama land, such authority shall, subject to the regulations made under this Act, refer such claim in writing to the Board, together with all documents received by such authority in respect of such claim.

10. There may be appointed a Secretary of the Board, and such other officers and servants as may be necessary for the purpose of enabling the Board to carry on its business.

Appointment of Secretary and staff of the Board.

(2) Regulations may be made under this Act prescribing—

11. Every reference of a claim for an award as to title in respect of any nindagama land made to the Board shall be considered and determined at a meeting of the Board.

Proceedings before the Board.

(a) the form in which a reference under subsection (1) shall be made to the Board, and the particulars that shall be specified in that form ;

12. The Chairman of the Board, and if the Chairman is not presiding at a meeting of the Board, the chairman of that meeting, shall, for the purposes of considering and deciding any reference of a claim for an award as to title in respect of any nindagama land made to the Board, have all the powers of a District Court—

Powers of the Chairman of the Board in considering and deciding references.

(b) the steps or measures, if any, that shall be taken by a competent authority before he refers a claim for an award as to title in respect of any nindagama land to the Board ; and

(a) to summon and compel the attendance of witnesses;

(b) to compel the production of documents; and

(c) all other matters in respect of which it is necessary to make provision in regard to any of the aforesaid matters.

(c) to administer any oath or affirmation to witnesses.

PART III

NINDAGAMA LANDS BOARD

13. Every person giving evidence on any matter before a meeting of the Board shall be bound to state the truth on such matter.

Persons giving evidence before the Board bound to state the truth,

Constitution of a Nindagama Lands Board.

8. (1) For the purposes of this Act, there may be established a Nindagama Lands Board (in this Act referred to as " the Board") consisting of a Chairman and fourteen other members.

14. The quorum for a meeting of the Board shall be three members,

Quorum for meetings of the Board.

15. A decision made at a meeting of the Board on any matter considered at that meeting shall be deemed to be the decision of the Board on that matter.

Decisions of the Board-

Separate meetings of the Board may be held at the same time.

16. Separate meetings of the Board may be convened and held at the same time to consider and decide different references of claims for awards as to title in respect of different nindagama lands.

Special provision relating to proceedings before the Board on a reference.

17. The proceedings before the Board on any reference of a claim for an award as to title in respect of any nindagama land shall, as far as possible, be free from the formalities and the technicalities of the rules of procedure and evidence applicable in a court of law, and may be conducted by the Board in any manner, not inconsistent with the principles of natural justice, which to the Board may seem best adapted to elicit proof concerning the matters that are investigated.

Claimant for an award in respect of any nindagama land to be given an opportunity of being heard.

18. Where a reference of a claim for an award as to title in respect of any nindagama land is made to the Board, the Board shall, before making such award, give any such claimant an opportunity of being heard either in person or by an agent authorized in that behalf.

Decision of the Board on a reference.

19. (1) Where a reference of a claim for an award as to title in respect of any nindagama land is made to the Board, the Board shall, after considering all such matters and hearing all such witnesses as may be necessary for the purpose, and having due regard to any such regulations made under this Act as may be applicable in that behalf, make a decision in respect of such claim, and give notice of its decision to any such claimant.

(2) Subject to the other provisions of this Act, where the Board makes a decision on any reference of a claim for an award as to title in respect of any nindagama land, and no appeal is preferred against such decision as hereinafter provided, the decision shall be final and conclusive.

Appeal against the decision of the Board on any reference to a District Court.

20. (1) Where any claimant is dissatisfied with the decision of the Board on any reference of a claim for an award as to title in respect of any nindagama land, he may, within the prescribed period after the date of service on him of a notice of such decision, prefer an appeal against such decision to the District Court having jurisdiction over the place where such land is situated.

(2) Regulations may be made under this Act providing the form, mode and manner in which any appeal under subsection (1) shall be preferred, the persons who shall be made parties to such appeal, and the procedure to be followed by a District Court in entertaining, hearing and disposing of, such appeal.

(3) No stamp duty shall be required in any proceedings before a District Court relating to an appeal under subsection (1).

(4) A District Court may award to any party to any appeal under subsection (1) an amount determined by that Court as his costs of proceedings relating to the appeal.

(5) The determination of a District Court on any appeal under subsection (1) shall be final and conclusive.

21. (1) The Board shall, as soon as may be after its decision on any reference of a claim for an award as to title in respect of any nindagama land has become final and conclusive under section 19 (2), or after the final determination of that reference by the District Court on an appeal preferred to such Court against such decision, make an award as to title in respect of that land, determining all such matters as may be prescribed and as are applicable in the case of that award. Such award shall be substantially in the prescribed form, and shall contain such prescribed particulars as may be applicable thereto.

(2) The Board shall give written notice of an award as to title in respect of any nindagama land to every person whose interests in that land are affected by such award.

(3) An award as to title in respect of any nindagama land made by the Board shall, where the decision of the Board on the reference for such award became final and conclusive under section 19 (2), accord with that decision, or where an appeal against that decision was preferred to a District Court, accord with the determination of that Court in such appeal.

PART IV

AWARDS AS TO TITLE IN RESPECT OF NINDAGAMA LANDS

Awards as to title in respect of nindagama lands to be proof of title, &c.

22. Every award as to title in respect of any nindagama land shall, subject to the provisions of section 23, be published in the Gazette, and every award so published shall be judicially noticed, and shall be conclusive proof, so far as any person is thereby declared to be entitled to such land or to any share or interest in such land, that such person is entitled to such land or to such share of or interest in that land, free of all encumbrances whatsoever other than those specified in such award, and that, subject to the encumbrances so specified, such land or share or interest vests absolutely in such person to the exclusion of all persons whatsoever:

Provided that nothing in the preceding provisions of this section shall affect the right of any person prejudiced by fraud, or the wilful suppression of facts of any claimant to any interests in any nindagama land from proceedings against such claimant, either for the recovery of damages or for the recovery of the land or any share or interests in the land awarded to such claimant by any award referred to in the preceding provisions of this section.

Registration of an award as to title in respect of any nindagama land.

23. Before an award as to title in respect of any nindagama land is published in the Gazette by the Board under section 22, the Board shall cause a copy of such award to be transmitted to the Registrar of Lands of the district or each district in which the land is situated, and such Registrar, or each such Registrar, as the case may be, shall duly register such copy under the Registration of Documents Ordinance as an instrument affecting the land to which such copy relates. No fee shall be charged for the registration of such copy under such Ordinance, notwithstanding anything to the contrary in such Ordinance or in any regulation made thereunder.

**PART V
GENERAL**

Administration of this Act.

24. The Settlement Officer shall be responsible for the general supervision and

control of the administration of this Act, and in that capacity may issue general or special directions to a competent authority as to the exercise, performance or discharge of his powers, duties or functions under this Act, and it shall be the duty of such authority to comply with such directions.

25. The appointed date* referred to in section 6 shall be such date as may be appointed for the purposes of that section by the Minister by Order published in the Gazette. Appointed date for the purposes of section 6.

26. (1) The Minister may make Regulations. regulations for the purpose of carrying out and giving effect to the principles and provisions of this Act.

(2) In particular, but without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of the following matters:—

- (a) any matter required by this Act to be prescribed, or in respect of which regulations are authorized by this Act to be made ;
- (b) all or any of the matters specified in the Schedule to this Act;
- (c) any matter for which no provision or no effective provision is made by this Act, or in respect of which it is necessary to modify or supplement the provisions of this Act.

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication, or on such other later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but

* 3rd January 1970 — See Order published in Gazette No. 14,884 dated 12th December, 1969.

without prejudice to anything previously done thereunder.

" Minister " means the Minister to whom the subject of Lands has been assigned;

Vacancy in the office of a member of the Board not to invalidate acts or proceedings.

27. No act or proceeding of the Board shall be deemed to be invalid by reason of any vacancy in the office of a member of the Board.

"new owner", in relation to any nindagama land, means a person who becomes such owner by virtue of the operation of the provisions of section 3, and includes any successor or successors to his title as such owner;

This Act to prevail over any custom, usage or any other law.

28. The provisions of this Act shall have force and effect, notwithstanding anything to the contrary in any custom, usage, or other law, written or otherwise, and accordingly, in the event of any conflict or inconsistency between the provisions of this Act and such custom, usage or other law, the provisions of this Act shall prevail over such custom, usage or other law.

" nindagama land " means any land in respect of which a proprietor thereof was, prior to the date of the commencement of this Act, entitled to demand services from any praveni nilakaraya or maruwena nilakaraya for and in respect of a praveni pangu or maruwena pangu held by any such nilakaraya, or to demand or receive from any such nilakaraya any sum of money in commutation of any such services, but does not include viharagama or devalagama land;

Service Tenures Ordinance to cease to apply to nindagama lands.

29. The Service Tenures Ordinance* shall cease to apply to any nindagama land, and accordingly the provisions of that Ordinance shall be read and construed so as to give full force and effect to the preceding provisions of this Act relating to such cessation.

Interpretation.

+31. (1) In this Act, unless the context otherwise requires—

" tenant", in relation to any nindagama land, means a person who was, prior to the date of the commencement of this Act, a maruwena nilakaraya of a maruwena pangu of that land within the meaning of the Service Tenures Ordinance; *

" commissioner" means the Surveyor-General or any of his assistants, or any licensed surveyor, to whom a commission is issued under this Act;

" competent authority" means the Government Agent of any administrative district or any other prescribed officer;

" district" means any administrative district established under the Administrative Districts Act;

" holder ", in relation to any nindagama land, means a person who was, prior to the date of the commencement of this Act, a praveni nilakaraya of any praveni pangu of that land within the meaning of the Service Tenures Ordinance ;*

" this Act " includes the regulations made thereunder.

(2) The expression " absolute owners" occurring in the long title to this Act in any context relating to nindagama lands shall not be deemed or construed to mean the owners of such lands free of encumbrances, but shall be deemed or construed to mean only the owners of such lands free of the services abolished in respect thereof by this Act.

* See the List of Enactments omitted from the Revised Edition.
f Section 30, repealing the Service Praveni Lands Succession Ordinance, is omitted.

SCHEDULE

1. The remuneration of members, officers and servants of the Board.
2. The constitution of the Board, the procedure to be observed in summoning meetings and in the conduct of meetings of the Board.
3. The payment of travelling and other expenses to persons summoned to give evidence before the Board.
4. The manner of recovery of costs of claimants in awards relating to claims to title in nindagama lands.
5. The facts to be ascertained before issuing commissions and terms of commissions issued by the Board.
6. The due execution and due return of commissions issued by the Board.
7. Power of the Board or any member of the Board or its officers to enter, inspect and do all such acts or things in or upon land as may be necessary for the purposes of this Act.
8. The power of the commissioner and his assistants to enter land and do all such acts or things in or upon such land for the due execution of a commission, issued by the Board.
9. Penalty for obstructing or resisting any person in the discharge of any power, duty or function conferred or imposed on him by this Act or regulations made thereunder.

CHAPTER 316

NATIONAL LOTTERIES BOARD

Act No. 11 of 1963 (Part I).

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A NATIONAL LOTTERIES BOARD AND THE CONDUCT OF NATIONAL LOTTERIES, FOR THE REPEAL OF THE HOSPITALS LOTTERIES ACT, AND FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.

[10th January, 1964.]

Short title.

1. This Act may be cited as the National Lotteries Board Act*.

any other cause, the Minister may appoint some other person to act in his place as the Chairman, or as a member, of the Board, as the case may be.

National Lotteries Board to be established.

2. (1) A Board to be called the National Lotteries Board, hereinafter in this Act referred to as "the Board", shall be established for the purposes of this Act.

(7) Every member of the Board shall, unless he earlier vacates office by resignation or removal, hold office for a period of five years. Any member of the Board who vacates office by effluxion of time shall be eligible for reappointment.

(2) The Board shall be a body corporate with perpetual succession and a common seal and may by its name sue and be sued.

Constitution of the Board,

3. (1) The Board shall consist of not more than five members appointed by the Minister.

(8) No. act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of any of its members.

(2) The Minister shall appoint one of the members of the Board to be the Chairman of the Board.

4. The members of the Board may be remunerated in such manner and at such rates as may be determined by the Minister. The remuneration, if any, shall be paid out of the Fund of the Board.

Remuneration of members of the Board.

(3) The Minister may, if he thinks it expedient to do so, remove, by Order published in the Gazette, any member of the Board from office without reason stated.

5. (1) The staff necessary for the discharge of the Board's duties under this Act shall be determined by the Board, and every appointment to such staff shall be made by the Board.

Appointment of officers and servants.

(4) A member of the Board in respect of whom an Order under subsection (3) of this section is made by the Minister shall vacate his office on the date of the publication of such Order in the Gazette.

(2) The officers and servants of the Board shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service as may be determined by rules made under this Act. Such remuneration shall be paid out of the Fund of the Board.

(5) A member of the Board may at any time resign his office by letter addressed to the Minister.

(3) The Board may, in accordance with rules made under this Act, establish and

(6) If the Chairman or any other member of the Board is temporarily unable to discharge the duties of his office on account of ill health or absence from Sri Lanka or

* Sections 3 to 26 of the Finance Act, No. 11 of 1963, are renumbered sections 2 to 25 and reproduced as the 'National Lotteries Board Act' in this Edition.

NATIONAL LOTTERIES BOARD

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maintain a provident fund for the benefit of its officers and servants, make contributions out of its Fund to such provident fund, regulate the management and investment thereof, and fix the contributions to be made thereto by, and the payments to be made therefrom to, or in respect of, such officers and servants.

9. (1) The Minister may grant out of the Consolidated Fund to the Board, free of interest, a loan not exceeding rupees one million for the purpose of enabling the Board to meet the initial expenses incurred by the Board in the discharge of its duties under this Act.

Power of Minister to grant a loan to the Board.

Property, contracts and expenditure of the Board.

6. (1) The Board may acquire, hold and dispose of any movable and immovable property, and enter into contracts and otherwise do all such acts as may be necessary for the purpose of carrying out the provisions of this Act.

(2) Any sum granted to the Board by way of loan under subsection (1) of this section—

(a) shall be paid to the Fund of the Board; and

(b) shall be repaid by the Board to the Consolidated Fund out of the Fund of the Board in such manner as the Minister may from time to time direct.

(2) All sums payable by the Board under any contract entered into by the Board or in respect of any movable or immovable property acquired or held by the Board shall be paid out of the Fund of the Board. All sums received by the Board under any such contract or in respect of any such property shall be paid to the Fund of the Board.

10. The accounts of the Fund of the Board shall—

Accounts of the Fund of the Board.

(3) All sums payable by the Board for the purpose of defraying any expenditure incurred in the management of the affairs or the transaction of the business of the Board, or the exercise of the powers or the performance of the duties of the Board under this Act, shall be paid out of the Fund of the Board.

(a) be kept in the prescribed manner;

(b) be audited annually by, or under the direction of, the Auditor-General; and

(c) in respect of each financial year, be laid, together with the report of the Auditor-General thereon, before Parliament within eight months of the conclusion of each financial year.

Board to be subject to directions of Minister.

7. In the exercise of its powers and the discharge of its duties under this Act, the Board shall be subject to the general or special directions of the Minister.

Notwithstanding anything in this section, the accounts of the Fund may be ratified by a resolution of Parliament.

Fund of the Board.

8. (1) The Board shall have its own Fund.

(2) There shall be paid to the Fund of the Board all sums required by this Act to be so paid.

11. Rules may be made under this Act in respect of all or any of the following matters relating to the Board :—

Power to make rules-

(3) There shall be paid out of the Fund of the Board all sums required by this Act to be so paid.

(a) the custody and use of its seal;

(b) the appointment, promotion, dismissal and disciplinary control of its officers and servants;

(4) All cheques for the payment of moneys out of the Fund of the Board shall be signed by a member of the Board and by any such officer employed by the Board as may be authorized in that behalf by the Board.

(c) the meetings of the Board and the quorum for, and the procedure to be followed at, such meetings ; and

(d) the establishment and maintenance of a provident fund for its officers and servants, and the payment of contributions to that fund by the Board and such officers and servants.

Protection for action taken under this Act or on the direction of the Board.

12. (1) No suit or prosecution shall lie—

(a) against the Board for any act which in good faith is done or purported to be done by the Board under this Act; or

(b) against any member, officer, servant or agent of the Board for any act which in good faith is done or purported to be done by him under this Act or on the direction of the Board.

(2) Any expense incurred by the Board in any suit or prosecution brought by or against the Board before any court shall be paid out of the Fund of the Board, and any costs paid to, or recovered by, the Board in any such suit shall be credited to such Fund.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act done or purported to be done by him under this Act or on the direction of the Board shall, if the court holds that such act was so done or purported to be done in good faith, be paid out of the Fund of the Board, unless that expense is recovered by him in such suit or prosecution.

The Board to conduct national lotteries.

13. (1) The Board shall conduct lotteries for the purposes of this Act. Every such lottery is in this Act referred to as a " national lottery ".

(2) There shall be such number of national lotteries in each year as may be prescribed. Every national lottery shall be conducted by the Board in such manner as may be prescribed, subject however to the provisions of this Act.

National lotteries not to be in connexion with horse-races.

14. No national lottery shall be conducted in connexion with any horse-race or any other form of racing.

15. (1) The number of the prizes to be awarded in each national lottery and the value of each of such prizes shall be as prescribed.

Prizes in national lotteries.

(2) Every prize awarded in a national lottery shall consist of a sum of money and every such prize shall be exempt from the operation of section 3 (1) (i) of the Inland Revenue Act, No. 4 of 1963, and be exempt from income tax under section 8 (a) item (xxv) of the Inland Revenue Act (No. 28 of 1979), and shall not be included in the assessment of profits as income for the payment of tax by such prize winner under the provisions of those Acts.

(3) The prize winners in every national lottery shall be determined by the drawing of lots in public in the prescribed manner.

(4) After the expiration of a period of six months reckoned from the date of the drawing of lots for the prizes in any national lottery, any prize in such lottery which has not been granted to the person entitled thereto by reason of the fact that such person is not to be found shall be forfeited and paid to the Fund of the Board ;

Provided, however, that where any action or proceeding arising out of any claim made in respect of such prize is pending before any court at the expiration of the period aforesaid, such forfeiture shall not be made, and if in the final determination of that action or proceeding any person is declared to be entitled to such prize, the Board shall grant such prize to that person, and if no person is so declared, such prize shall be forfeited and paid to the Fund of the Board.

16. (1) The proceeds of every national lottery shall be paid in the first instance to the Fund of the Board.

Proceeds of national lotteries

(2) The Board shall pay to the Consolidated Fund through the Deputy Secretary to the Treasury the balance of the proceeds of every national lottery after the deduction from such proceeds of an amount approved by the Secretary to the Ministry as the amount necessary for the purpose of—

(a) defraying, or reimbursing the Fund of the Board for the payment of, the

expenses of conducting such lottery including the value of the prizes awarded in such lottery;

(b) paying the whole or a part of the remuneration, if any, of the members of the Board and the remuneration of the staff of the Board;

(c) paying the whole or a pan of any contributions payable by the Board to any such provident fund as is referred to in subsection (3) of section 5;

(d) repaying the whole or a part of any loan granted to the Board under section 9; and

(e) meeting other liabilities of the Board.

Exemption from tax on income or profits from national lotteries.

17. The Board shall be exempt from the payment of any tax on the income or profits from any national lottery.

Lotteries Ordinance not apply to national lotteries.

18. The Lotteries Ordinance shall not apply to or in relation to any national

Rules.

19. (1) The Board may make rules in respect of all matters stated or authorized by this Act to be prescribed, or in respect of which rules are authorized to be so made by this Act.

(2) Without prejudice to the provisions of subsection (1) of this section, rules made under this section may make provision in respect of all or any of the following matters:—

(a) the price at which tickets in every national lottery are to be sold;

(b) the particulars to be stated on every such ticket;

(c) the manner in which tickets in every such lottery are to be sold or offered for sale;

(d) the employment of agents for the sale of such tickets and the remuneration payable to such agents;

(e) the publication of the number of each winning ticket in every such lottery and of the name and address of the person entitled to such ticket; and

(f) all other matters relating to national lotteries.

(3) No rule made by the Board under this section shall have effect until it has been approved by the Minister. Every rule so made and approved, other than any rule relating to any of the matters referred to in section 11 shall be published in the Gazette as soon as it may be convenient.

20. (1) Every person who—

Offences.

(a) sells or offers for sale any ticket for the purposes of any national lottery at a price exceeding the price specified for such ticket by rule made under this Act; or

(b) forges any ticket for the purposes of any such lottery ; or

(c) sells or offers for sale any ticket for the purposes of any such lottery knowing it to be forged,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

(2) All sums paid or recovered as fines imposed for offences under this section shall be paid to the Fund of the Board,

21. All offences under this Act shall be cognizable offences within the meaning and for the purposes of the Code of Criminal Procedure Act.

Offences to be cognizable offences.

22. In this Act, unless the context otherwise requires,—

interpretation.

"appointed date" means the 10th day of January, 1964;

"financial year" means the year commencing on the first day of January of each year;

" General Treasury " means the Department of Government known as the General Treasury;

" Hospitals Lotteries Board " means the Hospitals Lotteries Board established under the repealed Hospitals Lotteries Act;

" Minister " means the Minister to whom the subject or function of Finance is assigned by the President;

" prescribed " means prescribed by rule made under this Act.

Repeal of Hospitals Lotteries Act.

23. The Hospitals Lotteries Act is hereby repealed.

Transitory provisions.

24. On the appointed date—

(a) all the movable and immovable properties of the Hospitals Lotteries Board on the day immediately prior to the appointed date (including moneys in the Fund of that Board) shall be deemed to vest in, and to be the properties of, the National Lotteries Board;

(b) all the contracts of the Hospitals Lotteries Board subsisting on that day shall be deemed to be the contracts of the National Lotteries Board, and all subsisting rights and obligations of the Hospitals

Lotteries Board under such contracts shall be deemed to be the rights and obligations of the National Lotteries Board;

(c) the liabilities of the Hospitals Lotteries Board on that day shall be deemed to be the liabilities of the National Lotteries Board;

(d) the Hospitals Fund maintained at the General Treasury under the repealed Hospitals Lotteries Act shall cease to be so maintained, and all sums of money lying to the credit of such Hospitals Fund shall be transferred to the Consolidated Fund by the Deputy Secretary to the Treasury; and

(e) the provident fund established and maintained by the Hospitals Lotteries Board for its officers and servants under the repealed Hospitals Lotteries Act shall be deemed to be a provident fund established and maintained by the National Lotteries Board for its officers and servants under this Act.

25. On the appointed date, all officers and servants of the Hospitals Lotteries Board on the day immediately prior to that date shall be deemed to be transferred to the service, and to be officers and servants, of the National Lotteries Board.

Transferor officers and servants.

CHAPTER 391

NATIONAL MUSEUMS

Ordinance
No. 31 of 1942.

AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT AND MAINTENANCE OF NATIONAL MUSEUMS IN SRI LANKA, AND TO DECLARE THE COLOMBO AND KANDY MUSEUMS TO BE NATIONAL MUSEUMS.

[27th August, 1942.]

Short title.

1. This Ordinance may be cited as the National Museums Ordinance.

4. (1) There may be appointed—

Appointment of officers.

Establishment of National Museums.

2. The Minister may from time to time by Order published in the Gazette establish one or more National Museums for the collection, preservation and exhibition of objects of scientific, historical or artistic interest and for the maintenance of libraries of books and other documents relating to subjects and matters of such interest.

(a) a person, by name or by office, to be or to act as Director of Museums ;

(b) such Assistant Directors of Museums and other officers and servants as may be necessary for the purposes of this Ordinance.

Colombo and Kandy Museums deemed to be National Museums.

3. (1) On and after the 20th day of November, 1942, the Colombo Museum established under the Museum Ordinance*, and the institution, heretofore subsisting, called and known as the Kandy Museum, shall be deemed to be National Museums established under this Ordinance.

(2) The person appointed under the Museum Ordinance* to be or to act as Director, Colombo Museum, and holding office on the date immediately preceding the 20th day of November, 1942, shall be deemed to have been appointed under subsection (1) to be, or, as the case may be, to act, as Director of Museums and shall hold office accordingly.

(2) Save as otherwise provided in subsection (3), all books, documents and objects whatsoever which may, at the date of the commencement of this Ordinance, be kept or preserved at the Colombo Museum or the Kandy Museum referred to in subsection (1) and all property whatsoever belonging or appertaining to any such museum shall be vested in the Government; and no such book, document, object or property shall, notwithstanding anything in any written or other law to the contrary, be sold, exchanged or otherwise disposed of at any time before the 20th day of November, 1942.

(3) Any Assistant Director authorized by the Director in that behalf shall have and may exercise all or any of the powers or functions conferred upon or vested in the Director by or under this Ordinance.

(4) The Director and other officers appointed under this section shall, in the exercise and performance of the powers and duties conferred on them by or under this Ordinance, be subject to the general direction and control of the Minister.

(3) Nothing in subsection (2) shall be deemed to apply in the case of any book, document or object which has been temporarily lent for the purpose of being displayed or exhibited at the Colombo Museum or the Kandy Museum.

5. (1) There shall be for every National Museum an advisory committee consisting of—

Constitution of of advisory committees.

(a) the Director of Museums; and

(b) such other members, not exceeding ten in number, as may be appointed by the Minister.

*Repealed by Ordinance No. 31 of 1942.

(2) Five at least of the persons appointed by the Minister under subsection (1) (b) to be members of an advisory committee shall be persons not holding any office of emolument under the State.

(3) Every member of an advisory committee who is appointed under subsection (1) (b) shall, unless he earlier vacates the office or is removed by the Minister therefrom, hold office for a period of three years from the date of his appointment, or for such other period as the Minister may determine at the time of the appointment. Any member vacating the office by effluxion of time shall be eligible for reappointment.

(4) The Director shall be the chairman of every advisory committee :

Provided, however, that in the absence of the Director from any meeting of any such committee, an Assistant Director authorized in that behalf by the Director shall preside at such meeting, and shall for the purposes of such meeting be deemed to be a member of the committee.

(5) Meetings of an advisory committee shall be summoned by the Director whenever he may deem it necessary, and a meeting of every such committee shall be summoned by him once at least in each half-year:

Provided that the director shall summon a meeting of an advisory committee whenever he is requested in writing so to do by not less than three members of that committee.

(6) Any member of the committee who, without the leave of the committee first obtained, fails to attend any three consecutive meetings of the committee shall be deemed to have vacated the office of member.

6. (1) It shall be the duty of the advisory committee constituted for any National Museum to advise the Director on

all such matters relating to the management and administration of the museum as may be referred by him to the committee for advice, and to perform all such duties as may be imposed on the committee by any regulation.

(2) The advisory committee constituted for any National Museum may from time to time make such representations or recommendations to the Director as the committee may consider necessary relating to the management and administration of the museum.

(3) Regulations may be made providing for the conduct of business by advisory committees, and prescribing the procedure to be followed at meetings of such committees. Subject to such regulations, every such committee may regulate its own procedure.

7. The Director may, acting with the prior approval of the Minister in any particular case, or under such general authority and in accordance with such instructions as may be given to him by the Minister in that behalf—

Power of Director to purchase, exchange, dispose of or lend books and objects.

(a) purchase for the purpose of preservation at any National Museum any book, document or object which it is in his opinion desirable to acquire for that museum;

(b) exchange or sell, or dispose of, whether by way of gift or otherwise, any book, document or object kept at any National Museum, which is a duplicate book, document or object, or which is in his opinion unfit to be preserved or not required for the purposes of the museum;

(c) lend any book, document or object kept at any National Museum for the purpose of being temporarily displayed at any gallery, museum or exhibition;

(d) transfer any books, documents or objects from any National Museum to any other such museum.

Duties. &c., of advisory committees.

Vesting in the Government of objects given to or acquired for a National Museum.

8. All books, documents or objects given or bequeathed to any National Museum, or to the public or the Director for the purposes of any such museum, or given or bequeathed by words showing an intention that the gifts should enure to or for the benefit of any such museum, or which are acquired by purchase or otherwise for the purposes of the museum, shall vest in the Government.

Regulations.

9. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters :—

- (a) all matters stated or required in this Ordinance to be prescribed or in respect of which regulations are required or authorized to be made under this Ordinance;
- (b) the management and administration of any National Museum and the powers, functions and duties of the Director and other officers and servants appointed under this Ordinance,
- (c) the admission of visitors to any National Museum, including the fees to be paid by such visitors and the regulation of the conduct of such visitors;
- (d) the regulation of the use of any National Museum and of the premises thereof, the protection of the books, documents and objects kept or preserved therein, and the prohibition or restriction of the taking of photographs of such books, documents or objects;

(e) the imposition of fees to be charged in respect of the use of rooms in any National Museum, or from persons by whom any photographs are taken of any book, document or object kept or preserved at any such museum;

(f) the publication of books or journals by the Director, and the sale of such books or journals;

(g) the maintenance at any National Museum of collections of live animals, birds and fishes, and the care and custody of such animals, birds and fishes.

(3) Regulations under this section may be made in respect of all National Museums in Sri Lanka or in respect of any specified National Museum or Museums.

(4) No regulation made under this section shall have effect until it has been approved by Parliament nor until notification of such approval has been published in the Gazette.

(5) Every regulation made by the Minister shall upon the publication of a notification of the approval of that regulation as provided for in subsection (4), be as valid and effectual as if it were herein enacted.

10. (1) All expenses incurred for the purpose of the maintenance and administration of National Museums or the purchase or acquisition of books, documents and objects for National Museums or of carrying out the provisions of this Ordinance shall be paid out of moneys voted by Parliament for the purpose. Financial Provisions.

(2) All sums recovered by the sale of any books, documents or objects kept at any National Museum or of books or journals published by the Director under the

authority of this Ordinance, and all sums recovered in payment of fees imposed under this Ordinance, shall be credited to the Consolidated Fund.

Offences and penalties.

11. (1) Any person who wilfully causes any damage to any book, document or object kept or preserved at any National Museum shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

(2) Any person who acts in contravention of any regulation made under this Ordinance shall be guilty of an offence and liable to a fine not exceeding fifty rupees.

Liability for damage caused to objects in museums.

12. (1) Any person who causes any damage to any book, document or object kept or preserved at any National Museum, shall be liable to pay to the State a sum equal to twice the value of the book,

document or article; and any sum so payable may be recovered by civil action.

(2) The provisions of subsection (1) shall be in addition to and not in derogation of the provisions of section 11.

13. In this Ordinance, unless the context otherwise requires—

Interpretation.

" Director " means the Director of Museums appointed under section 4, and " Assistant Director " has a corresponding meaning;

" National Museum " means a National Museum established under section 2 and includes any museum declared by section 3 to be a National Museum for the purposes of this Ordinance;

" prescribed " means prescribed by regulation;

" regulation " means a regulation made by the Minister under section 9.

CHAPTER 189

NATIONAL METRIC CONVERSION

Law
No. 17 of 1976.

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF A NATIONAL METRIC CONVERSION AUTHORITY TO FACILITATE THE ADOPTION OF THE METRIC SYSTEM OF MEASUREMENT IN SRI LANKA AND TO PROVIDE FOR THE PROGRESSIVE USE IN SRI LANKA OF THE METRIC SYSTEM OF MEASUREMENT AS THE SOLE SYSTEM OF MEASUREMENT OF PHYSICAL QUANTITIES.

[1st January. 1977.]

Short title. **1.** This Law may be cited as the National Metric Conversion Law.

(e) a representative of the Ministry charged with the subject of Local Government;

PART 1

THE NATIONAL METRIC CONVERSION AUTHORITY

(f) a representative of the Bureau of Ceylon Standards; and

Establishment of the Authority.

2. For the purposes of this Law an authority by the name of the National Metric Conversion Authority (hereinafter referred to as "the Authority") is hereby established.

(g) a person who is not a public officer and who has an intimate knowledge of commercial and trading activities.

General object of the Authority.

3. The general object for which the Authority is established is hereby declared to be to bring about progressively the use of the Metric System of Measurement in Sri Lanka as the sole system of measurement of physical quantities.

(2) The Minister may in his discretion increase the number of members of the Authority specified in subsection (1). so however that the maximum number of members does not exceed eight.

Constitution of the Authority.

4. (1) The Minister shall appoint the following persons as members of the Authority:—

5. Every member of the Authority other than the Chairman shall, unless he earlier vacates office by death, resignation or removal, hold office for a period of three years. The term of office of the Chairman shall be as determined by the Minister. Term of office of the members of the Authority.

(a) a Chairman who shall be a public officer of the Weights and Measures Division of the Ministry charged with the subject of Trade;

6. (1) The Minister may, if he considers it expedient to do so, remove, by Order published in the Gazette, any member of the Authority without reasons stated. Removal of members from office

(b) a representative of the Ministry charged with the subject of Industries;

(2) A member of the Authority in respect of whom an Order under subsection (1) is made by the Minister shall vacate office on the date of the publication of such Order in the Gazette.

(c) a representative of the Ministry charged with the subject of Planning;

(d) a representative of the Ministry charged with the subject of Finance;

(3) The removal of any member of the Authority under subsection (1) shall not be called in question in any court.

Resignation of members of the Authority.

7. A member of the Authority may at any time resign his office by letter addressed to the Minister.

14. Subject to the other provisions of this Law the Authority may regulate the procedure in regard to the meetings of the Authority and the transaction of business at such meetings.

Eligibility for reappointment as a member of the Authority.

8. Any member who vacates his office, other than a member who is removed from office under section 6, shall be eligible for reappointment.

PART II

FUNCTIONS AND DUTIES OF THE AUTHORITY

Casual vacancies among members.

9. (1) If a member of the Authority other than the Chairman dies or resigns or is removed from office the Minister may, having regard to the provisions of section 4, appoint any other person to be a member in place of the member who dies, resigns or is removed from office.

15. The functions and duties of the Authority shall be—

(2) A member appointed under subsection (1) shall, unless he earlier resigns or vacates his office by death or removal, hold office for the unexpired part of the term of office of the member whom he succeeds.

(a) to implement the metrication programme of the State;

(b) to prepare any modification to the contribution programme that may be considered necessary by the Authority;

Death, removal or resignation of Chairman.

10. If the Chairman dies or resigns or is removed from office the Minister shall, having regard to the provisions of section 4, appoint another person as Chairman in place of the Chairman who dies, resigns, or is removed from office.

(c) to co-ordinate the activities of Government Departments, public corporations and local authorities in relation to the metrication programme;

(d) to prepare such conversion tables for the purposes of the metrication programme as may be considered necessary;

Appointment of person to act for member.

11. If any member of the Authority is temporarily unable to discharge the duties of his office on account of ill health, absence from Sri Lanka or any other cause, the Minister may, having regard to the provisions of section 4, appoint some other person to act as a member in his place.

(e) to assess the annual expenditure required by Government Departments, public corporations and local authorities in order to implement the metrication programme of the State ;

Validity of acts or proceedings of the Authority.

12. No act or proceeding of the Authority shall be deemed to be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of any member.

(f) to carry out any necessary programme of education of the general public in relation to the metrication programme and to use all available media of publicity in achieving such object;

Delegation of powers and duties of the Authority.

13. (1) The Authority may delegate to the Chairman or to any member any of its functions or duties.

(g) to decide on and to advise the Government on the restriction of the importation of non-metric machinery, implements or other scientific equipment; and

(2) Every person to whom any function or duty is delegated under subsection (1) shall exercise or perform such function or duty subject to the general or special directions of the Authority.

(h) to do all such other acts as the Authority may consider necessary for the furtherance of its objects and duties under this Law.

PART III

GENERAL

Authority may request information.

16. (1) The Authority may at any time request in writing any public officer, any director, manager or other officer of a body corporate, any member of an unincorporated body of persons or any officer of a local authority to furnish within a specified period of time any information which the Authority considers necessary relating to or connected with the metrication programme of the State and it shall be the duty of the person who receives such a request to supply the information required within the time specified.

(2) All information furnished under subsection (1) shall be given in writing and shall be accompanied by a declaration that such information is true and accurate to the best of the knowledge and belief of the declarant.

(3) All information obtained by the Authority under subsection (2) shall be treated as confidential by the members of the Authority and by every officer and servant thereof, except where the disclosure or publication of such information is made with the consent in writing of the person from whom such information is obtained :

Provided, however, that nothing in this subsection shall be deemed to prohibit the disclosure or publication of any such information for the purposes of this Law or any legal proceedings thereunder or for the purposes of statistics of facts and figures which makes no reference to any particular individual or business.

(4) Any person who fails to comply with the provisions of subsection (1) or subsection (3) or who furnishes information under subsection (2) knowing such information to be false shall be guilty of an offence under this Law.

The Authority may give directions.

17. (1) The Authority may give general or special directions in writing to any person or to any director, manager, or other officer of a public corporation, or to any director, manager, or other officer of a body corporate, or to any member of an

unincorporated body of persons requiring such person to comply with all or any of the provisions of this Law or of any regulations made thereunder relating to the implementation of the metrication programme.

(2) Any person who contravenes or fails to comply with any directions given by the Authority under subsection (1) shall be guilty of an offence under this Law.

18. The Government may make an adequate contribution to the Weights and Measures Division of the Ministry charged with the subject of Trade for the use of the Authority for the furtherance of its objects, functions and duties and for the advancement of the metrication programme of the State.

Contribution by Government for the use of the Authority.

19. The members of the Authority may be remunerated in such manner and at such rates as the Minister may, with the concurrence of the Minister in charge of the subject of Finance, determine.

Remuneration of members of the Authority.

20. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law.

Regulations.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette be brought before parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

21. (1) Every person who contravenes or fails to comply with any provision of this Law or any regulation made thereunder shall be guilty of an offence under this Law.

Offences and penalties

(2) Every person who is guilty of an offence under this Law shall on conviction after trial before a Magistrate be liable to a fine not exceeding one thousand rupees.

(3) Where an offence under this Law is committed by a body of persons then- shall be deemed to be guilty of that offence:

- (a) if that body of persons is a body corporate, every director, manager or every officer of that body corporate ; or
Provided, however, that a director, manager or other officer of such body corporate or a partner of such firm shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.
- (b) if that body of persons is a firm, every partner of that firm,

CHAPTER 217

NATIONAL PRICES COMMISSION

Law No. 42 of 1975, Act No. 1 of 1979. A LAW TO PROVIDE FOR THE ESTABLISHMENT OF A NATIONAL PRICES COMMISSION FOR THE FORMULATION AND IMPLEMENTATION OF A NATIONAL PRICE POLICY: AND FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[27th Novembe, 1975.]

Short title. **1.** This Law may be cited as the National Prices Commission Law. (5) A member of the Commission may resign from the Commission by letter addressed to the Minister.

PART 1

ESTABLISHMENT OF THE NATIONAL PRICES COMMISSION

National Prices Commission. **2.** There shall be established, on the 27th day of November, 1975, a Commission which shall be called the National Prices Commission (hereafter in this Law referred to as the "Commission"), and which shall consist of the persons who are for the time being members of the Commission under section 4. (6) Subject to the provisions of subsections (4) and (5), the term of office of the members of the Commission shall be three years;

The Commission to be a body corporate. **3.** The Commission shall, by the name assigned to it by section 2, be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in its own name. Provided that a member of the Commission appointed in place of a member who resigns or is removed or otherwise vacates office, shall, unless he earlier resigns or is removed or otherwise vacates office, hold office for the unexpired part of the term of office of the member whom he succeeds. (7) Any member of the Commission vacating office by effluxion of time shall be eligible for reappomtment.

Members of the Commission. **4.** (1) The Commission shall consist of seven members appointed by the Minister. **5.** (1) The Minister shall appoint one of the members of the Commission as the Chairman of the Commission. Chairman of the Commission.

(2) A person shall be disqualified from being appointed or for continuing as a member of the Commission if he is a Member of Parliament.

(3) Where a member of the Commission is by reason of illness, infirmity or absence from Sri Lanka temporarily unable to perform the duties of his office, the Minister may appoint any person to act in his place.

(4) The Minister may without assigning any reason remove any member of the Commission from office. The removal of any member of the Commission from office shall not be called in question in any court or tribunal.

(2) If the Chairman of the Commission is temporarily unable to function as Chairman, the Minister may appoint any member of the Commission to act as Chairman of the Commission.

(3) The Chairman of the Commission shall, unless he resigns or is removed from or vacates the office of Chairman earlier, hold such office during the term for which he is a member of the Commission.

(4) The Chairman of the Commission may resign the office of Chairman by letter addressed to the Minister.

(5) The Minister may without assigning any reason terminate the appointment of any member of the Commission as Chairman, and such termination shall not be called in question in any court or tribunal.

relation to any officer of the public service who is temporarily appointed to the staff of the Commission, and the provisions of subsection (3) of the aforesaid section 9 shall, *mutatis mutandis*, apply to and in relation to any officer in the public service who is permanently appointed to such staff.

Remuneration of members of the Commission.

6. All or any of the members of the Commission may be paid such remuneration as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(5) The officers, servants and advisers of the Commission shall be remunerated at such rates as may be determined by the Commission in consultation with the Minister.

[§35, I of 1979-]

Members to disclose interest in any decision to be made by Commission.

7. A member of the Commission who is directly or indirectly interested in any matter which forms the subject of any proceeding of the Commission or of any decision proposed to be made by the Commission, shall disclose the nature of his interest at a meeting of the Commission and such member shall not take part in any proceeding or decision in respect of such matter.

(6) All officers, servants and advisers of the Commission shall be deemed to be public servants within the meaning of and for the purposes of the Penal Code.

(7) The Commission shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

Officers and servants of the Commission.

8. (1) There shall be appointed with the concurrence of the Minister, a Secretary-General to the Commission (hereinafter in this Law referred to as the "Secretary-General"). The Secretary-General shall be the chief executive officer of the Commission and shall at all times act under the direction of the Commission.

9. (1) Where the Chairman is present at any meeting of the Commission, he shall preside at such meeting, and in the absence of the Chairman the members present at a meeting of the Commission shall choose from among themselves a Chairman for that meeting.

Proceedings at meetings of the Commission.

(2) There shall be appointed such other officers, servants and advisers as are necessary for the performance of the work of the Commission.

(2) The quorum for any meeting of the Commission shall be three.

(3) At the request of the Commission any officer of the public service may, with the consent of the officer and the Secretary to the Ministry charged with the subject of Public Administration, be temporarily appointed to the staff of the Commission for such period as may be determined by the Commission with like consent, or may be permanently appointed to the staff of the Commission.

(3) The Chairman of any meeting of the Commission shall have, in addition to his own vote, a casting vote.

(4) The provisions of subsection (2) of section 9 (other than the provisions of paragraph (a) of that subsection) of the Motor Transport Act, No. 48 of 1957*, shall, *mutatis mutandis*, apply to and in

(4) Subject to the other provisions of this Law and any regulations made thereunder, the Commission may regulate the procedure in regard to its meetings and the transaction of business at such meetings.

10. No act or proceeding of the Commission shall be invalid by reason only of the existence of a vacancy among its members or any defect in the appointment of any of its members.

Commission may act despite a vacancy.

11. The seal of the Commission shall be in the custody of the Chairman.

Custody of the seal of the Commission.

* Repealed by Law No. 19 of 1978.

Application of the seal of the Commission.

12. The application of the seal of the Commission shall be authenticated by the signature of the Chairman or some other member of the Commission authorized to authenticate the application of such seal.

PART II

FUNCTIONS AND POWERS OF THE COMMISSION

Functions and Powers of the Commission.

13. The functions of the Commission shall be-

- (a) to examine any request made to it under section 17 or under section 18, and in appropriate cases, to fix the maximum factory, wholesale or retail prices above which any article referred to in such request shall not be sold or to set out the price structure according to which such prices shall be fixed ;
- (b) to examine any matter specified in a reference made to it under section 23 and to tender advice in respect of such matter, in the form of a report to the relevant agency making such reference;
- (c) to examine any matter specified in a reference made to it under section 24 and to tender advice in respect of such matter, in the form of a report to the Minister making such reference.
- (d) to examine and report on any matter in terms of section 24A.

[§35. 1 of 1979.)

Matters to which the Commission shall give special regard. [§35, 1 of 1979.]

13A. In the exercise of its functions under this Law, the Commission shall have special regard to the following matters ;—

- (a) the protection of the interests of consumers of articles;
- (b) the provision of necessary incentives to producers of articles ;
- (c) the necessity for ensuring reasonable rates of return on capital employed in the production of articles or the provision of services;

- (d) the allocation or resources among different sectors of the economy of the country;
- (e) the efficient operation of Public Corporations engaged in the production of articles or the provision of services or in any activity connected with or incidental to the production of articles or the provision of services;
- (f) the control of inflation ;
- (g) other objectives of economic and social policy of the Government; and
- (h) any guidelines that may from time to time be given by the Minister.

14. The Commission may require the manufacturers, importers and distributors of any article and the Government Department or Public Corporation engaged in the provision of any service—

Power to require maintenance of records and the furnishing of returns.

- (a) to maintain records in respect of such matters and in such forms as may be determined by the Commission; and
- (b) to furnish to the Commission returns in respect of such matters, at such intervals and in such forms as may be determined by the Commission.

15. (1) The Commission may by notice require any person to furnish any such information or to produce any such document as the Commission may consider necessary for the proper exercise of its powers or the discharge of its functions, and it shall be the duty of any person who receives such notice to comply with the terms of such notice, notwithstanding the provisions of any written law which prohibit such person from disclosing such information or from producing such document:

Power of Commission to call for information.

Provided, however, that nothing in this subsection shall be read and construed as enabling the Commission by notice to require any person to furnish any information or to produce any document, if the disclosure of such information or the

production of such document by such person is prohibited by any provision of the Inland Revenue Act or the Exchange Control Act.

(2) Where a person is prohibited by the provisions of any written law from disclosing any information or from producing any document which he may be required to disclose or to produce under the provisions of subsection (1), such disclosure or production by him shall, notwithstanding anything to the contrary in any such written law, not be deemed to be a contravention of such written law.

(3) No information contained in a return furnished under section 14, and no information furnished or the contents of a document produced, in compliance with the terms of a notice issued under this section shall be published or communicated by the Commission to any other person except with the consent of the person furnishing such return or information, or producing such document, as the case may be, or in the course of the discharge of the functions of the Commission.

Power to hold inquiries,

16. (1) The Commission may hold such inquiries as it may deem necessary or expedient for the discharge of its functions.,

[§35,1 of 1979-]

(2) The Commission may give to all persons including representatives of associations or organizations of consumers interested in a matter which forms the subject of an inquiry held under this section an opportunity of being heard and of producing such evidence, oral or documentary, as in the opinion of the Commission is relevant to such matter.

(3) For the purposes of any inquiry held by the Commission under the provisions of subsection (1), the Commission shall have all the powers of a District Court—

- (a) to summon and compel the attendance of any witness;
- (b) to compel the production of documents, and
- (c) to administer any oath or affirmation to any witness.

(4) Where any person—

(a) without sufficient reason publishes any statement or does anything during the progress or after the conclusion of any inquiry conducted by such Commission, which may bring the Commission or any member thereof into disrepute; or

(b) interferes with the lawful process of the Commission; or

(c) in the course of an inquiry held under the provisions of subsection (1)—

(i) fails without cause, which in the opinion of the Commission is reasonable, to appear before the Commission at the time and place specified in any summons issued by the Commission to such person; or

(ii) refuses to be sworn, or having been duly sworn, refuses or fails without cause, which in the opinion of the Commission is reasonable, to answer any questions put to him relating to any matters being inquired into by the Commission; or

(iii) refuses or fails without cause, which in the opinion of the Commission is reasonable, to produce and show to the Commission any document which is in his possession or power, and which in the opinion of the Commission is relevant to any matters being inquired into by the Commission,

such person shall be guilty of the offence of contempt against or in disrespect of the authority of the Commission.

(5) Where the Commission determines that a person has committed any offence of contempt against or in disrespect of its authority, the Commission may cause its

Secretary-General to transmit to the District Court a certificate setting out its determination; every such certificate shall be signed by the Chairman.

(6) In any proceedings for the punishment of an offence of contempt which the District Court may think fit to take cognizance of as provided in subsection (8), any document purporting to be a certificate signed and transmitted to the Court under subsection (5) shall—

- (a) be received in evidence and be deemed to be such a certificate without further proof unless the contrary is proved ; and
- (b) be conclusive evidence that the determination set out in the certificate was made by the Commission and of the facts stated in the determination.

(7) In any proceedings taken as provided in subsection (8) for the punishment of any alleged offence of contempt against or in disrespect of the authority of the Commission, no member of the Commission shall, except with his own consent, be summoned and examined as a witness.

(8) Every offence of contempt committed against or in disrespect of the authority of the Commission shall be punishable by the District Court under section 55 of the Judicature Act as though it were an offence of contempt of that Court committed in its presence.

PART III

REQUESTS, REFERENCES, AND DIRECTIONS TO THE COMMISSION

Controller of Prices may request Commission to fix the prices, or to set out the price structure, of certain articles.

17. If it appears to the Controller of Prices that there is or there is likely to arise in Sri Lanka a shortage of any article, other than a prescribed article, or any unreasonable increase in the price of such first-mentioned article or that the price at which such article is being sold is excessive, he may request the Commission—

- (a) to fix the maximum factory, wholesale or retail prices above

which such article shall not be sold or set out the price structure according to which such maximum prices shall be fixed ; or

(h) in the case of an article in respect of which there is an Order under section 20, for the time being in force, fixing the maximum prices above which such article shall not be sold, or setting out the price structure according to which such maximum prices shall be fixed, to vary the maximum prices fixed or the price structure set out by such Order:

Provided that the Controller of Prices may, where he deems it necessary to do so in a case of extreme urgency, fix, by Order published in the Gazette, the maximum prices of such article and at the same time make such a request to the Commission; and such Order shall, until confirmed or varied by the Commission, be deemed to be an Order made by the Commission under section 20.

18. A relevant agency may in the case of an article in respect of which there is an Order under section 20, for the time being in force, fixing the maximum prices above which such article shall not be sold or setting out the price structure according to which such maximum prices shall be fixed, request the Commission to vary the prices fixed or the price structure set out by such Order.

Relevant agency may request Commission to vary the prices fixed by Order for an article.

19. All requests made under section 17 or section 18 shall be in forms determined for the purpose by the Commission.

Requests under sections 17 and 18 to be in forms determined by Commission.

20. (1) Upon receipt of a request under section 17 or section 18, the Commission may cause a notice to be published in the Gazette, to the effect that it has received such request and inviting any persons interested in such request to submit to it their views and comments on such request.

Procedure and powers of Commission on receipt of a request under section 17 or section 18.

(2) The views and comments referred to in subsection (1) shall be submitted in such manner and within such period as may be determined by the Commission.

- (3) If, after examination of a request made under either of the aforementioned

sections and a consideration of the views and comments, if any, submitted in relation thereto under subsection (2) or by the Controller of Prices, the Commission is satisfied that such request is reasonable, U shall—

(a) in the case of a request made under section 17 (a), by Order published in the Gazette, fix the maximum factory, wholesale or retail prices above which the article referred to in such request, shall not be sold or set out the price structure according to which such maximum prices shall be fixed ; and

(b) in the case of a request made under section 17 (b) or section 18, vary the Order fixing the maximum factory, wholesale or retail prices above which the article referred to in such request, shall not be sold or setting out the price structure according to which such maximum prices shall be fixed.

(4) Every Order made under subsection (3) shall come into operation on the date on which such Order is published in the Gazette.

(5) An Order under subsection (3) may prescribe the conditions of the sale of the article specified in such Order, including conditions as to the time and place of the sale and the quantity and quality of the article to be sold.

(6) Where a request under section 17 or section 18 is in respect only of the retail or of the wholesale or of the factory price, as the case may be, of an article, the Commission, when fixing by an Order under subsection (3) the maximum retail or wholesale or factory price, as the case may be, above which such article shall not be sold, may by the same Order also fix the maximum wholesale and factory prices, or the maximum retail and factory prices, or the maximum retail and wholesale prices, as the case may be, above which such article shall not be sold.

*(7) Every Order made under section 4 of the Control of Prices Act, prior to the repeal of that section by Law No. 43 of 1975, in respect of any article, and in force on the 26th day of November, 1975, shall, in so far as that Order is not inconsistent with the provisions of this Law, be deemed to be an Order made under this section of this Law.

[§2, Law 43 of 1975]

21. Where a request is made to the Commission under section 17 or section 18, it shall exercise the powers and discharge the duties conferred and imposed on it by section 20 in relation to such request within a period of two months from the date on which such request is received :

Time limit within which powers and duties under section 20 are to be exercised and discharged.

Provided that the Minister may, from time to time, by Order published in the Gazette, extend the lime within which the Commission shall exercise such powers or discharge such duties in respect of such request.

22. (1) The Minister may rescind or vary any Order made by the Commission under section 20.

Power of minister to rescind or vary an Order made under section 20.

(2) Where an Order is rescinded or varied by the Minister under subsection (1), notification of such rescission or variation shall be published in the Gazette and the Order made under section 20 shall be deemed to be rescinded or varied, as the case may be, with effect from the date of such publication but without prejudice to anything done or suffered thereunder or any right, obligation or liability acquired, accrued or incurred thereunder.

23. (1) A relevant agency proposing to vary the price of a prescribed article or the charge for any prescribed service shall inform the Commission of its proposal and shall refer to the Commission the examination of the question of such proposed variation of price or charge, as the case may be, and accordingly the Commission shall examine such question and report to the relevant agency making such reference within such period as may be specified in such reference :

Obligatory reference in the case of variation of price or charge of any prescribed article or prescribed service.

Provided that if the relevant agency is a person other than the Chairman of a Public

[§35, l of 1979.]

• Sec section 2 (2) of Law No. 43 of 1975.

Corporation or the Head of a Government Department any reference under this section shall only be made through a Minister and the Commission shall examine any question so referred and report to such Minister.

(2) A relevant agency shall not vary the price of a prescribed article or the charge for any prescribed service until after the Commission has examined and reported on the question of such variation of price or charge, as the case may be :

[§35.1 of 1979.]

Provided that a relevant agency, if such agency is the Chairman of a Public Corporation or the Head of a Government Department may, where it is deemed necessary to do so, in a case of extreme urgency increase the price of such prescribed article or the charge of such prescribed service, pending a report from the Commission on a reference made by such agency under subsection (1).

Advisory reference.

24. (1) Any Minister may, either of his own motion or on representations made to him by any person or any body of persons, refer any question relating to the price of any article or the charge for any service to the Commission for examination and report, and accordingly, the Commission shall examine such question and send its report to the Minister making such reference, within such period as may be specified in such reference.

[§35. 1 of 1979.]

(2) The Minister may cause to be published any report made to him under subsection (1) or any recommendation in such report in such manner as he thinks fit.

Commission to review questions relating to prices of articles, &c. [§35, 1 of 1979.]

24A. The Commission may, either of its own motion or on representations made to it by any person or body of persons, review any question relating to the price of any article or the charge for any service and report to any Minister within such period as the Commission may consider reasonable.

PART IV

FINANCE AND ACCOUNTS OF THE COMMISSION

Fund of the Commission.

25. (1) The Commission shall have its own Fund.

(2) There shall be paid into the Fund of the Commission—

- (a) all such amounts as may be voted from time to time by Parliament for the use of the Commission ; and
- (b) all such sums of money that may be received by the Commission in the exercise, discharge and performance of its powers, duties and functions.

(3) There shall be paid out of the Fund of the Commission all such sums of money required to defray the expenses incurred by the Commission in the exercise, discharge and performance of its powers, duties and functions under this Law or any other written law, and all such sums of money as are required to be paid by the Commission by or under this Law.

26. The financial year of the Commission shall be the period of twelve months commencing on the first day of January each year.

Financial year of the commission

27. The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control and accounts of the Commission.

Application of provisions of the Public Corporations (Financial Control) Act.

PART V

MISCELLANEOUS

28. The remuneration payable under section 6 to members of the Commission, and all other expenditure incurred by the Commission in the exercise of its powers, the discharge of its duties and the performance of its functions under this Law shall be paid out of moneys voted for the purpose by Parliament.

Expenditure of the Commission.

29. No civil or criminal proceedings shall be instituted—

Protection for action taken under this Law.

- (a) against the Commission for any act which in good faith is done or purported to be done by the Commission under this Law; or
- (b) against any member, officer or servant of the Commission for any act which in good faith is done or purported to be done by him under this Law.

Regulations

30. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations—

- (a) for all matters stated or required by this Law to be prescribed ;
- (b) prescribing articles and services for the purposes of this Law;
- (c) prescribing the manner in which meetings of the Commission shall be convened ;
- (d) prescribing the manner of conduct of meetings of the Commission;
- (e) prescribing the persons by whom, and the manner in which, the expenses of witnesses summoned to attend inquiries held by the Commission, are to be paid.

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in such regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.

(5) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the Gazette.

(b) omits or refuses—

- (i) to furnish a return when required by the Commission to do so under section 14 ; or
- (ii) to furnish any information or to produce any document when required to do so by a notice sent under section 15; or

(c) knowingly makes any false statement in any return furnished by him under this Law, or knowingly furnishes any false information when required by the Commission to furnish any information,

shall be guilty of an offence under this Law and shall, on conviction after trial before a Magistrate, be liable to a fine not exceeding five thousand rupees or to imprisonment of either description for a period not exceeding one year or to both such fine and imprisonment.

(2) Where any offence under this Law is committed by a body of persons, then—

- (a) if the body of persons is a body corporate, every director and officer of such body corporate ; and
- (b) if the body of persons is a firm, every partner of that firm,

shall be deemed guilty of that offence:

Provided that no such director, officer or partner shall be deemed guilty of that offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) No prosecution for any offence under this Law shall be instituted except with (he written sanction of the Attorney-General.

Offences and penalties.

31. (1) Any person who—

- (a) contravenes or fails to comply with any provisions of this Law, or any direction lawfully given, or any requirement lawfully imposed under this Law; or

32. The provisions of this Law shall have effect notwithstanding anything contained in any other written law, and accordingly, in the event of any conflict or inconsistency between the provisions of this Law and such other written law. the provisions of this Law shall prevail.

This Law to prevail over other written law.

Interpretation. **33.** In this Law, unless the context otherwise requires—

" article" means any article of food, drink, or merchandise;

" Chairman " means the person appointed under this Law to be or to act as Chairman of the Commission;

" Controller of Prices" means the Controller of Prices appointed under section 2 of the Control of Prices Act;

" prescribed " means prescribed by regulation made under this Law ;

" Public Corporation" means any corporation, board or other body

which was or is established by or under any written law other than the Companies Ordinance * with capital partly or wholly provided by the Government by way of grant, loan or other form;

" relevant agency "—

(a) in relation to any article, means the manufacturer, importer or distributor of such article or any other person responsible for fixing the price of such article ; and

(b) in relation to a prescribed service means the Chairman of the Public Corporation or Head of the Government Department or any other person providing such service.

[§35.I of 1979.]

* Repealed and replaced by the Companies Act, No. 17 of 1982.

CHAPTER 315

NATIONAL PLANNING COUNCIL

Acts
Nos.40 of 1956,
58 of 1957.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A NATIONAL PLANNING COUNCIL
AND A PLANNING SECRETARIAT AND FOR MATTERS CONNECTED THEREWITH.

[14th September, 1956.]

Short title.

1. This Act may be cited as the National Planning Council Act.

4. The chairman of the Council may delegate any of his powers and functions to the deputy chairman, or the additional deputy chairman, of the Council.

Delegation of powers and functions of the chairman of the Council. [§ 3, 58 of 1957.]

Constitution of the National Planning Council.

2. (1) There shall be established a council which shall be called the National Planning Council (hereinafter referred to as " the Council ") and which shall consist of—

5. The Council shall advise the Cabinet on the planning of agriculture, industry, commerce, education, housing, health and social services, public utilities, and all other matters pertaining to the national economy.

Functions of the Council.

- (a) the President,
- (b) the Minister in charge of the subject of Finance, and
- (c) not more than fifteen other persons appointed as members of the Council by the President.

6. The Council shall be subject to the general direction and control of the Cabinet.

Cabinet's powers in respect of the Council.

(2) A member of the Council who is appointed by the President shall, unless he earlier resigns or his appointment is terminated under subsection (3), hold office as such member for three years commencing on the date of his appointment.

7. The Council may make rules relating to the meetings of the Council, the procedure for the transaction of business, and any other matter connected with the affairs of the Council.

Rules.

(3) The appointment of any person as a member of the Council may at any time be terminated by the President.

8. (1) There shall be established a Planning Secretariat which shall be a Government department consisting of such staff as may be necessary for performing the functions specified in section 9.

Constitution of the Planning Secretariat.

Chairman, deputy chairman, and additional deputy chairman, of the Council. [§ 2, 58 of 1957.]

3. (1) The President shall be the chairman, and the Minister in charge of the subject of Finance shall be the deputy chairman, of the Council.

(2) There shall be appointed a fit and proper person to be the head of the Planning Secretariat, and he shall be designated and shall serve as secretary of the National Planning Council.

(2) The President may appoint a member of the Council as an additional deputy chairman of the Council, and such additional deputy chairman shall exercise and perform, on behalf of the chairman of the Council, such powers and functions as may be delegated to him under section 4.

9. The Planning Secretariat shall obtain for the Council such information, provide such advisory services, and render in other ways such assistance, as the Council may require for the performance of its functions.

Functions of the Planning Secretariat.

Chairman's powers in respect of the Planning Secretariat.

10. The Planning Secretariat shall be subject to the general direction and control of the chairman of the Council.

(2) Any person who—

(a) contravenes the provisions of subsection (1), or

Appointment of consultative bodies and engagement of experts.

11. The Council may appoint consultative bodies, or engage experts, to inquire into and report on such aspects of planning the economy of Sri Lanka as may be specified by the Council.

(b) being in possession of any information which to his knowledge is disclosed in contravention of the provisions of subsection (1), publishes or communicates that information to any other person,

Power to obtain information.

12. (1) The chairman of the Council or any officer of the Planning Secretariat authorized for the purpose by the chairman may—

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to the same punishment as is prescribed by section 12 for an offence under that section,

(a) require any person to furnish to him such information as he may consider it necessary to obtain for the purposes of the proper discharge of the functions of the Council, or

14. Where the person convicted of an offence under this Act is a body corporate, every person who at the time of the commission of such offence was a director or an officer of the body corporate shall be deemed to be guilty of such offence unless he proves that such offence was committed without his knowledge or that he exercised all due diligence to avoid the commission of such offence.

Liability of directors and officers of a corporation which commits an offence under this Act.

(b) require any person to produce for inspection any books or records in his possession containing or likely to contain any such information.

(2) Any person who without reasonable cause fails or refuses to comply with any requirement made under subsection (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding one month, or to both such fine and such imprisonment.

15. (1) The chairman of the Council may, in consultation with the Council, make regulations in respect of the following matters:—

Regulations.

(a) the remuneration to be paid to any of the members of the Council who are appointed by the President and to the additional deputy chairman of the Council;

[4,58 of 1957.]

(b) the engagement of person otherwise than as public officers to perform any work for the Council or the Planning Secretariat;

(c) any matter connected with the exercise or discharge of the powers and functions of the Council or the Planning Secretariat.

Restriction of disclosure of information obtained under section 12.

13. (1) No information supplied by any person in compliance with any requirement made under subsection (1) and section 12 shall be published without the consent in writing of the owner for the time being of the land, business or undertaking to which such information relates, nor shall such information be communicated to any person except in the discharge of the functions of the Council or the Planning Secretariat.

(2) All regulations made under subsection (1) shall be published in the Gazette and shall come into operation on a date specified in the regulations or, if no date is so specified, upon such publication, and shall, as soon as practicable after their publication in the Gazette, be brought before

NATIONAL PLANNING COUNCIL

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Parliament for approval. Where any regulation is not approved by Parliament, it shall be deemed to be rescinded and the rescission shall take effect on the date on which the regulation is not approved.

(3) The validity of anything done under a regulation shall not be affected by the

subsequent rescission of the regulation under subsection (2).

(4) Notification of the date on which the rescission of a regulation under subsection (2) takes effect shall be published in the Gazette.

CHAPTER 493

**NORTHERN PROVINCE TEACHERS' ASSOCIATION
BENEVOLENT FUND**

Act No. 18 of 1968. AN ACT TO INCORPORATE THE NORTHERN PROVINCE TEACHERS' ASSOCIATION BENEVOLENT FUND.

{31st May, 1968.}

Short title- **1.** This Act may be cited as the Northern Province Teachers' Association Benevolent Fund (Incorporation) Act.

Incorporation of the Northern Province Teachers' Association Benevolent Fund, **2.** The persons who, at the time of the coming into operation of this Act, are members of the Northern Province Teachers' Association Benevolent Fund (hereinafter referred to as "the association") and such other persons as are hereafter enrolled as members of the association shall be a body corporate (hereinafter referred to as "the Corporation") with perpetual succession, a common seal and the name Northern Province Teachers' Association Benevolent Fund. The Corporation may sue and be sued by that name.

the members of the Committee of Management of the association holding office at the time of the coming into operation of this Act, and shall function until the first annual general meeting of the Corporation.

5. The corporation—

(a) may acquire and hold any movable or immovable property by right of purchase, grants, gifts, testamentary disposition or otherwise;

(b) shall hold any property subject to the rules for the time being of the Corporation;

The Corporation may acquire, hold and dispose of property.

Objects of the Corporation. **3.** The following shall be the objects of the Corporation:—

(a) to promote thrift among its members;

(b) to aid members in pecuniary difficulties; and

(c) to provide for members and their dependants by the payment of retirement and death benefits.

(c) may sell, mortgage, lease, exchange or otherwise dispose of any of its properties;

(d) may invest its funds in accordance with such rules for the time being of the Corporation.

Committee of Management, **4.** (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation, be administered by a Committee of Management consisting of a President, a Vice-President, a Secretary, an Assistant Secretary and a Treasurer of the Corporation and ten other members, elected to the Committee in accordance with the rules for the time being of the Corporation.

6. All debts and liabilities of the association existing at the time of the coming into operation of this Act shall be paid and discharged by the Corporation and all debts due to and contributions payable to the association shall be paid to the Corporation.

Sums payable by or to the association to be paid by or to the Corporation.

7. The seal of the Corporation may be altered at the pleasure of the Corporation. It shall not be affixed to any instrument whatsoever except in the presence of the Treasurer and either the President or the Secretary of the Corporation who shall sign their names on the instrument in token of their presence and such signing shall be independent of the signing of any person as a witness-

Seal of the Corporation,

(2) The first Committee of Management shall consist of the President, the Vice-President, the Secretary, the Treasurer and

**NORTHERN PROVINCE TEACHERS' ASSOCIATION
BENEVOLENT FUND**

Rules.

8. (1) The Corporation may make rules relating to the admission, suspension or expulsion of members, the duties of the Committee of Management and of the various officers or agents of the Corporation, the procedure in the transaction of business and the management of the affairs of the Corporation and the accomplishment of its objects.

(2) Subject to the provisions of subsection (3) the rules set out in the Schedule* of this Act shall be the rules of the Corporation.

(3) Any rule of the Corporation may be amended or rescinded or any rule may be

added to the rules of the Corporation and passed by a majority of not less than two-thirds of such members of the Corporation entitled to vote under the rules of the Corporation as are present at a general meeting of the members.

(4) The members of the Corporation shall be subject to the rules in force for the time being of the Corporation.

9. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body corporate, or of any other persons, except such as are mentioned in this Act or those claiming from or under them.

Savings of the rights of the Republic and others.

* Schedule omitted.— Private enactment.

CHAPTER 390

NATIONAL SCIENCE COUNCIL

Law A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE NATIONAL SCIENCE COUNCIL
 No. 36 of 1975, OF SRI LANKA AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL
Act No. 7 of 1980. THERETO.

[1st January, 1976.]

Short title. 1. This Law may be cited as the National Science Council of Sri Lanka Law.

(c) the allocation of funds for scientific and technological research ; and

PART I

THE NATIONAL SCIENCE COUNCIL OF SRI LANKA

Establishment of the National Science Council of Sri Lanka. 2. (1) There shall be established a Council which shall be called the National Science Council of Sri Lanka (hereinafter referred to as "the Council") and which shall consist of the persons who are for the time being members of the Council under this Part of this Law.

(d) any other matters that may be referred by the Minister to the Council;

(2) to initiate, sponsor and support scientific and technological research with the following objectives—

(2) The Council shall by the name assigned to it by subsection (1) be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

(a) the development of the resources of Sri Lanka;

(b) the promotion of the welfare of the people of Sri Lanka; and

(c) the advancement of science and technology in general, in Sri Lanka;

(3) The head office of the Council shall be in Colombo or in such other place in Sri Lanka as may be determined by the Council.

(3) to collect, disseminate and publish information relating to scientific and technical matters;

Duties of the Council, 3. The duties of the Council shall be—

(4) to establish and maintain liaison with scientists and technologists and scientific and technological institutions in Sri Lanka and in other countries;

(1) to advise the Minister on—

(a) the application and utilization of science and technology for the development of Sri Lanka;

(5) to study and report on:—

(b) the formulation of a science policy;

(a) the effective utilization of the available scientific and technological personnel in Sri Lanka;

- (b) the future scientific and technological manpower requirements for the effective implementation of the science policy of Sri Lanka; and
- (c) the steps to be taken to provide adequate training facilities to meet future scientific and technological manpower requirements;
- (6) to take cognizance of and report on subjects of national importance concerning scientific, technological, educational, sociological and economic matters in Sri Lanka; and
- (7) to do such other things as may be necessary for the development of science and technology in Sri Lanka.
- (e) establish and maintain a scientific and technical documentation centre;
- (f) establish a research fund for the promotion of scientific and technological research;
- (g) maintain a register of scientific and technical personnel in Sri Lanka;
- (h) take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise, and subject to the rules of the Council, sell, mortgage, lease, grant, convey, devise, assign, exchange or otherwise dispose of the same ;
- (i) make rules in respect of the administration of the affairs of the Council;

Powers of the Council.

4. The Council shall have such powers, rights and authorities as may reasonably be necessary or expedient to carry out its duties, and in particular, it may—

- (a) make grants to any scientist or technologist or a team of such persons or any Research Institute or any University or any recognized scientific body to commence or continue a specific research project or projects;
- (b) institute and award research fellowships, studentships, scholarships, prizes and medals for scientific and technological works ;
- (c) establish and maintain research and experimental development units, either independently or in association with organizations engaged in scientific and technological research;
- (d) erect, equip and maintain institutions or laboratories for scientific and technological research,

- (j) delegate to the Executive Committee of the Council or the Secretary-General of the Council, such powers, rights, or functions, conferred or imposed on the Council by this Law, as may be considered necessary for the efficient transaction of its business ; and
- (k) adopt all such measures, which in the opinion of the Council, are considered necessary for, conducive or incidental to the fulfilment of the duties of the Council.

5. In the exercise, discharge and performance of the powers, duties and functions of the Council, the Minister may, from time to time, issue in writing such general or, after consultation with the Council, such special directions and the Council shall comply with such directions.

Council to comply with Minister's directions.

6. (1) The Council shall consist of the following members:—

Constitution of the Council. [§ 2, 7 of 1980.]

- (a) eight members (hereinafter referred to as "appointed members ")

appointed by the Minister from among persons who have distinguished themselves in science and technology in any of the following fields:—

Pure Science, Agriculture, Medicine, Engineering, Forestry and allied fields. Industry, Education, Planning, Irrigation and Power, Geology, Social Science, and any other fields that have relevance to the application of science and technology to national development; and

- (6) three ex officio members, namely—
 - (i) the Secretary-General of the Council;
 - (ii) the Secretary to the Ministry charged with the subject of Scientific Affairs or a representative of the Ministry nominated by the Secretary;
 - (iii) the Secretary to the Ministry charged with the subject of Finance or a representative of the Ministry nominated by the Secretary.

(2) A person shall be disqualified from being appointed, or from continuing, as a member of the Council, if he is or becomes a Member of Parliament.

Chairman and Vice-Chairman of the Council.

7. (1) The Minister shall appoint one of the appointed members of the Council to be the Chairman of the Council.

(2) The members of the Council shall from amongst the appointed members of the Council elect the Vice-Chairman of the Council. The Vice-Chairman shall perform the duties of the Chairman, in the absence of the Chairman, or when there is a vacancy in the office of Chairman.

Term of office of the members of the Council.

8. (1) Every appointed member of the Council shall, unless he earlier vacates office by death, resignation or removal, hold office for a period of three years.

(2) Every ex officio member shall hold office as long as he holds the post by virtue of which he was appointed as a member.

9. (1) The Minister may, if he considers it expedient so to do, remove, by Order published in the Gazette, any appointed member of the Council without assigning a reason therefor.

Power of the Minister to remove from office a member of the Council.

(2) A member of the Council in respect of whom an Order under subsection (1) is made by the Minister shall vacate his office on the date of the publication of such Order in the Gazette.

(3) The removal of any member of the Council under subsection (1) shall not be called in question in any court.

10. An appointed member of the Council may at any time resign his office by letter addressed to the Minister, and such resignation shall not take effect until the Minister intimates in writing to such member that such resignation has been accepted.

Resignation of members.

11. (1) If an appointed member of the Council dies or resigns or is removed from office, the Minister may, subject to the provisions of section 6, appoint any other person to be a member in place of the member who dies or resigns or is removed from office.

Casual vacancies among members.

(2) A member appointed under subsection (1) shall, unless he earlier resigns or vacates office by death or removal, hold office for the unexpired part of the term of office of the member whom he succeeds.

12. Where a member of the Council is by reason of illness, infirmity or absence from Sri Lanka for a period of not less than three months, temporarily unable to perform the duties of his office, it shall be the duty of such a member to inform the Minister in writing. The Minister may, having due regard to the provisions of section 6, appoint another person to act in his place.

Temporary appointments of members of the Council,

13. Any member of the Council who vacates office, other than a member who is removed from office under section 9, shall be eligible for reappointment.

Eligibility of members for reappointment.

Act or proceeding of the Council deemed not to be invalid by reason of any vacancy, or defect in the appointment, of a member.

14. No act or proceeding of the Council shall be deemed to be invalid by reason only of that existence of any vacancy amongst its members or defect in the appointment of any member thereof.

Application of the seal of the Council.

15. (1) The seal of the Council shall be in the custody of the Council.

(2) The seal of the Council may be altered in such manner as may be determined by the Council.

(3) The application of the seal of the Council shall be authenticated by the signature of the Chairman of the Council or some other member of the Council authorized by the Council to authenticate the application of the seal, and of the Secretary-General of the Council, or some other officer of the Council authorized by name by the Council to act in his stead in that behalf.

Remuneration of members of the Board. [§3,7 of 1980.]

16. All or any of the members may be paid such remuneration out of the fund of the Council, as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Meetings of the Council,

17. (1) The meetings of the Council shall be held once at least in every three months.

(2) The quorum for any meeting of the Council shall be six.

(3) The Chairman or in his absence the Vice-Chairman, or in the case of the absence of both, a member chosen by the members present, shall preside at a meeting of the Council.

(4) All questions for decision at any meeting of the Council shall be decided by the vote of the majority of the members present. In case of an equality of votes, the presiding officer shall have a casting vote.

(5) Subject to the preceding provisions of this section, rules may be made under this

Law in respect of the meetings of the Council, the procedure to be followed, and the business to be transacted, at such meetings.

18. (1) The Executive Committee of the Council shall consist of— Executive Committee.

(a) the Chairman of the Council;

(b) the Vice-Chairman of the Council;

(c) the Secretary-General of the Council; and

(d) the ex officio member appointed under paragraph (b) (ii) of subsection (1) of section 6.

(2) The Council may delegate to the Executive Committee established under subsection (1) such powers, duties or functions conferred or imposed on the Council by this Law, as may be considered necessary for the efficient transaction of its business.

(3) Rules may be made under this Law in respect of the meetings of the Executive Committee, the procedure to be followed, and the business to be transacted, at such meetings.

19. (1) (a) The Minister may, on the recommendation of the Council, appoint such Working Committees as are deemed necessary to assist the Council in the performance of its duties, and may appoint such persons (whether connected with the Council or not), as may be deemed fit to be members of any such Committee. Working committees of the Council.

(6) The Minister shall appoint one of the members of a Working Committee appointed under paragraph (a) to be the Chairman of such a Working Committee. The Chairman so appointed shall be the convener of that Working Committee.

(2) The meetings of a Working Committee shall be held once at least in every two months.

NATIONAL SCIENCE COUNCIL

(3) A Working Committee appointed under subsection (1) shall have a membership not exceeding seven.

(4) Every member appointed to a Working Committee under subsection (1) shall hold office for a period of two years, and shall be eligible for reappointment.

(5) The Council may assign to a Working Committee established under subsection (1) such of its powers as it may deem fit, but shall not be divested of any power which it may have assigned to a Committee. The Council may amend or revoke any decision made by a Working Committee.

(6) The members of a Working Committee appointed under subsection (1) shall not be paid any remuneration, but shall be reimbursed from the Fund of the Council, for such travelling, hotel and incidental expenses, as they may incur for the purpose of attending meetings of such a Committee, or for such other purpose connected with the activities of the Council, as may be approved by the Council.

(7) Subject to the preceding provisions of this section, rules may be made under this Law in respect of the meetings of a Working Committee, the procedure to be followed, and the business to be transacted, at such meetings.

Council. The Secretary-General shall be employed on such terms and conditions as shall be determined by the Minister in consultation with the Minister in charge of the subject of Finance,

(2) If any vacancy occurs in the office of Secretary-General or if the Secretary-General by reason of leave, illness, or other cause, is unable temporarily to perform the duties of his office, the Council shall, as soon as possible, subject to the approval of the Minister, make such arrangements as it may think fit for carrying on the office.

(3) The Secretary-General shall be entitled to convene, be present at, and speak at any meeting of any authority, body or committee of the Council, but shall not be entitled to vote at any such meeting unless he is a member of such authority, body or committee.

(4) Subject to the provisions of this Law, it shall be the duty of the Secretary-General to give effect, or to ensure that effect is given, to the decisions of the Council.

(5) The Council may delegate to the Secretary-General such powers, duties or functions conferred or imposed on the Council by this Law, as may be considered necessary for the efficient transaction of its business, and it shall be the duty of the Secretary-General to exercise, discharge or perform those powers, duties or functions as may be delegated to him by the Council.

(6) The Council may appoint to the staff of the Council such other officers and servants as the Council may deem necessary.

PART II

STAFF OF THE COUNCIL

Appointment of the Secretary-General and other officers and servants of the Council.

20. (1) The Council shall, in consultation with the Minister, appoint a person to be Secretary-General who shall be the chief executive officer of the Council, and who shall be a whole-time officer of the

21. (1) Subject to the other provisions of this Law, the Council may—

(a) appoint, dismiss and exercise disciplinary control over the staff of the Council;

Powers of the Council in regard to the staff of the Council.

- (b) fix the wages or salary or other remuneration of such staff;
- (c) determine the terms and conditions of the service of such staff, and
- (d) establish and regulate provident funds or schemes for the benefit of such staff, and make contributions to any such fund or scheme.

(2) Rules may be made under this Law in respect of all or any of the matters referred to in subsection (1).

(3) At the request of the Council, any officer in the public service may, with the consent of that officer and the Secretary to the Ministry charged with the subject of Public Administration, be temporarily appointed to the staff of the Council for such period as may be determined by the Council with like consent or be permanently appointed to such staff. Where any officer in the public service is temporarily appointed to the staff of the Council, the provisions of subsection (2) of section 9 (other than the provisions of paragraph (a) of that subsection) of the Motor Transport Act, No. 48 of 1957*, shall *mutatis mutandis* apply to and in relation to him.

(4) Where any officer in the public service is permanently appointed to the staff of the Council, subsection (3) of section 9 of the Motor Transport Act. No. 48 of 1957*, shall *mutatis mutandis* apply to and in relation to him.

(5) Where the Council employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Council by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(6) At the request of the Council, any member of the Local Government Service, or any other officer or servant of any local authority may, with the consent of such member, officer or servant and the Secretary to the Ministry in charge of the subject of Local Government or that authority, as the case may be, be temporarily appointed to the staff of the Council for such period as may be determined by the Council with like consent, or be permanently appointed to such staff on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Council and such Secretary or that authority.

(7) Where any person is temporarily appointed to the staff of the Council, in pursuance of the provisions of subsection (6), he shall be subject to the same disciplinary control as any other member of such staff.

(8) Any officer or servant of a public corporation may, with the consent of such officer or servant and the Board of Directors of such corporation, be temporarily or permanently appointed to the staff of the Council, on such terms and conditions, including those relating to provident fund rights, as may be agreed upon by the Board of Directors of that corporation and the Council,

(9) Where any person is appointed whether temporarily or permanently under subsection (8) to the staff of the Council, he shall be subject to the same disciplinary control, as any other member of such staff.

PART III

FINANCE

22. (1) The Council shall have its own Fund. The Fund of the Council.

* Repealed by Law No, 19 of 1978.

(2) There shall be paid into the Fund of the Council—

(a) all such sums of money as may be voted from time to time by Parliament for the use of the Council; and

(b) all sums of money received by the Council in the exercise, discharge and performance of its powers, functions and duties.

(3) There shall be paid out of the Fund of the Council all sums of money required to defray any expenditure incurred by the Council in the exercise, discharge and performance of its powers, functions and duties under this Law, or any other written law, and all such sums of money as are required to be paid out of such Fund by or under this Law.

Exemption from taxes and duties.

23. (1) The income of the Council shall be exempt from income tax.

(2) The Council shall be exempt from the payment of any customs or excise duty on any goods imported or purchased out of bond by the Council, if the Minister in consultation with the Minister in charge of the subject of Finance approves of such exemption.

Financial year.

24. The financial year of the Council shall be the period of twelve months commencing on the first day of January each year.

Application of the provisions of the Public Corporations (Financial Control) Act.

25. The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control and accounts of the Council.

PART IV

GENERAL

Power of Council to make rules,

26. (1) The Council may make rules in respect of all or any matters for which rules are authorized or required by this Law to be made.

(2) No rule made by the Council under this Law shall have effect until it has been approved by the Minister.

27. All members, officers and servants of the Council shall be deemed to be public servants within the meaning of, and for the purposes of, the Penal Code.

Members, officers and servants of the Council deemed to be public servants.

28. The Council shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly,

The Council deemed to be a scheduled institution within the meaning of the Bribery Act,

29. (1) No suit or prosecution shall lie—

Protection for action taken under this Law or on the direction of the Council.

(a) against the Council for any act which in good faith is done or purported to be done by the Council under this Law; or

(b) against any member, officer, servant or agent of the Council for any act which in good faith is done or purported to be done by him under this Law or on the direction of the Council.

(2) Any expense incurred by the Council in any suit or prosecution brought by or against the Council before any court shall be paid out of the funds of the Council, and any costs paid to, or recovered by, the Council in any such suit or prosecution shall be credited to the funds of the Council.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Law or on the direction of the Council shall, if the court holds that such act was done in good faith, be paid out of the funds of the Council, unless such expense is recovered by him in such suit or prosecution.

30. No writ against person or property shall be issued against a member of the Council in any action brought against the Council.

No writ to issue against person or property of a member of the Council.

Contracts.

31. The Council may enter into and perform or carry out, whether directly or through any officer or agent, authorized in writing in that behalf, by the Council, all such contracts or agreements as may be necessary for the exercise, discharge and performance of the powers, functions and duties of the Council.

at least three days' notice in writing to the owner or occupier of any land or premises, enter upon such land or premises and there do such acts as may be reasonably necessary for the purpose of carrying out any work of the Council, or of making any investigation or examination, preliminary or incidental to the exercise of any power, or the discharge of any function, of the Council.

Acquisition of immovable property under the Land Acquisition Act for the Council.

32. (1) Where any immovable property is required to be acquired for any purpose of the Council and the Minister by Order published in the Gazette, approves of the proposed acquisition, that property shall be deemed to be required for a public purpose and may accordingly be acquired under the Land Acquisition Act and be transferred to the Council.

36. (1) Every person who—

Offences and penalties.

(a) knowingly makes any false or incorrect statement in any return or other document made or furnished under or for the purposes of this Law; or

(b) fails or refuses to furnish any information or return required under this Law (to be furnished by him); or

(c) resists or obstructs any person in the exercise, discharge or performance of any power, function or duty conferred or imposed upon that person by or under this Law;

(d) being a member or officer or servant of the Council, discloses any information obtained by him in, or in connexion with, the exercise of his powers or the performance of his duties under this Law, to any person other than a person to whom such information is necessary for the purpose of the exercise of any power or the performance of any duty under this Law; or

(e) contravenes or fails to comply with any provision of this Law or rule made under this Law,

shall be guilty of an offence under this Law.

(2) Every person who commits an offence under this Law shall, on conviction after trial before a Magistrate, be liable to a fine not exceeding five hundred rupees.

State property both movable and immovable to be made available to the Council.

33. (1) Where any immovable property of the State is required for the purpose of the Council, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the State Lands Ordinance, and accordingly the provisions of that Ordinance shall apply to a special grant or lease of such property to the Council.

(2) Where any movable property of the State is required for the purpose of the Council, the Minister may, by Order published in the Gazette, transfer to and vest in the Council the possession and use of such movable property.

Returns and information.

34. The Council or any person authorized in that behalf by the Council may by notice in writing require any person to furnish to the Council or the person so authorized within such period as shall be specified in the notice, all such returns or information as may be necessary for the Council under this Law and as are within the knowledge of such person.

Power to enter any land or premises.

35. Any officer or servant of the Council who is generally or specially authorized in that behalf by the Council may, after giving

37. The provisions of this Law shall have effect notwithstanding anything contained in any other law, and accordingly in the event of any conflict or inconsistency

This Law to prevail over other written law.

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between the provisions of this Law and such other law, the provisions of this Law shall prevail.

***40.** In this law, unless the context otherwise requires—

"Secretary-General" means the Secretary-General of the Council.

* Sections 38 and 39, repealing the National Science Council of Ceylon Act, No. 9 of 1968, and containing transitional provisions consequent to the repeal, are omitted,

CHAPTER 541

NATIONAL WATER SUPPLY AND DRAINAGE BOARD

Law
No. 2 of 1974.

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF A PUBLIC AUTHORITY KNOWN AS THE NATIONAL WATER SUPPLY AND DRAINAGE BOARD, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1st November, 1974.]

Short title.

1. This Law may be cited as the National Water Supply and Drainage Board Law.

5. (1) The Board shall consist of the following members:—

Constitution of
the Board.

PART I

**NATIONAL WATER SUPPLY AND
DRAINAGE BOARD**

National Water
Supply and
Drainage
Board.

2. There shall be established, on the appointed date* or as soon as may be thereafter, a public authority which shall be called the National Water Supply and Drainage Board (hereafter in this Law referred to as "the Board"), and which shall consist of the persons who are for the time being members of the Board under section 5.

(a) four members who shall be appointed by the Minister from among persons who appear to the Minister to have wide experience, and shown capacity, in engineering, finance, public health, administration or law;

(b) the Commissioner of Local Government or his representative ;

(c) one member being an officer of the General Treasury nominated by the Minister in charge of the subject of Finance,

(d) one member being an officer of the Ministry charged with the subjects of Finance and Planning nominated by the Minister in charge of that Ministry;

(e) one member being an officer of the Ministry charged with the subject of Health nominated by the Minister in charge of that Ministry.

The Board to
be a body
corporate.

3. The Board shall, by the name assigned to it by section 2, be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in that name.

The objects of
the Board.

4. The objects of the Board shall be :—

(a) to exercise, discharge and perform within its area or areas of authority all the powers, functions and duties conferred or imposed on it under this Law; and

(b) to do all such other acts or things as may be necessary for, or conducive to, the attainment of the objects specified in paragraph (a) of this section.

A member appointed by the Minister is in this Law referred to as an "appointed member".

* 1st November, 1974 - See Gazette No. 135/3 of 1974-10-28.

(2) The Minister shall appoint the Chairman and may appoint a Vice-Chairman of the Board from the appointed members of the Board.

(3) A person shall be disqualified for being a member of the Board, or for continuing as a member of the Board,—

(a) if he is or becomes a Member of Parliament, or a member of any local authority; or

(b) if he is or becomes an employee of the Board.

(4) A member of the Board who is in any way, directly or indirectly, interested in any contract made or proposed to be made by the Board shall disclose the nature of his interest at a meeting of the Board, and such disclosure shall be recorded in the minutes of the Board, and the member shall not take part in any deliberation or decision of the Board with regard to that contract.

(5) The Minister may, if he considers it necessary in the interest of the efficient performance of the functions of the Board, remove, by Order published in the Gazette, any appointed member of the Board from office without reason stated.

(6) An appointed member of the Board may at any time resign his office by letter addressed to the Minister.

(7) If the Chairman, Vice-Chairman or any other appointed member of the Board, is temporarily unable to discharge the duties of his office on account of ill health or absence from Sri Lanka or for any other cause, the Minister may, having due regard to the provisions of subsection (1), appoint some other person to act in his place as the Chairman, Vice-Chairman or as a member, as the case may be.

(8) Every appointed member of the Board shall, unless he earlier vacates office, hold office for a period of five years :

Provided that a member appointed by the Minister to fill a vacancy in the office of an appointed member of the Board, shall hold

office for the unexpired portion of the term of office of the member whom he succeeds.

(9) Any appointed member of the Board who vacates office shall be eligible for reappointment.

(10) An appointed member of the Board shall be deemed to have vacated his office—

(a) on sending his resignation to the Minister; or

(b) on his removal from office by the Minister; or

(c) on his becoming disqualified for continuing as a member; or

(d) on the expiry of his term of office.

(11) No act or proceeding of the Board shall be deemed to be invalid by reason only of the existence of any vacancy amongst its members or any defect in the appointment or nomination of a member thereof.

6. (1) The seal of the Board shall be in the custody of the Board. Seal of the Board.

(2) The seal of the Board may be altered in such manner as may be determined by the Board.

(3) The application of the seal of the Board shall be authenticated by the signature of the Chairman of the Board or some other member of the Board authorized by the Board to authenticate the application of such seal, and of one other member of the Board, both of whom shall sign the instrument in token of their presence.

7. The members of the Board shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance. Remuneration of members of the Board.

8. The Chairman of the Board shall preside at all meetings of the Board. In the absence of the Chairman from any meeting of the Board the Vice-Chairman of the Board shall preside. In the absence of both the Chairman and the Vice-Chairman from Presidency of meetings.

any meeting of the Board, the members present shall elect one of their number to preside at the meeting.

Quorum. **9.** The quorum for any meeting of the Board shall be three.

Meetings of the Board. **10.** (1) Every question which comes up for consideration before the Board shall be dealt with at a meeting of the Board, and shall be determined by the majority of the members of the Board present and voting.

(2) In the event of an equality of votes on any question considered at a meeting of the Board, the Chairman of that meeting shall have a casting vote in addition to his original vote.

(3) Subject to the provisions of this Law, the Board may regulate its own procedure.

Head office of the Board. **11.** The head office of the Board shall be at such place in Sri Lanka as may be determined by the Board with the concurrence of the Minister.

Minister's directions to the Board. **12.** The Minister may, after consultation with the Board, give the Board in writing general or special directions as to the exercise, discharge and performance of its powers, functions and duties in relation to matters which appear to him to affect the national interest, and the Board shall give effect to such direction.

Members of the Board deemed to be public servants. **13.** All members of the Board shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

The Board deemed to be a scheduled institution within the meaning of the Bribery Act. **14.** The Board shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

PART II

AREAS OF AUTHORITY, AND POWERS, FUNCTIONS AND DUTIES, OF THE BOARD

Areas of authority of the Board. **15.** (1) The Minister may, with the concurrence of the Minister in charge of the subject of Local Government, by Order published in the Gazette, declare any such area in Sri Lanka as may be specified in the

Order to be an area of authority of the Board.

(2) Any area in respect of which an Order is made under subsection (1) may include the whole, or any part, of the administrative limits of one, or more than one, local authority.

(3) Any Order made by the Minister under the preceding provisions of this section shall come into operation on the date of its publication in the Gazette- or on such later date as may be specified therein.

16. (1) It shall be the duty of the Board in each area of its authority :—

General duties of the Board in its areas of authority.

(a) to develop, provide, operate and control an efficient, co-ordinated water supply and to distribute water for public, domestic or industrial purposes;

(b) to establish, develop, operate and control an efficient, co-ordinated sewerage system;

(c) to take over and carry on any water supply or sewerage undertaking transferred to the Board under section 57 ;

(d) to take over and carry on any water supply or sewerage undertaking of any local authority transferred to the Board under section 64 by a voluntary transfer Order or a compulsory transfer Order;

(e) to provide a supply of water and distribute it or sell water in bulk or otherwise, to any local authority, any Government department, any other institution or organization, or any individual; and

(f) to do all other acts and things as may be necessary for the aforesaid purposes.

(2) Nothing in this section shall be construed as imposing on the Board, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court or tribunal to which the Board will not otherwise be subject.

NATIONAL WATER SUPPLY AND DRAINAGE BOARD [Cap.541]

(3) Nothing in this section shall preclude the Board from carrying out such works as may be necessary in any part of Sri Lanka for the discharge of its functions.

17. The Board may exercise all or any of the following powers:—

- (a) to purchase water in bulk;
- (b) to carry out investigations and to collect and record data concerning the provision, development and maintenance of water supply and sewerage services;
- (c) to acquire, hold, take or give on lease or hire, mortgage, pledge or sell or otherwise dispose of, any immovable or movable property ;
- (d) to enter into and perform, either directly or through duly authorized agents, all such contracts as may be necessary for the performance of the duties and the exercise of the powers of the Board ;
- (e) to do anything necessary for the purpose of advancing the skill of persons employed by the Board or the efficiency of the equipment of the Board, or for improving the manner in which that equipment is operated;
- (f) to conduct research into matters affecting the provision, development and maintenance of water supply and sewerage services ;
- (g) to provide facilities for training persons required to carry out the work of the Board, including the arrangement by the Board with any body or agency for such facilities ;
- (h) to establish provident funds and pension funds, and to provide welfare and recreational facilities, houses, hostels and other like accommodation, for the persons employed by the Board ;
- (i) subject to the provisions of Part IV of this Law, to make rules in relation

to the officers and servants of the Board, including their appointment, promotion, remuneration, disciplinary control, conduct and the grant of leave to them;

- (j) to enter into joint schemes with any Government department or any body approved by the Minister, for the provision, development and maintenance of water supply and sewerage services;
- (k) to make rules in respect of the administration of the affairs of the Board ;and
- (l) to do all other things which, in the opinion of the Board, are necessary to facilitate the proper carrying on of its business.

18. The Board may, from time to time, appoint any Government department, any other organization or institution, or any individual to be, or to act as, consultants to the Board and pay them such remuneration as it thinks proper. Consultants.

19. It shall be the duty of the Board, and the Board shall have the power, to supervise and control the operation of all waterworks and sewerage works installed for the purpose of any joint scheme entered into by the Board under the provisions of paragraph (j) of section 17 with any Government department or any body approved by the Minister : Power of the Board to supervise and control waterworks and sewerage works installed for joint schemes.

Provided, however, that in the exercise of such supervision and control, the Board shall have due regard to the needs of such department or body.

20. Where any dispute arises between the Board and any Government department or body referred to in section 19 in connexion with the exercise of the powers of the Board under that section, such dispute shall be referred to the Minister, and the decision of the Minister thereon shall be final, and shall not be called in question in any court or tribunal. Disputes arising from exercise of powers of Board under section 19.

Powers of the Board.

Board to undertake exclusively supply of water.

21. No person or body other than the Board shall, except with the written permission of the Board given with the approval of the Minister, undertake the supply of water in any area of authority of the Board :

Provided, however, that the preceding provisions of this section shall not apply to the supply of such water by a local authority within its administrative limits if, but only if, the water supply and sewerage undertaking of such authority has not been transferred to the Board by a voluntary transfer Order or a compulsory transfer Order.

Board to construct intakes, filters, tanks, aqueducts, and other works.

22. The Board may, from time to time, in any part of Sri Lanka construct intakes, filters, tanks, aqueducts or other works for bringing water to the area or areas of authority of the Board for the use of the inhabitants.

Power of the Board to break up streets, &c., and enter private land.

23. (1) The Board in laying down any pipes for the water supply of the Board may, if it considers it necessary, carry such pipes through, across, or under any street or any place laid out or intended for a street, or under any building, any cellar or vault, or into, through, or under any enclosed or other land whatsoever. The Board shall, in every such case, give two calendar months' notice of its intention so to do to the owner of the property affected by such work, and shall on completion of the work pay to him reasonable compensation for any loss or damage sustained by him by reason of the carrying out of any work authorized by this section. If any dispute arises as to the amount or apportionment of such compensation, such amount or apportionment shall be summarily ascertained and determined on application made by the Board, by the District Court or Primary Court within whose jurisdiction the property affected is situated, and according as such amount or apportionment exceeds or does not exceed one thousand five hundred rupees. The decision of the District Court or Primary Court shall be subject to an appeal to the Court of Appeal.

(2) Every such appeal shall be presented within the time and in the manner and subject to the rules and practice provided

for and observed in appeals from orders of District Courts or Primary Courts in their ordinary jurisdiction.

Board to lay or enlarge water main along private street.

24. (1) If any private street has been constructed to which one or more houses have access, the Board may lay, enlarge, or extend a water main along such private street of such dimensions as may be necessary, and may apportion the whole or part of the cost of laying, enlarging, or extending such main among the owners of the premises fronting upon, adjoining, abutting, or having access to, or deriving any degree of benefit from, such main according to the areas of the respective premises which may derive, or be so situated as to derive, any such benefit from the laying, enlarging, or extending of the said main.

(2) The initial cost of laying, enlarging, or extending such main shall be borne by the Board, and the property in the said main shall remain in the Board.

(3) The sums apportioned for payment by the owners of the respective premises shall be made a charge upon such premises, and no private service shall be granted to such premises until the sum apportioned in respect thereof has been paid or an engagement to pay the same be made with the Board as hereinafter provided.

(4) When any premises in any such private street has an already existing supply of water from the Board's mains by private pipes, the Board may, whenever it shall become necessary to take up such private pipes for cleaning or renewal, call upon the owner to connect with the new main.

(5) (a) In any case where any existing main has been laid in any private street at the expense of any private person, it shall be lawful for such person to recover from the owner or owners of any property fronting upon, adjoining, abutting on, or having access to such private street, who apply to the Board for a private service of water, such an apportionment of the cost of the laying of the said main as may be determined by the General Manager of the Board in proportion to the frontage of the premises abutting on such street.

(b) No person shall be permitted to make a connection with any such main until he

has paid or given a guarantee for the payment of such apportionment to the satisfaction of such private person.

(6) (a) When any premises fronting upon, adjoining, abutting on, or having access to any such private street has an existing supply of water from the Board's mains by private pipes other than the main which has been laid at the cost of any private person aforesaid, the owner of such premises may be permitted to use such pipes until such time as it shall become necessary to take up such pipes for cleaning or renewal.

(b) When it shall become necessary to take up such pipes for cleaning or renewal, the owner of the said premises shall not be permitted to re-lay such pipes in their former position, but shall connect them with the main in the private street laid by the private person aforesaid, and shall, before any connection is made therewith, pay such apportionment of the cost of laying the aforesaid main as shall be determined by the General Manager of the Board in proportion to the frontage of the premises abutting on such street.

(7) All mains laid in any private street shall vest in the Board, and the cost of their maintenance, renewal, and repair shall be borne by the Board.

Right of water rate payers to free use of water from public stand-pipes for domestic purposes.

25. Every person paying the water rate leviable under the provisions of this Law shall be entitled to have, free of further charge in respect thereof, a supply of water from the public stand-pipes for the domestic use of himself and his household.

" Domestic purposes ", what not included in.

26. A supply of water for domestic purposes shall not include a supply of water for horses or cattle or for washing vehicles where such horses, cattle or vehicles are kept for sale or hire, or a supply for any trade, manufacture, or business, or for fountains or swimming baths, or for any ornamental or mechanical purpose, or for purposes of irrigation.

Power of General Manager to enter and examine premises.

27. The General Manager of the Board or any person authorized in that behalf by him, may, at any time between eight of the clock in the morning and five of the clock in the evening, after giving not less than one hour's notice to the occupier of any

building or premises supplied with water under this Law, enter such building or premises and examine the condition of the pipes, works, and fittings, and ascertain if there be any waste or misuse of such water. If the General Manager or any person authorized by him is at any such time without reasonable cause refused admittance into such building or premises for the purpose aforesaid, or is prevented without reasonable cause from making such examination, the General Manager may stop the supply of water to such building or premises.

28. If any person supplied with water from the Board wilfully or negligently causes or suffers any pipe, valve, cock, cistern, soil pan, water-closet, or other apparatus or receptacle to be out of repair, or to be so used or contrived that the water supplied to him from the Board is or is likely to be wasted, misused, unduly consumed, or contaminated, or so as to occasion or allow the return of foul air or other noisome or impure matter into any pipe belonging to or connected with the pipes of the Board, he shall be guilty of an offence, and be liable on conviction after trial before a Magistrate for every such offence to a fine not exceeding one hundred rupees.

Penalty for suffering pipes, &c., to be out of repair.

29. The General Manager of the Board may repair or renew or substitute any pipe, valve, cock, cistern, soil pan, water-closet, or other apparatus or receptacle in any premises so as to prevent any waste of water, and the expenses of such repair or renewal or substitution shall be defrayed by the owner or occupier of the premises, and the same may be recovered by the Board as if it were a water supply charge payable under this Law.

Power of General Manager to repair pipes, &c., and recover expenses.

30. Every person who—

Misuse of water.

(a) not having a supply of water from the Board for other than domestic purposes, uses for other than domestic purposes any water supplied to him by the Board ; or

(b) having from the Board a supply of water for other than domestic purposes, uses for any purposes

other than those for which he is entitled to use the same,

shall be guilty of an offence, and shall be liable on conviction after trial before a Magistrate to a fine not exceeding twenty rupees, without prejudice to the right of the Board to recover from him the value of the water misused.

Penalty for affixing pipe or apparatus to communication or other pipe without the consent of the General Manager.

31. It shall not be lawful for the owner or occupier of any premises supplied with water from the Board, or any consumer of the water of the Board, or any other person to affix or cause or permit to be affixed any pipe or apparatus to any pipe or apparatus provided for the conveyance, reception, or control of water from the Board, whether or not such pipe or apparatus is the property of the Board or private property, without the consent in every such case of the General Manager of the Board; and if any person acts in any respect in contravention of the provisions of this section, he shall, for every such offence, be liable on conviction after trial before a Magistrate to a fine not exceeding fifty rupees, without prejudice to the right of the Board to recover damages from him in respect of any injury done to the Board's property, and without prejudice to its right to recover from him the value of any water wasted, misused, or unduly consumed.

Penalty for supplying water to or permitting it to be taken from supplied premises by any other person.

32. Every owner or occupier of any premises supplied with water under this Law, who shall supply to any other person or wilfully permit him to take any such water from any cistern or pipe in such premises, unless for the purpose of extinguishing any fire, or unless he be a person supplied with water from the Board, and the pipes supplying him be, without his default, out of repair, shall be guilty of an offence, and liable to a fine not exceeding fifty rupees.

Penalty for taking or using water from reservoir, &c,

33. Every person who wrongfully takes or uses any water from any reservoir, watercourse, conduit, or pipe belonging to the Board, or from any pipe leading to or from any such reservoir, watercourse, conduit, or pipe, or from any cistern or other like place containing water belonging to or supplied from the Board, or for the use of any consumer of the water of the Board, other than such as may have been

provided for the gratuitous use of the public, shall be guilty of an offence and liable on conviction after trial before a Magistrate to a fine not exceeding one hundred rupees.

34. Every person who, without the authority of the General Manager of the Board, shall wilfully or carelessly break, injure, open, close, or wrongfully interfere or tamper with any lock, hydrant, cock, valve, pipe, work, or engine belonging to the Board, or shall draw off the water from the reservoirs or other works belonging to the Board, or shall do any other wilful act whereby such water shall be wasted, or the supply thereof interfered with, shall be guilty of an offence, and be liable on conviction after trial before a Magistrate to a fine not exceeding one hundred rupees.

Penalty for destroying or injuring works, &c., and wasting water.

35. If any person supplied with water from the Board does or causes or permits to be done anything in contravention of any of the provisions of this Law, or regulations made under this Law, or wrongfully fails to do anything which under any of those provisions ought to be done for the prevention of the waste, misuse, undue consumption or contamination of the water belonging to the Board, the General Manager of the Board may (without prejudice to any remedy against such person in respect thereof) cut off any of the pipes by or through which water is supplied to such person or for his use, and may cease to supply him with water.

Power of General Manager to cut off water supply in certain cases.

36. In all cases in which the General Manager of the Board is by this Law authorized to cut off or stop the supply of water to any building or premises, and in all cases in which any building or premises supplied with water by the Board shall have become unoccupied, the General Manager, his agents and workmen, after giving reasonable notice to the owner or occupier, may enter such building or premises between the hours of eight of the clock in the morning and five of the clock in the evening and cut off any pipes by which such water is conveyed to such premises, and may remove any pipe, meter, fittings and apparatus, which is the property of the Board.

General Manager or his agents may enter any building or premises for cutting off water supply.

37. Every person who shall commit any of the offences next hereinafter enumerated shall on conviction after trial before a

Penalty for fouling water &c.

Magistrate for every such offence be punished with a fine not exceeding fifty rupees, that is to say :—

- (a) bathing in any stream, reservoir, aqueduct, or other waterworks belonging to the Board, or washing, throwing, or causing to enter therein any dog or other animal;
- (b) throwing any rubbish, dirt, filth, or other noisome thing into any such stream, reservoir, aqueduct, hydrant, surface-box, or other waterworks as aforesaid, or washing or cleansing therein any cloth, wool, leather, or skin of any animal, or any clothes or other thing;
- (c) trespassing upon land belonging to the waterworks or upon the buildings or premises connected with the water supply ;
- (d) unlawfully breaking, injuring, or in any other manner causing damage to any channel, tank, reservoir, cistern, well, fountain, stand-pipe or other work connected with the water supply;
- (e) causing the water of any sink, sewer, or drain, steam engine, boiler, or other water belonging to him or under his control, to run or be brought into any stream, reservoir, aqueduct, or other waterworks belonging to the Board, or doing any other act whereby the water belonging to the waterworks shall be fouled;

and every such person shall be liable to a further fine of ten rupees for each day (if more than one) that such last-mentioned offence shall be continued.

Penalty for doing any act connected with any business by which the water in any stream, &c., belonging to the waterworks is fouled.

38. (1) Whoever, being the owner, superintendent, agent, manager, or occupier of any premises in which any business is carried on does or causes to be done any act connected with such business by which the water in any stream, reservoir, cistern, aqueduct, or other work belonging to the Board is or is likely to be fouled, shall be guilty of an offence, and liable on

conviction after trial before a Magistrate notwithstanding the provisions of section 37, to a fine not exceeding one thousand rupees, and a further fine, not exceeding five hundred rupees for each day on which the offence is continued after the expiration of twenty-four hours after a notice signed by the General Manager of the Board is served on any such person.

(2) The General Manager of the Board or any person authorized by him in writing in that behalf may, with the permission of the Chairman of the Board, after the expiration of twenty-four hours after the notice signed by the General Manager of his intention so to do has been served on such owner, superintendent, agent, manager or occupier, lay open and examine any pipe or work directly or indirectly connected with such premises, and any stream, reservoir, cistern, aqueduct, or other work belonging to the Board.

39. If upon such examination it appears that any water has been fouled by anything proceeding from or contained in the pipe or works examined, the expenses of such examination shall be paid by the person to whom such pipes or works belong, or under whose management or control they are. If upon such examination it appears that such water has not been so fouled, then such expenses shall be borne by the Board.

Cost of the examination.

40. The Board may, from time to time, in any part of Sri Lanka, construct sewers, appurtenances, outfalls, treatment works and other works for the effectual collection and disposal of sewerage in the area or areas of authority of the Board.

Board to construct sewers, outfalls, treatment works and other works.

41. (1) The Board in laying out any pipes or sewers may carry them through, across, or under any street or any place laid out or intended for a street, or any cellar or vault which is under any of the streets and (after reasonable notice in writing in that behalf) into, through, or under any enclosed or other land whatsoever, doing as little damage as may be and making full compensation for any damage done. If any

Power of the Board to break up streets, &c., and enter private land.

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dispute arises as to the amount or apportionment of such compensation, such amount or apportionment shall be summarily ascertained and determined on application made by the Board by the District Court or Primary Court within whose jurisdiction such pipes or sewers are situated, and according as such amount or apportionment exceeds or does not exceed one thousand five hundred rupees. The decision of the District Court or Primary Court shall be subject to an appeal to the Court of Appeal.

(2) Every such appeal shall be presented within the time and in the manner and subject to the rules and practice provided for and observed in appeals from orders of District Courts or Primary Courts in their ordinary jurisdiction.

42. (1) The Board may cause such pipes and fittings as it may deem necessary for the proper ventilation of public sewers to be fixed to the outside of any building.

(2) Such pipes and fittings shall be so constructed and fixed as to occasion the least possible inconvenience in the neighbourhood. The outlet of every such pipe shall be at least two feet above the eaves of the buildings to which it is affixed and at least ten feet distant from any window.

43. (1) Every person who, without the written consent of the Board first obtained, connects or causes to be connected any private sewer directly or indirectly with any public sewer, shall be guilty of an offence and shall be liable on conviction after trial before a Magistrate to a fine not exceeding one hundred rupees, and, in the case of a continuing offence, to an additional fine not exceeding twenty-five rupees for each day during which the offence is continued after a conviction thereof.

(2) The Board may cause any private sewer which is connected with any such public sewer without its consent, to be demolished, altered or otherwise brought into conformity with the provisions of this Law; and all the expenses incurred thereby shall be paid by the person who connected or caused such sewer to be connected and, in

the case of default, shall be recoverable as a sewerage charge.

44. (1) Every person who erects or constructs or causes to be erected or constructed any building or work over any public sewer without the written consent of the Board first obtained, shall be guilty of an offence and shall be liable on conviction after trial before a Magistrate to a fine not exceeding one hundred rupees, and, in the case of a continuing offence, to an additional fine not exceeding twenty-five rupees for each day during which the offence is continued after a conviction thereof.

(2) The Board may cause any building or work referred to in subsection (1), which is erected or constructed without its consent, to be demolished, altered or otherwise brought into conformity with the provisions of this Law; and the expenses thereby incurred shall be paid by the person who has erected or constructed or caused the erection or construction of such building or work, and in case of default shall be recoverable as a sewerage charge.

45. (1) All works connected with—

- (a) the construction, fixing or alteration of any private sewer or sewerage appliance; or
- (b) the connection of any private sewer with any public sewer,

shall be carried out either by an officer of the Board or by a person licensed in that behalf by the Board at the cost and charge of the owners of the premises sewered, and in accordance with the provisions of this Law, or any regulations for the time being in force:

Provided that the preceding provisions of this subsection shall not apply in the case of any public sewer or any appliance connected therewith.

(2) Every person who, not being an officer of the Board or a person licensed by the Board, carries out any work referred to in subsection (1) shall be guilty of an offence and shall be liable on conviction after trial before a Magistrate to a fine not exceeding one hundred rupees.

Erection of building over public sewers, &c.

Construction, &c.. of private sewers.

Power to affix to buildings, pipes for ventilation of sewers.

Connection of private sewer with any public sewer without authority.

(3) Where any work referred to in subsection (1) is carried out by any person (other than an officer of the Board, or person licensed by the Board) or otherwise than in accordance with the provisions of this Law or of any regulations for the time being in force, the Board may cause such work to be demolished, altered, or otherwise brought into conformity with such provisions and the expenses thereby incurred shall, except in the case where the work was carried out by an officer of the Board, be paid by the owner of the premises on which the work was carried out and in case of default, shall be recoverable as a sewerage charge.

(4) Any work carried out under the provisions of this section shall be open, at all reasonable times, to the inspection of the officers of the Board.

46. (1) Every person who erects or causes to be erected any new building, or rebuilds or causes to be rebuilt any building, shall cause such building to be provided with such sewers and appliances as may, in the opinion of the Board, be necessary for the sewerage of such building, and for the collection and removal of any sullage, foul liquids or faecal matter therefrom in accordance with the provisions of this Law or any regulations for the time being in force.

(2) Every person who fails or neglects to provide such sewers and appliances as aforesaid shall be guilty of an offence and shall be liable on conviction after trial before a Magistrate to a fine not exceeding two hundred and fifty rupees.

47. (1) Where any premises are within three hundred feet of any public sewer or other fit place into which sewage may lawfully be discharged, the Board may by notice in writing served on the owner of such premises, require such owner within such time as may be specified in the notice, to provide and execute to the satisfaction of the Board, in accordance with any regulations for the time being in force, all or any of the following works that the Board may deem necessary for the effectual sewerage of such premises, that is to say :—

(a) to provide and construct such channels, sewers, gullies, manholes

and appliances as may be necessary for the removal and discharge into such sewer or other fit place of sullage and foul liquids;

(b) where a sufficient water supply is available, to provide and construct sufficient and suitable water-closets or additional water-closets and sewers and other appliances in connection therewith, and to convert any earth closet, privy, cesspit, closet or other latrine into a water-closet or abolish any such earth closet, privy, cesspit, closet or other latrine;

(c) to reconstruct, take up and remove any existing sewer or appliance (other than any sewer or appliance that has been laid with the sanction of the Board for the sewerage of such premises on the water carriage system) that may be, in the opinion of the Board, unnecessary or insanitary.

(2) Every owner who fails or neglects to comply with the requirements of any notice served on him under subsection (1) within the time specified in the notice, shall be guilty of an offence and shall be liable on conviction after trial before a Magistrate to a fine not exceeding one hundred rupees.

48. (1) Where it appears to the Board to be more economical or otherwise more advantageous that the sewerage of a group of premises, whether contiguous or otherwise, should be undertaken as a whole rather than separately, the Board may cause to have drawn up a scheme for the sewerage of such group of premises in accordance with the following provisions.

(2) In every such case the Board shall cause to be prepared—

(a) plans showing the premises affected, and the nature and extent of the necessary works;

(b) a schedule of the premises and names of the owners thereof as can be ascertained;

Sewers in new buildings.

Sewerage of premises within three hundred feet of sewer.

Sewerage in combination.

- (c) an estimate of the cost of the work that is, in the opinion of the Board, necessary for carrying such scheme into effect;
- (d) a provisional apportionment of such cost amongst the owners affected in such proportion as may seem to the Board to be most equitable having regard to the greater or less degree of benefit to be derived by the premises from any work so undertaken.

(3) The Board shall cause written notice in Sinhala, Tamil and English to be given to the owners of all the premises to be sewerred, of the intention to cause the proposed works to be done in accordance with the provisions of this section, either by serving it upon them personally, or by leaving it at their respective residences or places of business, or by posting registered letters addressed to them at their residence or places of business.

(4) During one month from the date of service of such notice the above-mentioned particulars or certified copies thereof shall be kept deposited at the Board office and shall be open to inspection at all reasonable times.

(5) During the said month the owner of any such premises may, by written notice served on the Board, object to the proposals on any of the following grounds, that is to say:—

- (a) that the proposed works are insufficient or unnecessary or are not required in pursuance of this Law;
- (b) that the estimated cost of the work is excessive;
- (c) that the provisional apportionment of such cost is incorrect in some matter of fact to be specified in the objection;
- (d) that any premises should be excluded from or included in the proposals ;
- (e) that there has been some material informality, defect or error in

respect of the notices, plans or estimates;

- (f) that any compensation to be paid is excessive or insufficient.

(6) The Board shall consider and determine the objections and its decisions thereon shall be final.

(7) In any case where no such objections have been raised or in any case where such objections have been raised and have been determined by the Board, the Board may give orders for the sewerred of the premises in accordance with the scheme, and if it considers it expedient may—

- (a) proceed to execute, by contract or otherwise, all or any of the works necessary for carrying into effect the scheme mentioned in subsection (1) of this section; or
- (b) by notice in writing, require all or any of the owners to provide and execute, within such time as may be specified in the notice, all or any of the works that may be required to be done in or exclusively for the sewerred of the premises.

(8) The Board may recover in equal proportions from the owners of all or any of the premises included in any scheme prepared under this section a reasonable sum as expenses for surveys and preparation of plans.

(9) When the Board has completed the execution of any works under this section and the expenses thereof have been ascertained, a final apportionment shall be made in similar manner to the provisional apportionment and the expenses recovered.

(10) The cost of the maintenance of the system of sewerred made under such scheme as aforesaid shall be borne equally by the owners of the premises affected by such scheme.

(11) Every owner who fails or neglects to comply with the requirements of any notice served on him under subsection (7) (b) within the time specified in the notice, shall be

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guilty of an offence and shall be liable on conviction after trial before a Magistrate to a fine not exceeding fifty rupees.

Right to carry sewers through land belonging to other persons.

49. (1) When it appears to the Board that the only or best practicable means by which a sewer required for the sewerage of any premises can be emptied into any sewer or other fit place into which a sewer may lawfully be discharged is by carrying the same into, through or under any land belonging to some person other than the owner of the said premises, the Board after giving the owner of the said land a reasonable opportunity of stating any objection, may, if no objection is raised or if any objection which is raised appears to the Board invalid or insufficient, by an order in writing authorize the owner of the said premises to carry his sewer into, through, or under the said land in such manner as the Board shall think it fit to allow.

(2) Every such order bearing the signature of the General Manager of the Board shall be complete authority to the person in whose favour it is made, or to any agent or person employed by him for that purpose, after giving the owner of such land reasonable written notice of his intention so to do, to enter upon the said land with assistants and workmen at any time between sunrise and sunset and to execute the necessary work.

(3) Subject to the provisions of this Law, the owner or occupier of any premises, or any agent or person employed by him for that purpose, may, after giving the owner of any land, wherein a sewer has already been lawfully constructed for the sewerage of his premises, reasonable written notice of his intention so to do, enter upon the said land with assistants and workmen at any time between sunrise and sunset for the purpose of repairing or cleansing such sewer.

(4) In executing any work under this section as little damage as possible shall be done; and the owner or occupier of the premises for the benefit of which the work is done shall—

(a) cause the work to be executed with the least practicable delay;

(b) fill in, reinstate, and make good at his own cost the land broken up for the purpose of executing the said work ; and

(c) pay compensation to any person who sustains damage by the execution of the said work.

(5) Every owner of land who refuses to permit or prevents without reasonable cause the execution of any work in accordance with the provisions of this section, shall be guilty of an offence and shall on conviction after trial before a Magistrate be liable to a fine not exceeding one hundred rupees; and every such owner who persists in such refusal or who continues to prevent the execution of such work after a conviction thereof shall be guilty of a continuing offence and shall on conviction be liable to a fine not exceeding twenty-five rupees for each day during which the offence is continued.

(6) When the owner of any land, into, through or under which a sewer has been carried under this section while such land is unbuilt upon, desires at any time afterwards to erect a building on such land, the Board shall, by written notice, require the owner or occupier of the premises for the benefit of which such sewer was constructed to close, remove, divert, reconstruct, or protect the same in such manner as may be approved by the Board and to fill in, make good, and reinstate the land:

Provided that no such requisition shall be made unless, in the opinion of the Board, it is necessary or expedient, in order to admit of the construction of the proposed building or the safe enjoyment of the same, that the sewer should be closed, removed, diverted, reconstructed or protected.

(7) Every owner or occupier who refuses to comply with the requirements of any notice served on him under subsection (6) within a reasonable time, shall be guilty of an offence, and shall on conviction after trial before a Magistrate be liable to a fine not exceeding one hundred rupees.

50. (1) Where it appears to the Board that the only or best practicable means, by which a sewer required for the sewerage of

Right of owners to joint use of sewers.

any premises can be emptied into any sewer or other fit place into which sewers may lawfully be discharged is through a sewer belonging to some person or persons other than the owner of the said premises, the Board after giving the said person or persons a reasonable opportunity of stating any objection thereto, may, if no objection is raised, or if any objection which is raised appears to the Board invalid or insufficient, by an order in writing, authorize the said owner to use the last-mentioned sewer, or declare him to be a joint owner or one of the joint owners thereof, on such conditions as to the payment of rent or compensation, and as to connecting the sewer of the said premises with such other sewer as aforesaid, and as to the respective responsibilities of the parties for maintaining, flushing, cleansing and emptying such last-mentioned sewer or otherwise as may appear to the Board equitable.

(2) Every such order bearing the signature of the General Manager of the Board shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for that purpose, after fulfilling the conditions of the said order, and after giving the owner or owners of the sewer reasonable notice in writing of his intention so to do, to enter upon the land in which such sewer is situated with assistants and workmen at any time between sunrise and sunset and subject to the provisions of this Law, to do all such things as may be necessary for—

- (a) connecting the two sewers ;
- (b) renewing, altering, or repairing the connection; and
- (c) discharging any responsibility attaching to the person in whose favour the Board's order is made for maintaining, flushing, cleansing or emptying the sewer or any part thereof.

(3) In executing any work under this section as little damage as possible shall be done, and the person in whose favour the Board's order is made shall—

- (a) cause the work to be executed with the least practicable delay ;

(b) fill in, reinstate, and make good at his own cost the land broken up, or repair and make good any damage to buildings occasioned by the execution of the said work; and

(c) pay compensation to any person who sustains damage by the execution of the said work.

(4) Every owner or occupier of any premises who refuses without reasonable cause, to permit, or prevents the execution of any work in accordance with the provisions of this section, shall be guilty of an offence and shall on conviction after trial before a Magistrate be liable to a fine not exceeding one hundred rupees; and every such owner or occupier who persists in such refusal or who continues to prevent the execution of such work after a conviction thereof shall be guilty of a continuing offence and shall, on conviction as aforesaid, be liable to a fine not exceeding twenty-five rupees for each day during which the offence is continued.

51. (1) Every sewer and every fixture or appliance connected therewith shall, from time to time, be repaired, flushed, cleansed, and cleared by the owner or occupier of the premises within which such sewer may be situated.

Maintenance and repair of sewer.

(2) The Board may, by notice in writing, served on the owner or occupier of such premises, require such owner or occupier within such time as may be specified in the notice, to repair, flush, cleanse or clear such sewer, fixture or appliance.

(3) The Board may, if the requirements of such notice are not complied with, or if the Board receives an application from the said owner or occupier so to do, or if the Board deems immediate action is necessary, repair, flush, cleanse, or clear such sewer, fixture, or appliance, and the expenses incurred thereby shall be paid by the said owner or occupier and, in case of default, shall be recoverable as a sewerage charge.

(4) The owner of any premises in which sewers, fixtures and appliances connected therewith are provided for the common use of the occupiers of such premises shall make

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such provision and take such measures as may be necessary for keeping such sewers, fixtures and appliances in a proper sanitary condition. Every such owner who, after due notice in writing in that behalf for the Board, fails to make such provision or to take such measures as the Board may think fit, shall be guilty of an offence and shall be liable on conviction after trial before a Magistrate to a fine not exceeding fifty rupees.

(5) Where any sewer, not being a sewer vested in the Board, or any fixture or appliance is provided for the benefit of more premises than one, the Board may, in pursuance of the provisions of this section, by notice in writing, require the owners or occupiers of such premises, within such time as may be specified in the notice, to execute all or any of the works aforesaid, and the Board may, either in default of compliance with the requirements of such notice, or without such notice if the Board deems necessary, execute all or any of such works and recover the expenses of so doing from the said owners or occupiers in such proportions as it may deem just.

(6) Every owner or occupier who fails or neglects to comply with the requirements of any notice served on him under subsection (2) or subsection (5) within the time specified in the notice shall be guilty of an offence shall be liable on conviction after trial before a Magistrate to a fine not exceeding fifty rupees.

the Board may, by notice in writing, served on the owner or occupier of such premises, require such owner or occupier, within such time as may be specified in the notice, to re-lay, reconstruct, make good, disconnect, or abolish such defective or improper sewers, connections, fixtures and appliances and provide sufficient suitable sewers, connections, fixtures and appliances in accordance with the provisions of this Law and any regulations made thereunder.

(2) Every owner or occupier who fails or neglects to comply with the requirements of any notice served on him under subsection (1) within the time specified in the notice shall be guilty of an offence and shall be liable on conviction after trial before a Magistrate to a fine not exceeding one hundred rupees.

(3) For the purpose of determining whether any such sewers, connections, fixtures or appliances are defective or injurious to health or improperly connected to any public or other sewer, the Board may order an inspection of the premises at any reasonable time and the inspecting officer may enter the premises at any reasonable time (after giving due notice to the occupier) and, if necessary for the purpose of such inspection, may cause the ground to be opened wherever he may deem fit doing as little damage as may be; and where such sewers, connections, fixtures or appliances are found to be in a satisfactory condition they shall forthwith be reinstated and the ground made good at the expense of the Board.

Reconstruction of defective sewers and appliances.

52. (1) Where, in the opinion of the Board—

- (a) any sewers or any fixtures and appliances connected therewith provided for the sewerage of any premises are defective or in a condition injurious to health;
- (b) any such sewers or appliances are improperly connected to any public or other sewer; or
- (c) any such sewers are not provided with proper and sufficient traps, gullies, ventilating shafts, inspection chambers, or other such appliances,

53. The Board may permit any sewer, manhole, inspection chamber, gully, ventilation shaft, or similar appliance required in pursuance of this Law for the sewerage of any premises to be constructed, laid or fixed over, through or under any street or public place ;

Sewers or appliances laid under streets.

Provided that such permission shall not be deemed to convey to the owner of such premises any special rights whatsoever over the said street or public place; and the Board may at any time alter or reconstruct any portion of such sewer or appliance as it may think necessary.

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Entry to premises.

54. (1) Any person authorized in that behalf by the Board may, after giving due notice to the occupier, enter any premises between the hours of eight in the morning and five in the evening for the purpose of inspecting, flushing, repairing or maintaining any sewer, manhole, inspection chamber, gully, ventilating shaft or other appliance connected therewith:

Provided that no such notice need be given in any case where an entry is made for the purpose of inspecting, flushing or maintaining any public sewer, or for the purpose of inspecting any sewer or other aforementioned appliance which the person authorized as aforesaid has reason to believe is a source of any nuisance.

(2) Every person who prevents or attempts to prevent a person authorized as aforesaid from entering any premises or refuses admittance thereto, shall be guilty of an offence and shall be liable on conviction after trial before a Magistrate to a fine not exceeding fifty rupees and every person who continues to prevent such entry or to persist in such refusal after a conviction thereof, shall be guilty of a continuing offence and shall on conviction as aforesaid be liable to a fine not exceeding twenty-five rupees for each day during which the offence is continued.

New sewers not to be used without permission.

55. (1) Every person who uses or causes or suffers to be used any new sewer, gully, bathroom, water-closet, privy, urinal or other sanitary appliance provided in pursuance of this Law without the written permission of the Board, or until the Board has given a certificate that such sewer, gully, bathroom, water-closet, privy, urinal, or other sanitary appliance conforms in all respects to the provisions of this Law and of any regulations made thereunder shall be guilty of an offence, and shall be liable on conviction after trial before a Magistrate to a fine not exceeding fifty rupees ; and every person who, after conviction thereof, uses or causes or suffers to be used any sanitary appliance aforesaid without obtaining such certificate or permission, shall be guilty of a continuing offence and shall on conviction as aforesaid be liable to a fine not exceeding twenty-five rupees for each day during which the offence is continued.

(2) Any person making such new provision may apply in writing to the Board for such certificate, and thereupon the Board, after such inquiry as it may consider necessary, shall, within fourteen days of the receipt of the application, either grant the certificate, or inform the applicant of its refusal to do so, and of the grounds for such refusal.

56. (1) No person shall discharge or cause or suffer to be discharged, without the sanction in writing of the Board, any sillage, foul liquids, or faecal matter into any drain or other place which is not suitable or intended to receive such discharge, or into any land or place in such manner as to cause a nuisance, or wilfully discharge or cause to be discharged any rain water into any sewer which is intended to carry foul water. Offences.

(2) No person shall discharge or cause or suffer to be discharged into any sewer any hot water, steam, or any liquid which would prejudicially affect the sewer or the flow or the treatment and disposal of sewage or water conveyed therein, or which would from its nature, temperature or otherwise be likely to create a nuisance.

(3) No person shall drop, pass or place, or cause or suffer to be dropped, passed or placed into or in any sewer any brick, stone, earth, ashes or any substance or matter which such sewer is not intended to receive, or which by reason of its amount or nature may be likely to cause such sewer or any other sewer connected therewith to be obstructed, or which may prejudicially affect any such sewer or the flow therein or may be likely to create a nuisance.

(4) Without the written permission of the Board, no person shall in any way alter the fixing, disposition, or position of, or obstruct, remove, stop up, or change any drain, ventilation pipe, closet, or other fitting or appliance connected therewith.

(5) No person shall erect, re-erect, or alter any building in such a manner as to cause any sewer, closet, or appliance provided in or for the benefit of such building or of any other building within the same premises to contravene the provisions of this Law or of any regulations made thereunder.

(6) Every person who contravenes any of the preceding provisions of this section shall be guilty of an offence and shall be liable on conviction after trial before a Magistrate to a fine not exceeding fifty rupees, and every person who continues such contravention after conviction thereof shall be guilty of a continuing offence and shall on conviction as aforesaid be liable to a fine not exceeding twenty-five rupees for each day during which the offence is continued.

PART III

TRANSFER TO THE BOARD OF ANY GOVERNMENT WATER SUPPLY AND SEWERAGE UNDERTAKINGS AND OTHER WATER AND SEWERAGE UNDERTAKINGS

57. (1) As soon as may be convenient after the coming into operation of this Law, the Minister shall by Order, transfer the undertakings of the Department of Water Supply and Drainage to the Board and may by the same or by a subsequent Order provide—

- (a) for the transfer to, and the vesting in, the Board of any movable or immovable property of the Republic required for the purposes of the Board;
- (b) for the transfer to the Board of all or any rights, obligations and liabilities relating to or connected with such undertakings and for the adaptation or modification of contracts or other instruments for the purpose of giving effect to the transfer of such rights, obligations and liabilities to the Board ;
- (c) for the adaptation or modification of any written law to such extent as may be necessary for the purpose of enabling the Board to carry on such undertakings in lieu of the Government;
- (d) for such financial adjustments between the Government and the Board as may be necessary in consequence of any such transfer; and

(e) for any other matter supplementary to or consequential on the matters aforesaid including the continuation of legal proceedings.

(2) The provisions of any Order made by the Minister under subsection (1) may be amended or varied by him, from time to time, by a subsequent Order.

(3) No Order shall be made by the Minister under subsection (1) or subsection (2)-

- (a) affecting any immovable property of the Republic without the concurrence of the Minister in charge of the subject of State Lands; or
- (b) affecting any matter referred to in paragraph (d) of subsection (1), without the prior concurrence of the Minister in charge of the subject of Finance.

(4) Every Order made by the Minister under this section shall be published in the Gazette and shall come into operation on the date of such publication, or on such later date as may be specified therein.

(5) Every such Order shall, on its coming into operation as hereinbefore provided, be as valid and effectual as if it were herein enacted.

58. (1) Subject to the provisions of subsection (2), the Board and any local authority may, of their own motion, jointly prepare a transfer scheme, hereafter in this Law referred to as a "voluntary transfer scheme", for the transfer to the Board of the water supply or sewerage undertaking carried on by such authority.

Voluntary transfer scheme.

(2) The Board shall refer for decision to the Minister any dispute between the Board and the local authority upon any matter or question in connexion with the preparation of a voluntary transfer scheme, and the decision of the Minister on such reference shall be final and conclusive and shall not be called in question in any court or tribunal.

Transfer to the Board of any Government water supply and sewerage undertakings.

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Compulsory transfer scheme.

59. The Board shall, whenever it is directed so to do by the Minister under section 60, prepare a transfer scheme, hereafter in this Law referred to as a "compulsory transfer scheme", for the compulsory transfer to the Board of the water supply or sewerage undertaking carried on by a local authority.

Direction for preparation of compulsory transfer scheme.

60. (1) Where, as respects the water supply and sewerage undertaking carried on by a local authority, the Minister is satisfied, after consultation with the Minister in charge of the subject of Local Government and after such inquiry as he may deem necessary, at which such local authority and the Board shall be given an opportunity of being heard,—

- (a) that such authority has been guilty of neglect, default, incompetence or mismanagement, in carrying on such undertaking; or
- (b) that such authority has defaulted in the payment of the charges for the supply of water services to the Board,

the Minister may, with the concurrence of the Minister in charge of the subject of Local Government, issue a written direction to the Board to prepare a compulsory transfer scheme for the transfer to the Board of such undertaking.

(2) Where, as respects the water supply and sewerage undertaking carried on by a local authority, the Minister deems it necessary in the national interest that such undertaking should be vested in the Board the Minister may, with the concurrence of the Minister in charge of the subject of Local Government, issue a written direction to the Board to prepare a compulsory transfer scheme for the transfer to the Board of such undertaking.

Contents of transfer scheme.

61. (1) A transfer scheme prepared under this Law in respect of the water supply or sewerage undertaking carried on by a local authority shall provide for the transfer to the Board of such undertaking, and may, subject to the provisions of subsection (2), also provide—

- (a) for the transfer to, and the vesting in, the Board of any movable or

immovable property of such authority used for the purposes of such undertaking;

- (b) for the transfer to the Board of all or any rights, obligations and liabilities of such authority, relating to or connected with such undertaking, and for the adaptation or modification of contracts or other instruments for the purpose of giving effect to the transfer of such rights, obligations and liabilities from such authority to the Board;

- (c) for the adaptation or modification of any written law to such extent as may be necessary for the purpose of enabling the Board to carry on such undertaking in lieu of such authority;

- (d) for such financial adjustments between such authority and the Board as may be necessary in consequence of any such transfer; and

- (e) for any other matter supplementary to, or consequential on, the matters aforesaid including the continuation of legal proceedings.

(2) A voluntary transfer scheme shall bear the seal of the Board and the local authority in token of its preparation by the Board and such authority.

(3) A compulsory transfer scheme shall bear the seal of the Board in token of its preparation by the Board.

(4) For the purpose of financial adjustments under paragraph (d) of subsection (1) the value of movable and immovable property taken over shall be the depreciated value of that part of the work or works financed by the local authority but shall exclude such works or parts of works carried out with grants or contributions from the Central Government.

62. (1) For the purposes of the preparation of a transfer scheme under this Law in respect of the water supply or

Powers of Board for the purposes of the preparation of a transfer scheme.

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sewerage undertaking carried on by a local authority, the Board may—

- (a) hold such inquiries and inspect such movable or immovable property of the local authority as the Board may consider necessary ; and
- (b) request such local authority, or any officer of such local authority, to furnish to the Board such particulars and other information as the Board may consider necessary relating to such undertaking and other matters for which provision is to be made in such scheme, and to produce for examination books or documents containing such particulars or information.

(2) It shall be the duty of a local authority or any officer of such local authority to comply with any request issued to such local authority or such officer, as the case may be, by the Board under subsection (1).

(3) Any officer of a local authority who without reasonable cause fails to comply with any direction issued to him under subsection (1), shall be guilty of an offence and shall, on conviction after trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year, or to a fine not exceeding one thousand rupees, or to both such imprisonment and fine.

63. (1) Upon the completion of the preparation of a voluntary transfer scheme by the Board and any local authority under this Law, the Board shall present such scheme to the Minister for his approval, and upon such presentation the Minister with the concurrence of the Minister in charge of the subject of Local Government shall either approve such scheme without modification, or approve such scheme with any such modifications as he may deem necessary.

(2) Upon the completion of the preparation of a compulsory transfer scheme by the Board under this Law, the Board shall present such scheme to the Minister for his approval, and upon such presentation the Minister with the

concurrence of the Minister in charge of the subject of Local Government shall either approve such scheme without modification, or approve such scheme with any such modifications as the Minister may deem necessary.

(3) In exercising his power of approval in respect of any transfer scheme under subsection (1) or subsection (2), the Minister shall have particular regard to the necessity of ensuring that the transfer scheme makes adequate provision in respect of the matters specified in section 61.

64. (1) Where a voluntary transfer scheme has been approved by the Minister under this Law, the Minister shall prepare and publish in the Gazette, an Order, in this Law referred to as a "voluntary transfer Order", embodying the provisions of such scheme and such other provisions as the Minister may deem necessary to give full force and effect to such scheme.

Orders to give effect to transfer scheme.

(2) Where a compulsory transfer scheme has been approved by the Minister under this Law, the Minister shall prepare and publish in the Gazette an Order, in this Law referred to as a "compulsory transfer Order", embodying the provisions of such scheme and such other provisions as the Minister may deem necessary to give full force and effect to such scheme.

(3) A voluntary transfer Order may, from time to time, be amended by the Minister with the concurrence of the Minister in charge of the subject of Local Government by Order published in the Gazette, in such manner and to such extent as he may deem necessary.

(4) A compulsory transfer Order may, from time to time, be amended by the Minister with the concurrence of the Minister in charge of the subject of Local Government by Order published in the Gazette.

(5) Every Order made by the Minister under this section shall be published in the Gazette and shall come into operation on the date of such publication, or on such later date as may be specified therein.

(6) Every Order made by the Minister under this section shall, as soon as

Presentation of scheme to Minister for approval.

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convenient after its publication in the Gazette, be brought before Parliament for approval. Any Order which is not so approved shall be deemed to be rescinded from the date of its disapproval, but without prejudice to anything previously done thereunder.

(7) Every such Order shall, on its coming into operation as hereinbefore provided, be as valid and effectual as if it were herein enacted.

65. Any dispute between the Board and any local authority upon any matter or question relating to, or connected with, the giving effect to, or the interpretation of, any provision of any voluntary transfer Order or compulsory transfer Order which has come into force, shall be referred to by the Board for decision to the Minister, and his decision on such reference shall be final and conclusive, and shall not be called in question in any court or tribunal.

66. (1) For the purpose of giving effect to any voluntary transfer Order or compulsory transfer Order which has come into force, any officer of the Board authorized in writing in that behalf by the Chairman of the Board may, subject to the provisions of subsection (2), take possession of any property transferred to and vested in the Board by such Order.

(2) The officer referred to in subsection (1) shall, by notice in writing—

- (a) inform the local authority that such officer intends to take possession of such property for and on behalf of the Board on such date and at such time and place as shall be specified in the notice ; and
- (b) require an authorized agent of the local authority to be present on the date and at the time and place so specified and to assist such officer to take possession of such property.

(3) After any property has been taken possession of by an officer of the Board under subsection (1), such officer shall send a certificate to the local authority to the

effect that he has taken possession of such property.

(4) The notice required to be given under subsection (2) shall be deemed to be given if it is sent by registered post to the local authority,

(5) Any person who fails, without reasonable cause, to comply with any requirement of a notice given under subsection (2), shall be guilty of an offence and shall, on conviction after trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year, or to a fine not exceeding one thousand rupees, or to both such imprisonment and fine.

67. (1) Every person who prevents or obstructs any officer of the Board from taking possession of any property for and on behalf of the Board under section 66 shall be guilty of an offence and shall, on conviction after trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year, or to a fine not exceeding one thousand rupees, or to both such imprisonment and fine.

(2) Where any officer of the Board authorized under section 66 to take possession of any property for and on behalf of the Board, is unable or apprehends that he will be unable to take possession of such property because of any obstruction or resistance that has been or is likely to be offered, he shall, on making an application in that behalf to the Magistrate's Court having Jurisdiction over the place where the property is kept or situated, be entitled to an order of the Court directing the Fiscal to deliver possession of that property to him for and on behalf of the Board.

(3) Where an order under subsection (2) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute that order and shall in writing report to the Court the manner in which that order was executed.

(4) For the purpose of executing an order issued by a Magistrate's Court under subsection (2), the Fiscal or any person acting under his direction may use such force as may be necessary to enter any place

Reference of certain disputes to Minister.

Procedure for taking possession of property for and on behalf of Board.

Prevention of, or obstruction to, taking possession of property for and on behalf of Board.

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where any movable property to which the order relates is kept and seize such movable property, or to enter any land, building or other structure to which that order relates and to eject any person in occupation thereof, and to deliver possession of such movable property, land, building or other structure to the person who is authorized to take possession thereof for and on behalf of the Board.

PART IV

STAFF OF THE BOARD

General Manager of the Board, his powers and duties and their delegation.

68. (1) The Board shall, with the approval of the Minister, appoint a competent and experienced person as General Manager of the Board.

(2) The General Manager shall, subject to the general direction of the Board on matters of policy, be charged with the direction of the business of the Board, the organization and execution of the powers, functions and duties of the Board, and the administrative control of the employees of the Board.

(3) The General Manager may, with the approval of the Board, delegate to any other employee of the Board such of his powers, functions or duties as he may, from time to time, consider necessary, and any employee to whom any such powers, functions or duties are so delegated shall exercise them subject to the general or special directions of the General Manager.

(4) The General Manager may not be removed from office except for good and sufficient cause and without the prior approval of the Minister.

Appointments to the staff of the Board.

69. Subject to the provisions of section 68, the Board may appoint to its staff such officers and servants as the Board may deem necessary, and determine their terms of remuneration and other conditions of employment.

Retirement of public officers of the Department and their employment by the Board.

70. Upon the transfer on any date (hereinafter in this part referred to as the "transfer date") of the Department of Water Supply and Drainage to the Board under section 57, the following provisions

shall have effect, except in relation to officers in a transferable service of the Government:—

(1) Every pensionable public officer of the Department shall be offered the option of either retiring from service, or of being employed under the Board.

(2) Where any such officer exercises the option to retire, the post held by such officer on the transfer date shall be deemed to be abolished, and he shall be eligible for an award under the Minutes on Pensions on the ground of abolition of office on the transfer date.

(3) Where any such officer opts to be employed under the Board, the Board shall employ such officer on such terms and conditions as may be agreed upon by such officer and the Board, and—

(a) where such officer has on the transfer date, not less than ten years' pensionable service, or less than eight years' pensionable service, the provisions of paragraphs (a) and (b) of subsection (3) of section 9 of the Motor Transport Act, No. 48 of 1957.* shall apply, *mutatis mutandis*, to such officer ; and

(b) where such officer has less than ten, and not less than eight, years' pensionable service,

(i) the service of such officer under the Board for such period (hereinafter referred to as the "relevant period"), as when added to the period of his pensionable service under the Government makes an aggregate of ten years' service, shall be counted as pensionable service of such officer under the Government•

* Repealed by Law No. 19 of 1978.

(ii) the Board shall during the relevant period pay every month out of the funds of the Board, to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund, twenty-five *per centum* of the salary payable to such officer in the post held by him in the Department on the transfer date;

(iii) such officer shall be deemed during the relevant period to have earned his increments, if any, in the post held by him in the Department on the transfer date, provided his service under the Board has been satisfactory; and

(iv) at the end of the relevant period, the provisions of paragraphs (a) and (b) of subsection (3) of section 9 of the Motor Transport Act, No. 48 of 1957,* shall apply, *mutatis mutandis*, to such officer.

(4) The post of every public officer of the Department who is a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance shall be deemed to be abolished and such officer shall, for the purposes of that Ordinance, be deemed to have left the service of the Government upon the determination of contract with the consent of the Government otherwise than by dismissal.

(5) Notwithstanding anything to the contrary in any other written law, where any public officer referred to in subsection (4) is employed by the

Board after the transfer date, and such officer is eligible for the receipt of any sum of money under the Public Service Provident Fund Ordinance, such sum shall not be paid to him but shall be credited to his account in a provident fund of the Board established under section 17 (h).

71. Where the water supply or sewerage undertakings carried on by a local authority are transferred to the Board under this Law, the provisions of section 70 shall, *mutatis mutandis*, apply to and in relation to all officers and servants of the local authority, including members of the Local Government Service, subject to such modifications, alterations or additions as may be prescribed by regulations made in that behalf by the Minister in consultation with the Minister in charge of the subject of Local Government.

Employment of personnel in case of transfer of water supply and sewerage undertakings of a local authority to the Board.

72. (1) At the request of the Board, any public officer, other than an officer referred to in section 70 may, with the consent of that officer and of the Secretary to the Ministry charged with the subject of Public Administration, be temporarily appointed to the staff of the Board for such period as may be determined by the Board with like consent, or be permanently appointed to such staff.

Appointment of public officers and servants of local authorities other than those referred to in sections 70 and 71 to the staff of the Board.

(2) Where any public officer is temporarily appointed to the staff of the Board under subsection (1), the provisions of subsection (2) of section 9 of the Motor Transport Act, No. 48 of 1957.* shall, *mutatis mutandis*, apply to and in relation to him.

(3) Where any public officer is permanently appointed to the staff of the Board under subsection (1), the provisions of subsection (3) of section 9 of the Motor Transport Act, No. 48 of 1957,* shall, *mutatis mutandis*, apply to and in relation to him.

* Repealed by Law No. 19 of 1978.

(4) At the request of the Board, any officer or servant of any local authority (whether he be a member of the Local Government Service or not), other than an officer or servant referred to in section 71 may, with the consent of such officer or servant and the local authority or the Local Government Service Advisory Board, as the case may be, be temporarily appointed to the staff of the Board for such period as may be determined by the Board with like consent, or be permanently appointed to such staff, on such terms and conditions including those relating to pension or provident fund rights as may be agreed upon by the Board and that Advisory Board or authority.

(5) Where an officer or servant of any local authority, whether he be a member of the Local Government Service or not, is temporarily appointed to the staff of the Board under subsection (4), he shall be subject to the same disciplinary control as any other member of the staff of the Board.

73* Where any person has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Board by that person shall be regarded as service to the Government for the purposes of discharging the obligations of such contract.

74. Notwithstanding anything to the contrary in any other law, where any person who is already in receipt of a pension from the Government or from any local authority is employed by the Board he shall not be paid such pension during the period of his employment by the Board.

75. For the purposes of this Part—

"pensionable public officer" means a public officer who—

(a) holds a post declared to be a pensionable post under section 2 of the Minutes on Pensions; and

(b) who does not belong to a transferable service of the Government;

"pensionable service" means service under the Government which is reckonable for pension under the Minutes on Pensions.

76. All members of the staff of the Board shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Members of the staff of the Board deemed to be public servants.

PART V

FINANCE AND AUDIT

77. The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control and accounts of the Board.

Application of the provisions of the Public Corporations (Financial Control) Act.

78. The financial year of the Board shall be the calendar year.

Financial year.

79. (1) The initial capital of the Board shall be such sum as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance, and such capital shall consist of—

Capital of the Board.

(a) grants made by the Government;

(b) the value of any such net assets as may be transferred to the Board by any Government department, public corporation or local authority by an order, or with the consent, of the Minister in charge of that department or corporation or, in the case of a local authority, the Minister in charge of the subject of Local Government; and

(c) loans given or made available by the Government on such terms and conditions as may be determined by the Minister in charge of the subject of Finance.

(2) The initial capital of the Board shall be paid or made available to the Board in such manner as may be determined by the Minister in charge of the subject of Finance.

(3) The capital of the Board may be increased, from time to time, by the value of the net assets transferred to the Board as provided by paragraph (b) of subsection (1)

Service to the Board to be regarded as service to the Government for the purposes of contracts to serve the Government.

Employment by Board of persons already in receipt of pensions.

Interpretation.

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and by such amounts as may be authorized by any Appropriation Act or by any resolution of Parliament, and such amounts shall be paid or made available to the Board in cash or kind by the Government by way of grant or loan on such terms and conditions, as may be determined by the Minister in charge of the subject of Finance.

Sri Lanka Water Supply and Sewerage Stock.

80. (1) The Board may borrow for its purposes by the issue of any stock, and the stock so issued is in this Law referred to as "Sri Lanka Water Supply and Sewerage Stock".

(2) Sri Lanka Water Supply and Sewerage Stock shall be issued, transferred, dealt with, redeemed and cancelled in accordance with such terms as may be determined by the Board with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance.

Government guarantee.

81. (1) The Minister in charge of the subject of Finance may, with the concurrence of the Minister, guarantee the repayment of, and the payment of the interest on, any Sri Lanka Water Supply and Sewerage Stock issued under section 80, or any other loan from any organization or institution in or outside Sri Lanka.

(2) Any sum required for the fulfilment of a guarantee provided under subsection (1) may, with the prior approval of Parliament, be paid out of the Consolidated Fund.

(3) Any sum paid out of the Consolidated Fund in fulfilment of a guarantee provided under subsection (1) shall be repaid, together with interest thereon at such rate as the Minister in charge of the subject of Finance may determine with the concurrence of the Minister, by the Board in such manner and over such period as the Minister in charge of the subject of Finance may with such concurrence determine.

Minister in charge of Finance to inform Parliament about guarantee.

82. (1) Immediately after a guarantee is provided under section 81, the Minister in charge of the subject of Finance shall lay or cause to be laid a statement of the guarantee before Parliament.

(2) Where any sum is paid under section 81 out of the Consolidated Fund in

fulfilment of any guarantee provided under that section, the Minister in charge of the subject of Finance shall forthwith lay or cause to be laid before Parliament a statement that such sum has been paid.

83. (1) The Board may establish and maintain— Reserve funds.

(a) an insurance fund to cover the insurance of movable and immovable property of the Board and to meet third-party risks and liabilities arising under the Workmen's Compensation Ordinance;

(b) a general reserve fund for the purpose of financing capital works from revenue moneys, ensuring the financial stability of the Board, and for such other purposes as the Board may, from time to time, determine;

(c) any other reserve fund that the Board, with the approval of the Minister, may consider necessary.

(2) The sums to be carried, from time to time, to the credit of each or any of the funds specified in subsection (1) shall be such sums as may be determined by the Board.

PART VI

RATES AND CHARGES

84. (1) Subject to the provisions of this Law, the rates and charges to be levied by the Board for the supply of water and sewerage services in any area of authority of the Board shall be in accordance with such rates and charges as may be fixed, from time to time, by the Board, with the approval of the Minister who shall consult, before giving his approval, the Minister in charge of the subject of Finance, and any other Minister he considers necessary.

Board to fix rates and charges.

(2) The Board shall enter into an agreement with any local authority in respect of the rates payable by hereditaments (whether supplied with water or not) which are within six hundred feet of

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the water distribution system. Such rate shall be known as the water rate and shall be payable to the Board by the local authority.

(3) The Board shall enter into an agreement with any local authority in respect of the rate payable by hereditaments which are connected to the sewerage system or which are within three hundred feet of such system. Such rate shall be known as the sewerage rate and shall be payable to the Board by the local authority.

(4) In the event of disagreement between the Board and any local authority as to the amount of any rate payable under subsection (2) or subsection (3), the matter shall be determined by the Minister.

(5) Nothing in the preceding provisions of this section shall preclude the Board from charging special prices by agreement with any person or body.

(6) The Board shall be entitled to require that the supply of water to any premises shall be by meter, and the provisions of subsection (1) shall include charges for supply of water by meter.

(7) The rates and charges fixed by the Board under subsection (1) shall be so fixed as not to restrict the preparation of bills on a monthly, quarterly or half-yearly basis, and—

- (a) shall be published in the Gazette and in such other manner as may appear to the Board best calculated to give publicity to such rates and charges;
- (b) shall come into force on the date of their publication in the Gazette, or on such later date as may be specified therein; and
- (c) may include rent and other charges in respect of fittings provided by the Board.

85. The rates and charges fixed by the Board under section 84 may provide for the charging of different prices for water services supplied for different purposes.

86. If any question arises as to whether or not any rate or charge is applicable in any case, or as to which rate or charge is so applicable, the Board shall determine that question, and such determination shall be final and conclusive, and shall not be called in question in any court or tribunal.

Board to determine charges in cases of doubt.

(87) (1) In this section, the expression—

Recovery of water supply charge and sewerage charge.

(a) "water supply charge" means the sum payable to the Board for water supplied by the Board to any person, including a local authority;

(b) "sewerage charge" means the sum payable to the Board by any person whose property is connected to the sewerage system.

(2) (a) The water supply charge or sewerage charge payable by any person in respect of any month shall be paid by such person—

(i) within thirty days from the date of the receipt by such person of a demand relating to such charge from the Board, or

(ii) where such person, upon receipt of such demand, disputes the amount of such charge under subsection (3), within fifteen days from the date of the final determination of the amount of such charge under subsection (5).

(b) A demand relating to the water supply or sewerage charge sent by the Board to a person shall be despatched by registered post and shall be deemed to have been received by such person on the day on which that demand would have been delivered in the ordinary course of post.

(3) Where a person receives a demand from the Board for the payment of the water supply charge or sewerage charge of such person in respect of any period, such person may, within a period of twenty-one days from the date of receipt by such person of such demand, dispute the amount of such charge by a written communication to that effect to the Board. Such communication shall specify the amount so disputed and the reason therefor.

Power to fix different charges.

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(4) No person shall be entitled to dispute the amount of the water supply charge or sewerage charge of such person in respect of any period except under and in accordance with the provisions of subsection (3).

(5) Where the amount of the water supply charge or sewerage charge of any person in respect of any period is disputed by such person, that amount—

(a) shall be finally decided by agreement between the Board and such person; or

(b) in the absence of such agreement within a period of thirty days from the date of the receipt by the Board of a communication as to such dispute from such person under subsection (3), shall be finally determined by the Board in its absolute discretion and the determination of the Board shall be final and conclusive, and shall not be called in question in any court or tribunal.

(6) Where the water supply charge or sewerage charge payable by a person in respect of any period is not paid by such person to the Board within the period it is so required to be paid under subsection (2), the General Manager of the Board shall certify in writing the amount which is due from such person on account of such charges.

(7) Upon the production of a certificate issued by the General Manager of the Board under subsection (6) before any District Court or Primary Court within whose jurisdiction the whole or any part of the area within the administrative limits of the local authority in respect of which such certificate is issued is situated, according as the sum specified in such certificate exceeds or does not exceed one thousand five hundred rupees, the Court shall direct a writ of execution to issue to the Fiscal authorizing and requiring him to seize and sell all or any of the property movable or immovable of such person or such part thereof as may be necessary for the recovery of that sum, and the provisions of sections 225 to 297 of the Civil Procedure

Code shall, *mutatis mutandis*, apply to the execution of such writ and to such seizure and sale.

(8) Where the General Manager of the Board issues a certificate referred to in subsection (6), he shall in writing notify the person specified in the certificate that the sum so specified is payable, but the non-receipt of such notice by such person shall not invalidate the proceedings under this section.

(9) Nothing in the provisions of subsections (7) and (8) shall affect or be deemed or construed to affect the right of the Board to recover in any other manner any sum payable to the Board by a person on account of the water supply or sewerage charge payable by such person.

88. (1) Where the water supply charge or sewerage charge payable by a person in respect of any period is not paid by such person to the Board within the period it is so required to be paid under subsection (2) of section 87, the General Manager of the Board, or any other person authorized by him in that behalf, may after giving such person not less than forty-eight hours' notice in writing, cut off the water service supplied to such person, and for that purpose cut or disconnect any waterworks, being the property of the Board, through which such service may be supplied, and may discontinue such service until such charge, together with the amount of any expenses which have been incurred by the Board in cutting off the service, and may be incurred by the Board in re-connecting such service, is paid.

Discontinuance of supply to consumer neglecting to pay charges.

(2) The General Manager of the Board, or any other person authorized by him in that behalf, may, at any reasonable time, enter any premises to which water or sewerage services have been supplied by the Board for the purpose of—

(a) removing or disconnecting, where the Board is authorized to cut off such service, any waterworks belonging to the Board; or

(b) replacing or re-connecting, where such services are to be renewed, any waterworks belonging to the Board.

(3) Where a person refuses to allow the General Manager of the Board, or any other person authorized by him in that behalf, to enter his premises in pursuance of the provisions of subsection (2), or fails to give reasonable facilities for such entry, such General Manager or person so authorized may, after the expiry of a period of twenty-four hours from the service of a notice in writing on that person, cut off such services to that person or withhold the replacement or re-connection of such services, as the case may be, for so long as such refusal or failure continues.

PART VII

GENERAL

89. Notwithstanding anything in any other written law, the rates and charges payable by a local authority—

- (a) shall be a first charge on the moneys in the fund of that authority ; and
- (b) may, under the authority of the Minister in charge of the subject of Finance given after consultation with the Minister and the Minister in charge of the subject of Local Government, be deducted from any grant payable by the Government to such authority, and the amount so deducted may be paid to the Board.

90. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law,

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of all or any of the following matters:—

- (a) any matter required by this Law to be prescribed or in respect of which regulations are authorized by this Law to be made ;
- (b) the licensing of plumbers and the control of plumbing and plumbing fixtures;

- (c) the preservation and maintenance of the waterworks of the Board ;
- (d) the control of the use of water supplied from the said waterworks ;
- (e) the prevention of the waste, misuse, undue consumption, or contamination of the water supplied for public or private use;
- (f) the size, nature, strength, and materials, and the mode of arrangement, position, alteration, removal, renewal and repair of the apparatus and receptacles to be used for the purpose of the waterworks of the Board ;
- (g) the control of the public supply of water by stand-pipes, and the use of such water;
- (h) the control of the supply of water and the provision of sewerage by private services, and the materials and fittings to be used for the purpose;
- (i) the times and conditions subject to which water services will be supplied for other than domestic purposes or to a house by a private service, and the price to be paid for such services;
- (j) the recovery of charges due in respect of water services; and
- (k) the control of the discharge of wastes to the sewerage system.

(3) Every regulation made by the Minister shall be published in the Gazette, and shall come into operation on the date of such publication, or on such later date as may be specified therein.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to the validity of anything previously done thereunder.

Special provision relating to rates and charges payable by local authority.

Regulations.

Penalty for contravention of regulation.

91. Any person who contravenes the provisions of any regulation made under this Law shall be guilty of an offence and shall, on conviction after trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year or to a fine not exceeding one thousand rupees, or to both such imprisonment and fine.

Board, and any costs paid to, or recovered by, the Board in any such suit or prosecution shall be credited to the funds of the Board.

Acquisition of immovable property under the Land Acquisition Act for the Board.

92. (1) Where any immovable property is required to be acquired for any purpose of the Board and the Minister, by Order published in the Gazette, approves of the proposed acquisition, that property shall be deemed to be required for a public purpose and may accordingly be acquired under the Land Acquisition Act and be transferred to the Board.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Law or on the direction of the Board shall, if the court holds that such act was done in good faith, be paid out of the funds of the Board, unless such expense is recovered by him in such suit or prosecution.

(2) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act for the Board, shall be paid by the Board.

95. No writ against person or property shall be issued against a member of the Board in any action brought against the Board.

No writ to issue against person or property of member of the Board.

Power of companies, &c., to enter into contracts with the Board.

93. Any company, local authority or other body of persons may, notwithstanding anything to the contrary in any written law or instrument relating to its function, enter into and perform or carry out all such contracts and agreements with the Board as may be necessary for the performance of the duties and the exercise of the powers of the Board.

96. Where any immovable property of the Republic is required for the purpose of the Board, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the State Lands Ordinance and accordingly, the provisions of that Ordinance shall apply to a special grant or lease of such property to the Board.

Special grant or lease of property belonging to the Republic to Board.

Protection for action taken under this Law or on the direction of the Board.

94. (1) No suit or prosecution shall lie—

- (a) against the Board for any act which in good faith is done or is purported to be done by the Board under this Law; or
- (b) against any member, officer, servant or agent of the Board for any act which in good faith is done or is purported to be done by him under this Law or on the direction of the Board.

97. (1) Any person who, unlawfully and maliciously, does any act when causes or is likely to cause a failure of any water or sewerage service supplied by the Board, shall be guilty of an offence.

Penalty for causing failure of water services of the Board.

(2) Any person who aids or abets any other person in the commission of an offence under subsection (1), shall be guilty of an offence.

(3) Every person who is guilty of an offence under subsection (1) or subsection (2), shall upon conviction after trial before a Magistrate be liable to rigorous imprisonment for a term not exceeding seven years.

(2) Any expense incurred by the Board in any suit or prosecution brought by or against the Board before any court shall be paid out of the funds of the

(4) Every offence under subsection (1) or subsection (2) shall, notwithstanding anything in the Code of Criminal Procedure Act, be an offence in respect of which a

NATIONAL WATER SUPPLY AND DRAINAGE BOARD [Cap.541]

person may be arrested without a warrant within the meaning and for the purposes of that Act.

Power of Board to make rules under this Law.

98. The Board may, with the approval of the Minister, make rules in respect of all matters for which rules are required or authorized to be made under this Law.

This Law to prevail over other written law.

99. In the event of any conflict or inconsistency between the provisions of this Law and the provisions of any other written law, the provisions of this Law shall to the extent of such conflict or inconsistency prevail over the provisions of such other written law.

Interpretation.

100. In this Law, unless the context otherwise requires—

" appointed date " means the 1st day of November, 1974;

" area of authority " means any area in Sri Lanka declared to be an area of authority of the Board by Order published by the Minister under section 15 and which is for the time being in force;

" local authority " includes any Municipal Council, Urban Council, Town Council or Village Council;

" Local Government Service Advisory Board " has the same meaning as in the Local Government Service Law";

" public corporation " means any corporation, board or other body which was or is established by or under any written law, other than the Companies Ordinance,* with capital wholly or partly provided by the Government by way of grant, loan or other form;

" sewerage works " includes sewers, appurtenances and all works pertaining thereto used for the waste water drainage of buildings, and all sewage disposal works but does not include surface or storm water drains, channels or sewers used for the drainage of buildings within the same curtilage ;

" waterworks " includes all supply and treatment works as well as transmission mains, distribution mains and all works pertaining thereto used for the protection and supply of potable water.

* Repealed and replaced by the Companies Act, No. 17 of 1982.

CHAPTER 400

NUGEGODA YOUNG MEN'S BUDDHIST ASSOCIATION

Ordinance AN ORDINANCE TO INCORPORATE THE NUGEGODA YOUNG MEN'S BUDDHIST
No. 54 of 1947. ASSOCIATION.

[2nd July. 1947]

| | | |
|---|--|---|
| Short title. | 1. This Ordinance may be cited as the Nugegoda Young Men's Buddhist Association Ordinance. | secretaries, honorary treasurer, honorary assistant treasurer, and business manager of the corporation, and not less than twenty other members elected in accordance with the rules for the time being of the corporation. |
| Incorporation of the Nugegoda Young Men's Buddhist Association. | 2. From and after the passing of this Ordinance such and so many persons as now are members of the Nugegoda Young Men's Buddhist Association, or shall hereafter be admitted members of the corporation hereby constituted, shall be and become a corporation with continuance for ever under the style and name of "The Nugegoda Young Men's Buddhist Association", and by that name shall and may sue and be sued in all courts, with full power and authority to have and use a common seal and alter the same at their pleasure. | (2) All members of the corporation shall be subject to the rules in force for the time being of the corporation. (3) The first committee of management shall consist of:— |
| General objects of the corporation. | 3. The general objects for which the corporation is constituted are hereby declared to be— (a) the study and propagation of Buddhism, (b) the encouragement of the practical observance of Buddhism, (c) the promotion of co-operation and unity among members, (d) the advancement of the physical, intellectual, and social welfare of the members, and (e) the performance of social welfare work. | President Vice-Presidents H. Leelananda Caldrea V. de S. Rajakaruna Muhandiram A. M. Dias Amaratunge W. L. Gunawardena O. D. Pcrera D.W. Rupasinghe Honorary Joint Secretaries W. D. Piyascna Perera M. L. A. Perera W. A. Perera Honorary Treasurer Honorary Assistant Treasurer Business Manager L. H. A. Perera K. A. Mihindukulasuriya W. H. Edirisinghe D. C. Jayakody A. P. Gunaratnc M. A. William Silva P. M. Dabare R. A. Gunatilake P. M. Karunaratnc K. A. C. Mihindukulasuriya Martin Madurapperuma S. M. V. Perera L. A. V. Perera D. T. Tillakaratne D. N. W. Dias K. Herbert de Silva M.D. G. Basnayack B. P. Jayawardena C. E. Perera U. L. P. Somakirti D. C. Kuragama G. D. William Asoka Peiris. |
| Committee of management. | 4. (1) The affairs of the corporation shall, subject to the rules in force for the time being of the corporation, be administered by a committee of management consisting of the president, five vice-presidents, two honorary joint | |

Power to make rules.

5. It shall be lawful for the corporation from time to time at any general meeting of the members, and by a majority of votes to make rules for the admission, withdrawal or expulsion of members; for the conduct of the duties of the committee of management and of the various officers, agents, and servants of the corporation; for the procedure in the transaction of business; and otherwise generally for the management of the affairs of the corporation and the accomplishment of its objects. Subject to the provisions of section 7, such rules when made may, at a like meeting, be altered, added to, amended or repealed.

8. All debts and liabilities of the said Nugegoda Young Men's Buddhist Association existing at the time of the coming into operation of this Ordinance shall be paid by the corporation hereby constituted, and all debts due to and subscriptions and contributions payable to the said Nugegoda Young Men's Buddhist Association shall be paid to the said corporation for the purposes of this Ordinance.

Debts due by and payable to the association.

Rules in the Schedule* to be the rules of the corporation.

6. Subject to the provisions of section 5, the rules set out in the Schedule* to this Ordinance shall for all purposes be the rules of the corporation:

9. The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of two of the members of the committee of management, who shall sign their names to the instrument in token of their presence; and the signing of such members shall be independent of the signing of any person as a witness.

How the seal of the corporation is to be affixed.

Provided, however, that nothing in this section contained shall be deemed or construed to prevent the corporation from making fresh rules, or from altering, amending, adding to, or repealing any of the rules in such Schedule* or hereafter made by the corporation.

10. The corporation may take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition, or otherwise, and all such property shall be held by the corporation for the purposes of this Ordinance and subject to the rules for the time being of the corporation, with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

Corporation may hold property, movable and immovable.

Procedure for amendment of rules.

7. No rule in the Schedule* to this Ordinance, nor any rule hereafter passed at a general meeting, shall be altered, added to, amended, or repealed, except with the prior approval of the committee of management and by a vote of two-thirds of the members present at a general meeting of the corporation.

11. Nothing in this Ordinance contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Ordinance and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

• Schedule omitted. — Private enactment.

CHAPTER 11

NATIONAL YOUTH SERVICES

Act
No.69 of 1979.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND REGULATION OF A NATIONAL YOUTH SERVICES COUNCIL AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1st January, 1980.]

Short title.

1. This Act may be cited as the National Youth Services Act.

Establishment of National Youth Services Council.

2. There shall be established a Council called the National Youth Services Council (hereinafter referred to as " the Council ") consisting of the persons who are for the time being members of the Council under section 8.

Council to be a body corporate.

3. The Council shall be a body corporate with perpetual, succession and a common seal and may sue and be sued in its corporate name.

Objects of the Council.

4. The objects for which the Council is established are hereby declared to be, to promote the interests of the youth of Sri Lanka so as to ensure their full development, and in particular-

- (a) to foster among youth a spirit of national consciousness, a sense of discipline, an awareness of social and economic problems and a sense of dignity of labour;
- (b) to enlist the participation of youth in national development schemes;
- (c) to promote goodwill and mutual understanding between youth in Sri Lanka and in other countries ;
- (d) to encourage competition and a sense of achievement among youth ;
- (e) to widen the knowledge of youth and to give training in fields relevant to development;
- (f) to encourage cultural, literary and artistic activities among youth ;
- (g) to encourage the development of physical culture and sports among youths;
- (h) to provide recreational and entertainment facilities for youth ;
- (i) to assist youth who are handicapped ;

(j) to provide regular employment opportunities for youth by constructively investing funds on a long term policy basis with an aim to strengthen the economic fabric of the State;

(k) to provide opportunities for the participation of youth in the formulation and implementation of policy;

(l) to establish youth organizations and to assist organizations already established for youth welfare;

(m) to plan, co-ordinate, promote and direct the expansion of youth services; and

(n) to develop the inherent characteristics of the individual youth.

5. (1) The Council shall have the power to acquire, hold, take or give on hire or lease, and to pledge or sell or otherwise dispose of, any immovable or movable property : Powers of the Council.

Provided, however, that no immovable property of the Council shall be sold without the prior approval in writing of the Minister.

(2) The Council shall have the power -

(a) with the prior approval in writing of the Minister, to engage in any agricultural, industrial, commercial, social or public utility enterprises connected with or incidental to any of the objects of the Council;

(b) to charge fees for services rendered or provided by the Council;

(c) to establish and register youth organizations, and give advice, provide technical knowledge and grant financial assistance to such organizations;

- (d) to foster co-operation with similar youth organizations in other countries with a view to promoting mutual understanding between the youth in Sri Lanka and abroad ;
- (e) to obtain membership in relevant international youth organizations with the prior approval of the Minister;
- (f) to sponsor and hold conferences and seminars on matters of interest to the youth of Sri Lanka with the assistance of national or international organizations where necessary;
- (g) to train and educate youth for creative participation in national development and related activities; and
- (h) to do all such other things which in the opinion of the Council are necessary to facilitate the proper carrying out of its objects

(3) The Council may accept grants or donations, whether of immovable or movable property, from persons or bodies of persons in or outside Sri Lanka.

Council to be subject to the directions of the Minister.

6. The Council shall be subject to the direction and control of the Minister.

Power of delegation.

7. The Council may delegate-

- (a) to the Director-General; or
- (b) on the recommendation of the Director-General, to any member or officer of the Council,

any such function of the Council as the Council may consider necessary so to delegate for the efficient transaction of its business.

Constitution of the Council,

8. (1) the Council shall consist of the following members to be appointed by the Minister-

- (a) a Director-General of Youth Services (in this Act referred to as " Director-General ") who shall be the Chairman of the Council .

- (b) a prescribed number of official members representing Ministries and Government Departments which, in the opinion of the Minister, are concerned with or relevant to youth activities ; and

- (c) a prescribed number of other members,

so however that the number of official members does not exceed the number of other members referred to in paragraph (c).

(2) A person shall be disqualified from being appointed or being a member of the Council if he is a Member of Parliament.

9. (1) A member of the Council shall, unless he earlier vacates office by death or as hereinafter provided, hold office as such member for a period of three years.

Term of office of member.

(2) Any member who vacates office, other than by reason of his removal from office under section 10 (1) (a), shall be eligible for reappointment.

10. (1) A member of the Council shall vacate office as such member -

Vacation of office.

- (a) if his membership is terminated by the Minister; or

- (b). if he resigns his office by letter in writing addressed to the Minister.

(2) In the event of the vacation of office by a member of the Council or his removal from office under the provisions of the preceding subsection, the Minister may appoint another person to hold such office during the unexpired period of the term of office of the member whom he succeeds.

(3) If any member, of the Council is temporarily unable to discharge the duties of his office due to ill health or absence from Sri Lanka or for any other cause the Minister may nominate some other person to act in the place of such member.

11. No writ against person or property shall be issued against a member of the Council in any action brought against the Council.

No writ to issue against person or property of a member of the Council.

Reimbursement of expenses incurred in any suit or prosecution.

12. (1) Any expenses incurred by the Council in any suit or prosecution brought by or against the Council before any court or tribunal shall be paid out of the fund of the Council, and any costs paid to or recovered by the Council in any such suit or prosecution shall be credited to that fund.

(2) Any expenses incurred by any member of the Council or staff thereof in any suit or prosecution brought against him before any court or tribunal in respect of any act which is done or purported to be done by him under this Act or any regulation made thereunder, or on the direction of the Council, shall, if the court holds that the act was done in good faith, be paid out of the fund of the Council, unless such expenses are recovered by him in such suit or prosecution.

Remuneration of members.

13. (1) The members of the Council may be paid such remuneration as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(2) The person holding the office of Director-General may be paid such remuneration and allowances as the Minister may with the concurrence of the Minister in charge of the subject of Finance determine.

Signing of instruments on behalf of the Council.

14. All instruments which are required to be signed by or on behalf of the Council shall be signed by such person or persons as may be authorized in writing by the Council on that behalf.

Meetings of the Council,

15. (1) Subject to the provisions of subsection (2) the holding of, the quorum for, and the procedure for the transaction of business at, meetings of the Council, shall be determined by the Council.

(2) Any question arising at any meeting of the Council shall be determined by a majority of the members present and in the case of an equality of votes, the Chairman shall have a second or casting vote.

Powers, duties and functions of the Director-General.

16. The Director-General shall be the chief executive officer of the Council and his powers, duties and functions shall include the following :-

(a) execution of all policies and measures approved by the Council;

(b) subject to the general direction of the Council, the administration of the affairs of the Council and the control of the staff of the Council;

(c) the preparation of the agenda for meetings of the Council and the submission for the consideration of the Council of policies and measures considered by him to be necessary for the purpose of carrying out the principles and provisions of this Act; and

(d) the exercise or performance of such other powers or duties as may be conferred or imposed upon him by the Council.

17. (1) The Council may appoint Panels each consisting of a Chairman and such number of members as may be determined by the Council, for the purpose of advising and assisting the Council on the general promotion of any particular activity or activities connected with or incidental to the carrying out of the objects of the Council.

Appointment of panels.

(2) Any person, whether or not he is a member of the Council, shall be eligible for appointment to any Panel constituted under subsection (1),

(3) The Council shall have the power to revoke the appointment of any Panel or any member for a Panel appointed under subsection (1).

18. All acts done at any meeting of the Council or of any Panel shall, notwithstanding that it shall afterwards be discovered that there was any vacancy in the membership thereof, or that there was some defect in the appointment of any member thereof, or that there was a failure to give notice of such meeting to any member thereof, be as valid as if there had been no such vacancy or as if such member has been duly appointed, or as if there had been no such failure to give notice, as the case may be.

Acts of the Council or Panels valid notwithstanding subsequent discovery of vacancy, &c.

19. (1) The Council may appoint such officers and such servants as the Council considers necessary for the carrying out of its objects.

Appointment, remuneration, &c. of officers and servants.

(2) The remuneration, conditions of service and schemes of recruitment of the officers and servants of the Council shall be such as may be fixed by the Council with the approval of the Minister given with the prior concurrence of the Minister in charge of the subject of Finance.

Appointment of public officers to the staff of the Council.

20. (1) At the request of the Council, any officer in the public service may, with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Council for such period as may be determined by the Council with like consent or be permanently appointed to such staff.

(2) The provisions of subsection (2) of section 13 of the Transport Board Law shall, *mutatis mutandis*, apply to and in relation to any officer in the public service who is temporarily appointed to the staff of the Council, and the provisions of subsection (3) of the aforesaid section 13 shall, *mutatis mutandis*, apply to and in relation to any officer in the public service who is permanently appointed to such staff.

Officers and servants of the National Youth Service Council.

21. All officers and servants of the National Youth Service Council established under the Voluntary National Youth Service Act, No. 11 of 1967,* and holding office on the day immediately prior to the 1st day of January, 1980, shall be deemed to be officers and servants of the National Youth Services Council established under this Act, on the same terms and conditions as were applicable to them under that Act.

Transfer of assets and liabilities of the National Youth Service Council to the Council established under this Act.

22. All assets and liabilities including property movable and immovable and money in the funds of the National Youth Service Council established under the Voluntary National Youth Service Act, No. 11 of 1967,* shall vest in the National Youth Services Council established under this Act.

Members, officers and servants of the Council deemed to be public servants.

23. All members, officers and servants of the Council shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

*Repealed by Act No. 69 of 1979.

24. Where the Council employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Council by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

Service to Council to be considered as service to Government for purpose of contract.

25. (1) The amount of the capital of the Council shall be such sum as may be determined by the Minister in consultation with the Minister in charge of the subject of Finance and granted from the Consolidated Fund by resolution of Parliament.

Grants to Council by Government.

(2) The capital of the Council may be increased from time to time by such amounts as may be authorized by any Appropriation Act or by any resolution of Parliament.

26. (1) The Council shall have its own fund.

Fund of the Council.

(2) There shall be paid into the fund of the Council all such sums of money as may be received by the Council by way of-

- (a) donations, gifts or grants from any source whatsoever;
- (b) fees charged for services rendered or provided by the Council;
- (c) income from any activities carried out by the Council; and
- (d) payments required to be made into such fund by or under this Act.

27. All property movable and immovable, acquired or held, and all grants and donations accepted, by the Council shall be used *in* applied by the Council for the furtherance of its objects in such manner as the Council may determine.

application of property, &c.

28. (1) The Council shall cause its accounts to be kept in such form and manner as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Accounts of the Council and financial year.

(2) The books of accounts of the Council shall be kept at the office of the Council.

Auditor of accounts of the Council.

29. (1) The Council shall have its accounts audited each year by the Auditor-General.

(2) Notwithstanding the provisions of subsection (1), the Minister may, with the concurrence of the Minister in charge of the subject of Finance, and in consultation with the Auditor-General, appoint a qualified auditor or auditors to audit the accounts of the Council. Where such appointment has been made by the Minister, the Auditor-General may, in writing, inform such auditor or auditors that he proposes to utilize his or their services for the performance and discharge of the Auditor-General's duties and functions in relation to the Council and thereupon such auditor or auditors shall act under the direction and control of the Auditor-General.

(3) (a) The Auditor-General may for the purpose of assisting him in the audit of the accounts of the Council employ the services of any qualified auditor or auditors who shall act under his direction and control.

(b) If the Auditor-General is of opinion that it is necessary to obtain assistance in the examination of any technical, professional or scientific problem relevant to the audit of the accounts of the Council, he may engage the services of-

- (i) a person not being an employee of the Council; or
- (ii) any technical or professional or scientific institution not being an institution which has any interest in the management of the affairs of the Council,

and such person or institution shall act under his direction and control.

(4) (a) The Auditor-General or any person authorized by him shall in the audit of the accounts of the Council be emitted -

- (i) to have access to all books, records, returns and other documents of the Council;
- (ii) to have access to stores and other property of the Council; and

(iii) to be furnished by the Council or its officers with such information and explanations as may be necessary for the performance of the audit of the accounts of the Council.

(b) Every qualified auditor appointed to audit the accounts of the Council or any person authorized by such auditor shall be entitled to have like access, information and explanations in relation to the Council.

(5) For the purposes of this section, the expression " qualified auditor " means -

- (a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practise as an accountant issued by the Council of such Institute ; or
- (b) a firm of accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise as an accountant issued by the Council of such Institute.

30. (1) The Auditor-General shall examine the accounts of the Council and furnish a report thereon.

The Auditor-General's Report.

(2) The Auditor-General shall transmit his report to the Council.

(3) Every qualified auditor appointed under the provisions of subsection (2) of section 29 shall submit his report to the Minister and also submit a copy thereof to the Auditor-General.

31. The Council shall, on the receipt of the Auditor-General's report each year, transmit such report, the income and expenditure account and the balance sheet to which the report relates, together with a report by the Council on the work of the Council for the period for which the income and expenditure account and the balance sheet have been made. to the Minister who shall cause copies thereof to be laid before Parliament, before the end of the year next following the year to which such accounts and report relate.

Annual accounts with the Auditor-General's Report transmitted to the Minister.

Application of the provisions of the Public Corporations (Financial Control) Act.

32. Unless otherwise specially provided for by this Act the provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to and in relation to the financial control and accounts of the Council.

(3) Every regulation shall as soon as convenient after publication in the Gazette be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of its disapproval but without prejudice to anything done thereunder.

Council deemed to be a scheduled Institution within the meaning of the Bribery Act.

33. The Council shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

(4) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the Gazette.

Regulations.

34. (1) The Minister may make regulations for matters required by this Act to be prescribed and for any matters in respect of which regulations are authorized by this Act to be made.

***36.** In this Act, unless the context otherwise requires - Interpretation.

" Panel " means a Panel appointed by the Council under this Act;

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

"prescribed" means prescribed by regulation; and

"youth " includes a female.

*Section 35 omitted.

CHAPTER 369

ORPHANAGES

Ordinances
Nos.22of 1941,
45 of 1946.

AN ORDINANCE TO PROVIDE FOR THE REGISTRATION AND CONTROL OF ORPHANAGES AND OTHER INSTITUTIONS FOR THE BOARDING, CARE AND MAINTENANCE OF ORPHANS AND DESERTED CHILDREN, AND FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID.

[11th July, 1941.]

Short title.

1. This Ordinance may be cited as the Orphanages Ordinance.

Orphanages to be registered.

2. On and after the appointed date no orphanage shall be established or maintained unless that orphanage has been registered under this Ordinance as hereinafter provided.

Prohibition of establishment of new orphanages before appointed date.

3. No new orphanage shall be established at any time during the period beginning on the 11th day of July, 1941, and ending on the appointed date:

Provided that nothing in the preceding provisions of this section shall be deemed to prohibit the maintenance, during that period, of any orphanage established prior to the 11th day of July, 1941.

Registrar of Orphanages.

4. (1) For the purposes of this Ordinance, there may be appointed a person, by name or by office, to be or to act as a Registrar of Orphanages for the whole of Sri Lanka or for any specified area in Sri Lanka.

(2) No Registrar shall exercise or discharge any power or function vested in or assigned to him by or under this Ordinance in respect of any orphanage situated outside the area for which he is appointed.

(3) Where a Registrar of Orphanages is appointed for the whole of Sri Lanka, any reference in this Ordinance to the Registrar appointed for any area shall be deemed to be a reference to the Registrar of Orphanages appointed for the whole of Sri Lanka.

5. (1) There may be appointed a person, by name or by office, to be or to act as an inspector of orphanages for the purposes of this Ordinance.

Inspectors of orphanages.

(2) An inspector of orphanages shall, in the exercise, discharge and performance in any area of the powers, functions and duties vested in, assigned to or imposed on him by or under this Ordinance, be subject to the general direction and control of the Registrar of Orphanages appointed for that area.

6. (1) Every application for the registration of an orphanage shall—

Applications for registration.

(a) be made to the Registrar appointed for the area in which the orphanage is situated;

(b) be in the prescribed form and contain the prescribed particulars ; and

(c) be signed by the manager of the orphanage.

(2) Every Registrar shall submit every application received under subsection (1), together with his report thereon, to the Minister, and the Minister may make order granting or refusing the application. The decision of the Minister on any such application shall be final.

(3) An application for the registration of an orphanage may be refused—

(a) if the Minister is satisfied that adequate provision has not been made to secure that sufficient funds will be available for the proper administration of the orphanage;

- (b) if the Minister is satisfied that adequate provision has not been made for the proper training, education, accommodation, care or maintenance of orphans or deserted children in the orphanage;
- (c) if the manager or any other person employed in the orphanage, whether for remuneration or otherwise or whether on the staff of the orphanage or as a servant therein, or in any other capacity, has been convicted of any offence, or is of such repute or character as, in the opinion of the Minister, renders him unfit to be employed in any orphanage, or to be entrusted with any control over, or any duties in connexion with, any orphan or deserted child; or
- (d) in such other circumstances as may be prescribed.

Issue of certificate of registration.

7. (1) Where an order has been made under section 6 for the registration of an orphanage, the Registrar appointed for the area in which the orphanage is situated shall issue to the manager of that orphanage a certificate of registration which shall be in the prescribed form and shall, unless previously surrendered to the Registrar, continue in force until it is cancelled as hereinafter provided.

(2) No orphanage shall at any time be deemed to be registered under this Ordinance, unless a certificate of registration is at that time in force in respect of that orphanage.

Visitors.

8. The Minister may appoint any two or more persons, by name or by office, to be Visitors of any orphanage.

Returns and information.

9. (1) The manager of every orphanage shall, on or before the prescribed date in each year, furnish to the Registrar appointed for the area in which the orphanage is situated a return in the prescribed form setting out the prescribed particulars in respect of that orphanage.

(2) The manager of any orphanage shall, whenever required so to do by notice under the hand of the Registrar appointed for the

area in which the orphanage is situated, furnish to the Registrar all such information and particulars as he may require in respect of that orphanage.

10. (1) Any Registrar or inspector of orphanages may at any time enter and inspect any orphanage, and may, for the purposes of such inspection, make such examination thereof as he may consider necessary, including an examination into the state and management of the orphanage and the condition and treatment of the orphans and deserted children therein.

Inspection of orphanages.

(2) Any person appointed under section 8 to be a Visitor of an orphanage may exercise, in respect of that orphanage, the powers conferred on an inspector of orphanages by subsection (1).

11. If the Registrar appointed for any area is satisfied that the management of any orphanage in that area, or the accommodation provided for, or the treatment of, the orphans and deserted children therein, is such as to endanger their welfare, the Registrar may, with the prior approval of the Minister, serve in the prescribed manner on the manager of that orphanage such general or special directions with respect to the matters aforesaid, or any of them, as the Registrar may think expedient for the welfare of the orphans and deserted children in the orphanage; and it shall be the duty of the manager of the orphanage to comply with or give effect to any such special or general direction.

Service of directions on manager of orphanage.

12. (1) Where a Magistrate's Court is satisfied on the application of any Registrar or inspector of orphanages that the manager of an orphanage who has been duly served with any general or special direction under section 11 has failed to comply with, or give effect to, any such direction, the court may, after such inquiry, if any, as the court may deem necessary, issue notice on the manager of that orphanage to show cause why the certificate of registration relating to that orphanage should not be cancelled for failure to comply with such direction.

Order of cancellation of certificate of registration.

(2) If the manager of the orphanage fails to appear in response to any notice issued under subsection (1), or having appeared,

fails to show cause why the certificate of registration relating to that orphanage should not be cancelled, the court may make order cancelling the certificate of registration.

(3) (a) The manager of the orphanage may appeal to the Court of Appeal against any order of cancellation made by a Magistrate's Court under subsection (2); and any Registrar or inspector of orphanages, as the case may be, may appeal to the Court of Appeal against an order whereby the Magistrate's Court has refused to cancel the certificate of registration relating to any orphanage.

(b) Every appeal under paragraph (a) shall be preferred by petition to the Court of Appeal which shall be filed in the Magistrate's Court within ten days of the date of the order against which the appeal is preferred ; and such petition shall, in the case of an appeal by the manager of an orphanage, bear stamps to the value of five rupees.

(c) The Court of Appeal may on any appeal under this subsection confirm, vary or reverse the order of the Magistrate's Court, or direct that further inquiry be made or that the manager be given a further opportunity of showing cause, or may make such other order as the justice of the case may require ; and at the hearing of any such appeal the procedure to be followed shall be such as the Court of Appeal may direct either generally or in any particular case.

13. Where an order is made under section 12 or section 18 cancelling the certificate of registration relating to an orphanage and no appeal is preferred against that order, or where the Court of Appeal has, on any appeal under this Ordinance, confirmed the order of cancellation or made order cancelling the certificate of registration—

(a) any inspector of orphanages, or the Registrar appointed for the area in which the orphanage is situated, or any other person authorized for the purpose in writing under the hand of the Registrar, may enter the orphanage and remove the orphans

and deserted children who are found therein to the Children's Home or to such other place as may be prescribed; and

(b) no orphan or deserted child shall be received into the orphanage or be maintained therein:

Provided, however, that nothing hereinbefore contained shall, in the case of any orphan or deserted child who was received into the orphanage before the order of cancellation was, as the case may be, made or confirmed, be deemed to prohibit his maintenance therein until such time as he is removed therefrom under the provisions of paragraph (a).

14. (1) The Minister may establish a Children's Home for the reception of orphans and deserted children who are removed from orphanages under the provisions of section 13, or who are found to be homeless or without visible means of subsistence.

(2) All expenses incurred in the management and administration of the Children's Home shall be paid out of moneys voted by Parliament for the purpose.

(3) There may be appointed a person by name or by office to be or to act as the warden of the Children's Home, and such other officers and servants as may be necessary for the management of the Home.

(4) The management and administration of the Children's Home shall be under the control of a board of management consisting of a chairman and such other members, not exceeding three in number, as may be appointed by the Minister. The warden of the Children's Home shall be the secretary to the board.

15. It shall be the duty of the warden of the Children's Home, subject to the general direction and control of the board of management and in accordance with regulations, to take all such steps as may be necessary to provide for the care and maintenance of every orphan and deserted child received into the Home and to arrange for his admission into an orphanage or for his return to his home:

Duties of warden of Children's Home.

Effect of cancellation of certificate of registration.

Provided, however, that—

- (a) the warden shall not arrange for the admission of any such orphan or deserted child into any orphanage other than—
 - (i) an orphanage for persons of the religious persuasion to which the orphan or deserted child belongs; or
 - (ii) an orphanage maintained by a poor relief authority under the Poor Law Ordinance;
- (b) any such orphan or deserted child may be detained in the Children's Home until such time as he attains the age of eighteen years, if arrangements cannot be made before that time for his admission into an orphanage or for his return to his home.

Maintenance grant for orphanages.

16. (1) Subject to the provisions of subsections (2) and (3), the Registrar appointed for any area may from time to time pay to the manager of any registered orphanage in that area, out of moneys voted by Parliament for the purpose, a maintenance grant in respect of the orphans and deserted children maintained in the orphanage and, where any other children are also maintained in the orphanage, a maintenance grant in respect of such of those children as are proved to have been admitted to the orphanage before the appointed date.

(2) No maintenance grant shall be paid under subsection (1) except in accordance with regulations which shall be made for the purpose of—

- (a) prescribing the circumstances in which, and the conditions subject to which, such grants may be paid ; and
- (b) fixing the amount to be paid as a maintenance grant in respect of each child of each class or description of children.

(3) The provisions of subsection (1) shall not have effect until such date as may be

fixed in that behalf by the Minister by Notification published in the Gazette.

(4) For the purposes of this section, such of the deaf, dumb, or blind persons maintained in the School for the Deaf and Blind (whether on its original premises at Mount Lavinia or elsewhere) as are proved to have been admitted to that school before the appointed date shall, notwithstanding anything in section 19 (1), be deemed to be children until they attain the age of twenty-one years.

17. (1) The Minister may make Regulations. regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters;—

- (a) all matters stated or required in this Ordinance, to be prescribed, or for or in respect of which, regulations are authorized or required to be made under this Ordinance ;
- (b) the form of applications for the registration of orphanages and the particulars to be contained in such applications;
- (c) the form of certificates of registration and the form of returns to be made under this Ordinance;
- (d) the books and registers to be kept by Registrars and the particulars to be entered therein;
- (e) the service of all directions, orders and notices under this Ordinance ;
- (f) the places (other than the Children's Home) to which orphans and deserted children may be removed under section 13;
- (g) the inspection of orphanages;
- (h) the circumstances in which orphans and deserted children may be admitted into the Children's Home,

their accommodation and maintenance therein and their discharge therefrom;

- (i) all matters connected with or incidental to the matters or subjects specifically referred to in this subsection.

(3) No regulation shall have effect until it has been approved by Parliament, nor until notification of such approval has been published in the Gazette.

(4) Every regulation made by the Minister shall upon the publication in the Gazette of a notification of the approval of that regulation as provided for in subsection (3), be as valid and effectual as if it were herein enacted.

Offences and penalties.

18. (1) Any person who—

- (a) establishes or maintains any orphanage in contravention of any provision of this Ordinance;
- (b) omits or refuses to furnish any return or information required to be furnished under this Ordinance;
- (c) knowingly makes any false statement in any application or return made or furnished by him under this Ordinance or supplies any false information when required to furnish any information under this Ordinance;
- (d) resists or obstructs any person in the performance of the duties imposed or in the exercise of the powers conferred on such person by or under this Ordinance; or
- (e) commits a breach of any provision of this Ordinance or of any regulation,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding three months, or to both such fine and imprisonment.

(2) Where any orphan or deserted child is received into or maintained in any

orphanage, which has been established or is maintained in contravention of any provision of this Ordinance, the manager of the orphanage and the person for the time being in charge of the orphanage shall severally be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding three months, or to both such fine and imprisonment.

(3) Where the manager of a registered orphanage is convicted under subsection (1) of any offence, the court may, in addition to any other punishment which it may impose for that offence, make order cancelling the certificate of registration relating to that orphanage, and where such an order is made, the provisions of subsection (3) of section 12 shall apply in like manner as if the order was made under that section.

19. (1) In this Ordinance, unless the Interpretation. context otherwise requires—

"appointed date" means the 1st day of March, 1944;

" certificate of registration" means a certificate of registration issued by a Registrar under section 7 ;

" child " means a person under the age of eighteen years;

" Children's Home " means the Children's Home established under section 14;

" deserted ", when applied to a legitimate child, means a child deserted by both parents, or deserted by one parent, the other being dead or incapable of acting as a parent, or a child, both of whose parents are incapable of acting as parents ; and when applied to an illegitimate child, means a child deserted by its mother, or a child whose mother is incapable of acting as a parent;

" inspector of orphanages" means an inspector of orphanages appointed under section 5;

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" manager " means the person or persons responsible for the management of an orphanage, and in the case of an orphanage that has not been established, means the person responsible for the establishment thereof;

" orphan ", when applied to a legitimate child, means a child, both of whose parents are dead, or one of whose parents is dead, the other being incapable of acting as a parent; and when applied to an illegitimate child, means a child whose mother is dead;

" orphanage " includes every home or other institution for the reception, boarding, care or maintenance mainly of orphans or deserted children, being a home or institution supported wholly or partly by voluntary contributions ;

" prescribed " means prescribed by regulation;

" registered " means registered under this Ordinance;

" Registrar " means a Registrar of Orphanages appointed under section 4;

" regulation " means a regulation made by the Minister under section 17.

(2) For the purposes of this Ordinance a person shall be deemed to be incapable of acting as a parent if such person—

- (a) is under sentence of imprisonment; or
- (b) has been adjudged by a competent court to be of unsound mind ; or
- (c) is permanently bedridden or disabled and is an inmate of a hospital or of any institution for the reception and maintenance of poor persons.

20. Every orphanage established or maintained by any poor relief authority in pursuance of the provisions of the Poor Law Ordinance or in aid of which contributions are made by any such authority under those provisions shall be deemed, for the purposes of this Ordinance, to be an institution supported wholly or partly by voluntary contributions, and the provisions of this Ordinance shall apply accordingly in the case of every such orphanage.

Application of Ordinance to orphanages maintained or aided by poor relief authorities.

21. The provisions of this Ordinance shall be in addition to and not in substitution of, the provisions of any other written law relating to orphanages or to orphans or deserted children:

Savings.

Provided, however, that where there is any conflict or inconsistency between the provisions of this Ordinance and the provisions of any such written law, the provisions of this Ordinance shall prevail.

CHAPTER 23

OATHS AND AFFIRMATIONS

Ordinances
Nos. 9 of 1895,
22 of 1915,

AN ORDINANCE TO CONSOLIDATE THE LAW RELATING TO OATHS AND AFFIRMATIONS IN JUDICIAL PROCEEDINGS AND FOR OTHER PURPOSES.

Act
No. 13 of 1954.

[15th May, 1896.]

Short title.

1. This Ordinance may be cited as the Oaths Ordinance.

(b) has a conscientious objection to make an oath, he may, instead of making an oath, make an affirmation.

Saving of certain proceedings

2. Nothing herein contained applies to proceedings before courts-martial.

6. All oaths and affirmations made under either of the two last preceding sections or for any other purpose shall be administered according to such forms and with such formalities as may be from time to time prescribed by rules made by the Supreme Court and until such rules are made, according to the forms and with the formalities now in use.

Forms of oaths and affirmation.

Authority to administer oaths.

3. All courts and persons having by law or consent of parties authority to receive evidence are authorized to administer by themselves, or by an officer empowered by them in this behalf, oaths and affirmations in discharge of the duties or in exercise of the powers conferred upon them respectively by law.

Oaths to be made by witnesses, &c.

4. (1) Subject to the provisions of the next following section oaths shall be made by the following persons :-

7. If any party to Or witness in any judicial proceeding offers to give evidence on oath or solemn affirmation in any form common amongst, or held binding by, persons of the race or persuasion to which he belongs, and not repugnant to justice or decency, and not purporting to affect any third person, the court may, if it thinks fit, notwithstanding anything hereinbefore contained, cause such oath or affirmation to be tendered to him.

Power of court to cause certain oaths to be tendered.

(a) all witnesses, that is to say, all persons who may be lawfully examined, or give or be required to give evidence by or before any court or person having by law or consent of parties authority to examine such persons, or to receive evidence;

(b) interpreters of questions put to, and evidence given by witnesses ; and

(c) jurors.

(2) Nothing herein contained shall render it necessary to administer to the official interpreter of any court, after he has entered on the execution of the duties of his office, an oath that he will faithfully discharge those duties.

8. (1) If any party to any judicial proceeding of a civil nature offers to bound by any such oath or solemn affirmation as is mentioned in the last preceding section, if such oath or affirmation is made by the other party to or by any witness in such proceeding, or if in any Judicial proceeding of a criminal nature the accused person desires that any witness for the prosecution shall make any such oath or affirmation, the court may, if it thinks fit, ask such party or witness, or cause him to be asked, whether or not he will make the oath or affirmation.

Court may ask party or witness whether he will make oath proposed by opposite party.

Exemptions.

5. Where the person required by law to make an oath-

(a) is a Buddhist, Hindu, or Muslim, or of some other religion according to which oaths are not of binding force: or

(2) "If such party or witness agrees to make such oath or affirmation, the court may administer it, or, if more convenient

Administration of oath if accepted.

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may authorize any person to administer it, and to take and record in writing the evidence of the person to be sworn or affirmed and return it to the court.

such fine to undergo rigorous imprisonment for any period not exceeding two months. Whenever the power given by this section is exercised by a court other than the Supreme Court or the Court of Appeal, the Judge or Magistrate of such court shall record the reasons for imposing such fine.

Evidence conclusive against party offering to be

(3) The evidence so given shall, as against the person who offered to be bound as aforesaid, be conclusive proof of the matter stated.

(2) Any person who has undergone any sentence of imprisonment or paid any fine imposed under this section shall not be liable to be punished again for the same offence.

Procedure in a case of refusal.

(4) If the party or witness refuse to make such oath or solemn affirmation, he shall not be compelled to make it, but the court shall record as part of the proceedings the nature of the oath or affirmation proposed, the facts that he was asked whether he would make it and that he refused it, together with any reason which he may assign for his refusal.

(3) Any person against whom any order is made by any court other than the Supreme Court or the Court of Appeal, under subsection (1) of this section, may appeal to the Court of Appeal, and every such appeal shall be subject to the provisions of section 322 of the Code of Criminal Procedure Act.

Proceedings and evidence not to be invalidated by omission of oath or irregularity.

9. No omission to take any oath or make any affirmation, no substitution of anyone for any other of them, and no irregularity whatever in the form in which any one of them is administered, shall invalidate any proceeding or render inadmissible any evidence whatever in or in respect of which such omission, substitution, or irregularity took place, or shall affect the obligation of a witness to state the truth.

(4) In lieu of exercising the power given by this section, the court may, if it thinks fit, transmit the record of the judicial proceeding to the Attorney-General, to enable him to exercise the powers conferred on him by the Code of Criminal Procedure Act, or proceed in manner provided by section 387 of the Code of Criminal Procedure Act, or by section 835 of the Civil Procedure Code.

Persons giving evidence bound to state the truth.

10. Every person giving evidence on any subject before any court or person hereby authorized to administer oaths and affirmations shall be bound to state the truth on such subject.

(5) Nothing in this section contained shall be construed as derogating from or limiting the powers and jurisdiction of the Supreme Court or the Court of Appeal or the High Court, or the Judges thereof.

Summery punishment for giving false evidence in open court.

***11.** (1) If any person giving evidence on any subject in open court in any judicial proceeding, whether civil or criminal, gives, in the opinion of the court before which the judicial proceeding is held, false evidence within the meaning of section 188 of the Penal Code, it shall be lawful for the court, if such court be the Supreme Court or the Court of Appeal, summarily to sentence such witness as for a contempt of the court to imprisonment, either simple or rigorous, for any period not exceeding three months, or to fine such witness in any sum not exceeding two hundred rupees, or if such court be an inferior court to order such witness to pay a fine not exceeding fifty rupees, and in default of payment of

12. (1) The Minister in charge of the Commissioners subject of Justice may from time to time appoint fit and proper persons to be Commissioners for Oaths.

(2) A Commissioner for Oaths appointed under this Ordinance may administer any oath or affirmation or take any affidavit for the purpose of any legal proceedings or otherwise in all cases in which a Justice of the Peace is authorized by law so to do, and in all cases in which an oath, affirmation, or affidavit is commonly administered or taken before a Justice of the Peace ; and any oath or affirmation or affidavit administered or taken by a Commissioner for Oaths shall in all legal

*Vide also section 449 of the Code of Criminal Procedure Act.

proceedings and for all other purposes have the same effect as an oath, affirmation, or affidavit administered or taken before a Justice of the Peace; and all enactments relating to oaths, affirmations, and affidavits administered or taken before a Justice of the Peace shall, with the necessary modifications, apply thereto:

Provided that a Commissioner for Oaths shall not exercise the powers given by this section in any proceeding or matter in which he is attorney-at-law to any of the parties, or in which he is otherwise interested.

(3) Every Commissioner before whom any oath or affirmation is administered, or before whom any affidavit is taken under this Ordinance, shall state truly in the jurat or attestation at what place and on

what date the same was administered or taken, and shall initial all alterations, erasures, and interlineations appearing on the face thereof and made before the same was so administered or taken.

13. Whoever wilfully and dishonestly swears or affirms falsely in any oath, affirmation or affidavit administered or taken, for the purpose of any legal proceedings or otherwise, before a Commissioner for Oaths appointed under this Ordinance, or a Commissioner to administer Oaths appointed under the Courts Ordinance,* or a Justice of the Peace, shall be guilty of the offence of giving false evidence in every case where if he had so sworn in a judicial proceeding before a court of competent jurisdiction he would be guilty of the offence of giving false evidence.

False oath or affidavit before a Commissioner or Justice of the Peace.

*Repealed by the Administration of Justice Law, No. 44 of 1973.

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CHAPTER 27

OFFENCES COMMITTED UNDER THE INFLUENCE OF LIQUOR

Act No. 41 of 1979. AN ACT TO MAKE PROVISION FOR INCREASED PUNISHMENT IN RESPECT OF CERTAIN OFFENCES COMMITTED UNDER THE INFLUENCE OF LIQUOR AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[25th June, 1979.]

- 1.** This Act may be cited as the Offences Committed under the Influence of Liquor (Special Provisions) Act.
- 2.** Any person who, being under the influence of liquor, in any public place or in any place where it is a trespass for him to enter and there conducts himself in such a manner as to cause annoyance to any person shall be guilty of an offence.
- 3.** Any person who, being under the influence of liquor, causes damage to public property shall be guilty of an offence and shall be liable upon conviction to be punished with imprisonment of either description for a term of not less than six months and not exceeding two years- and shall also be liable to a fine of not less than one thousand rupees and not exceeding two thousand five hundred rupees.
- 4.** Any person who gives, or causes to be given, to any child under the age of twelve years any liquor except upon the order of a duly qualified medical practitioner or in the case of sickness or apprehended sickness shall be guilty of an offence.
- 5.** (1) Any person who sells to a person under the age of eighteen years any liquor shall be guilty of an offence and shall be liable upon conviction to be punished with imprisonment of either description for a term of not less than six months and not exceeding two years and shall also be liable to a fine of not less than one thousand rupees and not exceeding two thousand five hundred rupees,
- (2) Any peace officer may seize any liquor in the possession of any person under the age of eighteen years whom he finds drinking in any thoroughfare or public place and any liquor so seized shall be disposed of in such manner as the court may direct.
- 6.** Any peace officer may, notwithstanding anything in any written law, arrest without warrant any person who in the opinion of such peace officer is under the influence of liquor and is committing any offence under sections 2 and 3 of this Act or under those provisions of the Penal Code specified in Column I of the Schedule hereto and may, in effecting such arrest, use such force as may be reasonable.-in the circumstances.
- 7.** Where a peace officer arrests any person for an offence under sections 2 and 3 of this Act or for an offence under those provisions of the Penal Code specified in Column I of the Schedule hereto, he may—
- (a) if he considers that the examination of such person by a medical practitioner is necessary for the purpose of ascertaining whether such person is under the influence of liquor, as expeditiously as possible cause such person to be examined by a Government medical officer. The Government medical officer shall forthwith report to the peace officer the result of any such examination;
- (b) if, he considers it necessary and facilities are available for the carrying out of a breath analysis test, require such person to submit himself immediately to such test.
- 8.** The breath analysis test specified in paragraph (b) of section 7 shall be carried out by an approved operator in accordance with such regulations as may be prescribed.
- 9.** Any person who refuses to submit himself to an examination by a Government medical officer or by an approved operator when called upon to do so under section 7

Arrest without warrant.

Examination by medical practitioner.

Approved operator to carry out the breath analysis test.

Punishment for refusing to be examined.

or resists or obstructs a peace officer in the performance of his duties under that section shall be guilty of an offence, and shall be liable upon conviction to imprisonment of either description for a term not exceeding six months or to a fine not exceeding five hundred rupees or to both such imprisonment and fine.

Enhanced punishment in respect of certain offences.

10. Notwithstanding anything in the Penal Code every Magistrate's Court which convicts a person of an offence set out in Column I of the Schedule hereto shall, notwithstanding its ordinary powers of punishment, where such offence has been committed by that person while under the influence of liquor impose on that person the punishment set out in the corresponding entry in Column II of that Schedule.

Person presumed to be under influence of liquor if he is smelling of liquor, Ac.

11. (1) A person shall be presumed to be under the influence of liquor if at or about the time of the commission of the act he is smelling of liquor or if he conducts himself in such manner that it may be reasonable to infer that he has consumed liquor unless evidence to the contrary has been adduced.

(2) The report of a Government medical officer to the effect that a person is under the influence of liquor or the report of an approved operator to the effect that the concentration of alcohol in a person's blood is equal to or exceeds the prescribed limit shall be deemed to be sufficient evidence of the facts therein contained unless evidence to the contrary has been adduced.

All offences triable by Magistrate's Court.

12. (1) The Magistrate's Court shall have jurisdiction to try all offences under this Act.

(2) Every person guilty of an offence under section 2 or 4 of this Act shall on conviction after trial be liable to a fine of not less than one thousand rupees and not exceeding two thousand five hundred rupees or to imprisonment of either description for a term of not less than one year and not exceeding two years notwithstanding that such fine or imprisonment is in excess of the ordinary jurisdiction of such court.

Regulations.

13. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act and in particular in respect of all or any of the following matters:—

- (a) all matters required by this Act to be prescribed;
- (b) the mode and manner and the requirements for carrying out any breath analysis test; and
- (c) the concentration of alcohol in a person's blood at or above which a person shall be deemed to be under the influence of liquor for the purposes of this Act.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette be laid before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder. Notification of the date on which a regulation is deemed to be rescinded shall be published in the Gazette.

14. In this Act, unless the context Interpretation, otherwise requires—

"approved operator" means a peace officer who has undergone special training in the operation of breath analysing equipment and who is appointed in that behalf by the Inspector-General of Police;

"breath analysis test" means an analysis of a sample of a person's breath carried out for the purposes of this Act by means of an approved breath analysing instrument;

"breath analysing instrument" means an instrument of a type as may be prescribed;

"liquor" includes spirit, wine, toddy, beer, and all liquid consisting of or containing alcohol;

"peace officer" has the same meaning as in the Code of Criminal Procedure Act;

"public corporation" means any corporation, board or other body which was or is established by or

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under any written law other than the Companies Ordinance,* with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise; and

" public property" means any property of the State or that of any public corporation.

[Sections? and 10.]

SCHEDULE

| <i>Column I</i> | <i>Column III</i> |
|-------------------------------|---|
| <i>Enactment and sections</i> | <i>Punishments</i> |
| 1. Penal Code—Section 183 | Imprisonment for a term which may extend to nine months or with fine which may extend to three hundred rupees or with both. |
| 2. Penal Code —Section 186 | Imprisonment for a term which may extend 10 four years. |
| 3. Penal Code — Section 298 | Imprisonment for a term which may extend to five years. |
| 4. Penal Code — Section 314 | Imprisonment for a term which may extend to one year. |

* Repealed and replaced by the Companies Act, No. 17 of 1982.

CHAPTER 48

OLD METAL

Ordinance
No. 12 of 1905.

AN ORDINANCE TO REGULATE THE BUSINESS OF DEALERS IN OLD METAL.

[21st September, 1905.]

Short title.

1. This Ordinance may be cited as the Old Metal Ordinance.

Interpretation.

2. In the construction and for the purposes of this Ordinance :

" dealer in old metal " means any person dealing in, buying, or selling old metal of any kind or description, scrap metal, broken metal, or partly manufactured metal goods, or defaced or old metal goods, or portions of machinery, and whether such person deals in such articles only or together with other things ;

" old metal " means the said articles or any of them.

Penalty on dealer in old metal being in possession of stolen property.

3. (1) It shall be lawful for any Magistrate, on complaint made before him, upon oath or affirmation, that the complainant has reason to believe and does believe that any old metal, stolen or unlawfully obtained, is kept in any house, shop, room, or place, by any dealer in old metal, to give authority by special warrant to any constable or police officer to enter in the daytime such house, shop, room, or place, with such assistance as may be necessary, and to search for and seize all such old metal there found, and to carry all the articles so seized before the Magistrate issuing the warrant, or some other Magistrate.

(2) Such Magistrate shall thereupon issue a summons requiring such dealer to appear before him at a time and place to be named in such summons ; and if such dealer does not then and there prove to the satisfaction of such Magistrate how he came by the said articles, or if any such dealer is found in the possession of any old metal which has been stolen or unlawfully obtained, and, on his being taken or summoned before a Magistrate, it is proved to the satisfaction of such Magistrate that at the time when he

received it he had reasonable cause to believe it to have been stolen or unlawfully obtained, then in either of such cases such dealer shall be liable to a penalty not exceeding fifty rupees, and for any subsequent offence to a penalty not exceeding two hundred rupees, or, in the discretion of the Magistrate, in the case of such second or subsequent offence shall be liable to imprisonment, with or without hard labour, for any term not exceeding three months :

Provided always that nothing herein contained shall interfere with or affect any proceeding by indictment to which such dealer in old metal may be liable for feloniously and knowingly receiving stolen goods, but no person shall be prosecuted by indictment and also proceeded against under this Ordinance for the same offence.

4. (1) When any dealer in old metal is convicted of either of the offences aforesaid it shall be lawful for such Magistrate, or, on proof of such conviction, for any other Magistrate of the same division, to order and direct that such dealer shall be registered at the principal police office of such division in a book to be kept by the Superintendent of Police of such division for such purpose, according to the form A contained in the Schedule.

power to order dealer to be registered after conviction.

(2) From and after such registration such dealer shall be subject to and shall conform to the several regulations hereinafter provided for such period, not exceeding three years, as such Magistrate may order, and if such dealer during such period is convicted of any offence under this Ordinance, the Magistrate so convicting him may order the period for which he is then subject to such regulations to be extended for not more than three years from the time when such period would otherwise expire.

Giving of notice by registered dealer of change of place of business.

5. (1) Every dealer in old metal who is subject to the regulations of this Ordinance as aforesaid shall, upon removing to any other place of business, give notice of such removal at the police station where he is registered, and if he continues to carry on business as a dealer in old metal without giving such notice he shall incur a penalty not exceeding fifty rupees, and a penalty not exceeding five rupees for every day after the first on which he continues to carry on such business without giving such notice.

(2) Where such dealer removes to any place out of the division in which he has been registered, it shall be the duty of the Superintendent of Police for such division to transmit a certificate of such registration signed by himself, which shall be evidence of such registration, together with a certified copy of any order of a Magistrate as to the period for which such dealer is to be subject to the regulations of this Ordinance, to the Superintendent of Police of the division in which such dealer has taken up his residence.

(3) Any Magistrate of such division may thereupon issue a summons to such dealer to appear before him, and if it appears to such Magistrate that he intends to carry on business as a dealer in old metal, such Magistrate may order him to be registered in the same manner as is provided in the last preceding section, and such registration shall have the same effect during the period for which such dealer is to be subject to the regulations of this Ordinance by any order of a Magistrate as aforesaid as in the said Section is provided.

Power of visiting place of business of registered dealer.

6. It shall be lawful for any Magistrate, by order in writing to authorize one or more inspectors or sergeants of police to visit at any time the places of business and inspect the goods and books of dealers in old metal who are subject to the regulations of this Ordinance as aforesaid and who carry on business within the division for which such Magistrate acts ; and every such inspector or sergeant shall, and is hereby empowered to, record, in the book hereinafter required to be kept by every such dealer in old metal, the day and hour of his visit, and to place opposite the entry of every article examined by him his name or initials in attestation of the same.

7. (1) Every dealer in old metal who is registered as aforesaid shall, during the period which a Magistrate may order as hereinbefore provided, conform to the following regulations, that is to say :—

Regulations to be observed by registered dealer.

- (a) he shall keep a book or books fairly written, and shall enter therein, according to the form B contained in the Schedule, an account of all such old metal as he may from time to time become possessed of, stating in respect of each article the name of the person who purchased or received the same, and the time at which and the name of the person from whom he purchased or received the same, adding, in the case of every such last-mentioned person, a description of his business and place of abode ; and he shall also enter in such book or books, according to the form C in the Schedule, an account of all such old metal as he may from time to time sell or dispose of, stating in respect of such old metal the name of the person to whom he sold or disposed of the same, adding a description of his business and place of abode ; and every such entry in any such book shall be deemed and taken, unless the contrary is shown, to have been made by or with the authority of the dealer in old metal to whom such book belongs ;
- (b) he shall not, by himself or by any other person, purchase or receive any old metal of any description before the hour of seven o'clock in the morning nor after the hour of six o'clock in the evening, nor shall he, by himself or by any other person, purchase or receive old metal of any description from any person apparently under the age of sixteen years, nor shall he employ any servant or apprentice or any other person under the age of twelve years to purchase or receive old metal of any description ;
- (c) he shall produce to any inspector or sergeant of police authorized as in the last preceding section provided, whenever thereto requested, the

book or books required to be kept as aforesaid and any old metal purchased or received by him then in his possession;

(d) he shall without delay give notice to the officer on duty at the police station nearest to the place where he carries on business of any articles then in his possession, or which may thereafter come into his possession answering the description of any articles which have been stolen, embezzled, or fraudulently obtained, of which printed or written information containing a description of such articles is given to him by any officer of police ; and

(e) he shall keep all old metal purchased or received by him without changing the form in which the articles comprising the same were when so purchased, or disposing of the same in any way, for a period of forty-eight hours after such articles have been purchased or received.

(2) For any act or default contrary to the foregoing regulations done or made by any registered dealer in old metal during the period which a Magistrate may order as hereinbefore provided he shall incur a penalty of not less than ten rupees and not exceeding fifty rupees, and for every subsequent offence a penalty of not less than fifty rupees and not exceeding two hundred rupees.

Confiscation of property.

(3) And all old metal seized under the provisions of this Ordinance may be confiscated.

Penalty on dealer found in possession of stores and not accounting for them.

8. If stores are found in the possession or keeping of a person being in the service of the State or in the service of a public department, or being a dealer in marine stores or in old metals, or a pawnbroker (within the meaning of any enactments for the time being in force relating to such dealers or to pawnbrokers), and he is taken or summoned before a Magistrate's Court

and the court sees reasonable grounds for believing the stores found to be or to have been the property of the State, then, if such person does not satisfy the court that he came lawfully by the stores so found, he shall be liable on summary conviction to a penalty not exceeding fifty rupees.

9. For the purposes of this Ordinance stores shall be deemed to be in the possession or keeping of any person if he knowingly has them in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field, or place, open or enclosed, whether occupied by himself or not, and whether the same are so had for his own use or benefit or for the use or benefit of another.

Possession defined for the purposes of this Ordinance.

10. All proceedings before any Magistrate under this Ordinance shall be conducted as near as may be according to the form of summary procedure, and shall be subject to the appeal provided by the Code of Criminal Procedure Act for the time being in force in Sri Lanka ; and all penalties imposed under this Ordinance shall be enforced as though they were fines enforceable under the provisions of the Code of Criminal Procedure Act aforesaid.

Procedure and appeal.

11. (1) Any offence or breach of regulations under this Ordinance may be inquired into, tried, and determined by any Magistrate's Court within the division in which such offence or breach was committed wholly or in part, and such court shall have jurisdiction to award the maximum punishment prescribed therefor and to declare and adjudge any article liable to be confiscated under section 7 of this Ordinance forfeited, and to condemn the same, whatever may be the amount or value thereof, anything in the Code of Criminal Procedure Act to the contrary notwithstanding.

Magistrate's Court to have jurisdiction

(2) The Magistrate's Court imposing a penalty under this Ordinance may award to an informer any portion not exceeding a moiety thereof which may be actually recovered.

SCHEDULE

Form A

[section 4.]

REGISTER OF DEALERS IN OLD METAL

| Name | Place of Abode and Business | Date of Conviction | Date of Registration | Period for which to be subject to Regulations of the Ordinance |
|------|-----------------------------|--------------------|----------------------|--|
| | | | | |

FormB

[section 7.]

ENTRY OF PURCHASES AND RECEIPTS OF OLD METAL

| 1 Name of Person who purchased or received | 2 Name of Person from whom purchased or received | 3 Business and Place of Abode of Person from whom purchased or received | 4 Description of Old Metal purchased or received | 5 Day of purchase or receipt, and hour of day |
|---|---|--|---|--|
| | | | | |

Form C

[section 7.]

ENTRY OF SALES OF OLD METAL

| Name of Person to whom sold | Business and Place of Abode or of Business of Person to whom sold | Description of Old Metal sold | Day of sale |
|-----------------------------|---|-------------------------------|-------------|
| | | | |

CHAPTER 307

OPENING OF ACCOUNTS IN BANKS

Acts
Nos. 65 of 1961
(Part III),
36 of 1968.

AN ACT TO MAKE PROVISION FOR THE OPENING OF ACCOUNTS IN BANKS AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[12th October, 2961.]

Short title.

1. This Act may be cited as the Opening of Accounts in Banks Act*.

succeeding proviso referred to as a "foreign bank"), he opens a loan or overdraft account in such foreign bank; or

Opening of accounts in banks on or after the 27th July, 1961.

2. (1) On and after the 27th day of July, 1961—

- (a) no person who is a citizen of Sri Lanka,
- (b) no body corporate of which any director is a citizen of Sri Lanka,
- (c) no firm of which any partner is a citizen of Sri Lanka, or
- (d) no other body of persons, by whatever name called, the affairs of which are managed by one or more persons who is a citizen of Sri Lanka or who are citizens of Sri Lanka,

- (b) on the maturity of a fixed deposit held by him on the 27th day of July, 1961, in any foreign bank, he renews such deposit after that date ; or
- (c) at any time on or after that date, he places on fixed deposit with a foreign bank a sum which together with all other sums, if any, at the date of such deposit held by that bank on fixed deposit in his name does not exceed the sum, or the aggregate of all sums, which he had on fixed deposit with the same foreign bank on the 27th day of July, 1961;

shall open any account whatsoever in any bank other than in the People's Bank, the Bank of Ceylon, the National Savings Bank or any bank registered or deemed to be registered as a society under the Co-operative Societies Law:

And provided, further, that a citizen of Sri Lanka who is an employee of any foreign bank shall be deemed not to have contravened the preceding provisions of this section by reason only of the fact that he, while so employed, opens an account, whether current or savings or fixed, with that bank.

Provided that any person who is referred to in paragraph (a) or paragraph (b) or paragraph (c) or paragraph (d) shall be deemed not to have contravened the preceding provision of this subsection by reason only of the fact that,—

- (a) having had a current account on the 27th day of July, 1961, in any bank other than the People's Bank or the Bank of Ceylon (in this and the

(IA) The opening of an account in any approved bank in the name of any person, body corporate, firm or other body of persons referred to in subsection (1) shall be deemed not to be a contravention of the provisions of subsection (1). [§2,36 of 1968-]

(2) Nothing in the provisions of subsection (1) shall be deemed or construed to permit any person referred to in

* Sections 22 to 23 of the Finance Act, No. 65 of 1961, and relevant parts of sections 57, 60, 61, 61A and 62 of that Act are renumbered sections 2 to 8 and reproduced as "Opening of Accounts in Banks Act" in this Edition.

paragraph (a) or paragraph (b) or paragraph (c) or paragraph (d) of that subsection who has already an account in the People's Bank or the Bank of Ceylon on the 27th day of July, 1961, to increase the amount in any savings account or deposit account from which withdrawals cannot be made on demand (other than a fixed deposit account), held in any commercial bank other than the People's Bank or the Bank of Ceylon. In this subsection the expression "commercial bank" shall have the same meaning as in section 127 of the Monetary Law Act.

Special provision to enable accounts to be opened in banks other than those mentioned in section 2(1). [§3, 36 of 1968.]

2A. (1) The Minister, acting on the recommendation of the Monetary Board, may, from time to time, by Order published in the Gazette, declare that any bank, other than any bank mentioned in subsection (1) of section 2, whose name is specified in the Order shall, from such date as shall be specified therein, be an approved bank for the purposes of this section.

(2) The Minister, acting on the recommendation of the Monetary Board, may, by Order published in the Gazette, amend or revoke any Order published by him under subsection (1).

(3) The Monetary Board may, from time to time, determine the terms and conditions which shall be complied with by any approved bank. The Monetary Board shall communicate in writing every such determination to such bank.

(4) Every Order made by the Minister in pursuance of the provisions of this section shall, as soon as may be after its publication in the Gazette, be tabled in Parliament. Parliament may by resolution revoke any Order made by the Minister under this section within sixty days of the publication of such Order in the Gazette, and in the computation of such period of sixty days no account shall be taken of any period during which Parliament stands prorogued or dissolved. Such revocation of any Order shall be without prejudice to the validity of anything previously done thereunder.

(5) Any approved bank may open any account whatsoever in that bank in the

name of any person, body corporate, firm or other body of persons referred to in section 2(1).

(6) In section 2 and this section, the expression—

(a) "approved bank" means any bank in respect of which an Order published by the Minister under subsection (1) is for the time being in force;

(b) "Monetary Board" means the Monetary Board of the Central Bank established under the Monetary Law Act.

3. The competent authority may by notice in writing direct the manager of any bank to furnish within such time as may be specified in the notice such information as he may require for the purposes of this Act and the manager shall comply with such notice.

Managers of banks required to furnish information for the purposes of this Act.

4. There may be appointed such number of persons, by name or by office, to be or to act as competent authorities, as may be necessary for the purposes of this Act. A person may be so appointed for the whole of Sri Lanka or any particular area thereof and the expression "competent authority", wherever it occurs in this Act, shall be construed accordingly.

Appointment of competent authorities.

5. (1) The Minister may make regulations for the purposes of carrying out and giving effect to the principles and provisions of this Act.

Regulations.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

Offences.

- 6. Any person who—
 - (a) contravenes or fails to comply with any provision of this Act or any regulations made thereunder; or
 - (b) makes an incorrect declaration otherwise than by error or oversight,

(b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence:

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a period not exceeding one year or to both such fine and imprisonment.

Provided that a director or an officer of such body corporate or a partner of such firm shall not be deemed to be guilty of that offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Offences by body of persons.

7. Where an offence under this Act is committed by a body of persons, then—

- (a) if that body of persons is a body corporate, every director and officer of that body corporate ; and

8. No suit or prosecution shall lie against any competent authority or any officer acting under the direction of that authority for any act which in good faith is done or purported to be done by him under this Act.

Protection for action taken under this Act.

CHAPTER 379

OFFICIAL PUBLICATIONS

Ordinance AN ORDINANCE TO PROVIDE IMMUNITY FROM CIVIL OR CRIMINAL PROCEEDINGS IN
No. 47 of 1946. RESPECT OF THE PUBLICATION OR REPRODUCTION OF AUTHORIZED
DOCUMENTS.

[26th October, 1946.]

Short title. **1.** This Ordinance may be cited as the
Official Publications (Immunity) Ordinance.

Immunity in respect of publication or reproduction of authorized documents. **2.** No action or proceeding, whether civil or criminal, shall be instituted or maintained against any person, in respect of—

- (a) the publication of any report or other official document which is ordered by the Government to be published for general information; or

- (b) the reproduction, in any newspaper, of any document or of an extract from any document so published :

Provided that the preceding provisions of this section shall not operate as a bar to any action or proceeding in respect of the reproduction of any document or extract therefrom in any newspaper, where there is proof that such reproduction was made maliciously.

CHAPTER 50
OFFICIAL SECRETS

Act No. 32 of 1955. AN ACT TO RESTRICT ACCESS TO OFFICIAL SECRETS AND SECRET DOCUMENTS AND TO PREVENT UNAUTHORIZED DISCLOSURE THEREOF.

[1st September, 1955.]

Short title. **1.** This Act may be cited as the Official Secrets Act. the necessity for the Order or the validity thereof shall not be canvassed by any court or authority.

Declaration of prohibited places. **2.** (1) For the better safeguarding of information relating to the defences of Sri Lanka and to the equipment, establishments, organizations or institutions intended to be or capable of being used for the purposes of defence, the Minister may by Order declare—

- (a) that any land, building, ship or aircraft specified in the Order shall be a prohibited place for the purposes of this Act, or
- (b) that lands, buildings, ships or aircraft of any class or description specified in the Order shall be prohibited places for those purposes.

(2) Where by an Order under subsection (1) the Minister declares lands, buildings, ships or aircraft of any class or description specified in the Order to be prohibited places, he may, by the same Order or by any subsequent Order under that subsection, exclude from such prohibited places any land, building, ship or aircraft of that class or description or any part of any such land or building.

(3) Every Order under, this section shall be published in the Gazette and shall come into force on such date not earlier than the date of publication of the Order in the Gazette as may be specified in the Order or, where no date is so specified, on the date of such publication.

(4) Where an Order is made and published under this section, the question of

3. (1) No person shall enter any prohibited place:

Provided, however, that—

- (a) a person holding office under the Republic may enter a prohibited place in the discharge of his duties, and
- (b) a person to whom a permit is issued under section 15 may enter a prohibited place specified in the permit for any purpose authorized by the permit.

(2) If a person—

- (a) contravenes the provisions of subsection (1), or
- (b) gains admission to a prohibited place otherwise than at an authorized point of entry,

he shall be guilty of an offence punishable under subsection (2) of section 26.

(3) A person shall be deemed to enter a prohibited place if he proceeds towards or into that place further than—

- (a) any wall, fence, barrier, buoy, boom or mole, erected, placed or maintained by the competent authority of that place in order to indicate the boundary thereof, or
- (b) any point or line (being a point or line on or near the boundary of that place) at which persons are required

Entry into Prohibited places.

or directed to stop either by a sentry on duty thereat or by a notice exhibited by the competent authority of that place.

(4) In the case of any prohibited place "authorized" point of entry means such point on the boundary of that place as may be set apart or specified or approved by or on behalf of the competent authority of that place as the point at which persons may enter that place.

Resistance to or interference with sentries.

4. If any person, within or in the vicinity of a prohibited place, obstructs or knowingly misleads, or otherwise interferes with or impedes any police officer or any member of the armed forces engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place; he shall be guilty of an offence punishable under subsection (2) of section 26.

Possession of cameras, &c., in prohibited places.

5. (1) No person shall take with him into a prohibited place, or have in his possession while he remains therein, any camera or sketching materials:

Provided, however, that—

- (a) a person holding office under the Republic may, in the discharge of his duties, take with him into a prohibited place, or have in his possession while he remains therein, any camera or sketching materials;
- (b) a person holding office under the Republic and residing within a prohibited place may take with him into that place, or have in his possession while he remains therein, any camera or sketching materials ; and
- (c) a person to whom a permit is issued under section 15 may, if the permit expressly authorizes him to do so, take with him into a prohibited place specified in the permit, or have in his possession while he remains therein, any camera or sketching materials.

(2) If a person contravenes the provisions of subsection (1), he shall be guilty of an

offence punishable under subsection (2) of section 26.

(3) No person shall take or make any photograph, sketch or model of any prohibited place or of anything therein:

Provided, however, that—

- (a) a person holding office under the Republic may, in the discharge of his duties, take or make any photograph, sketch or model of any prohibited place or of anything therein; and
- (b) a person to whom a permit is issued under section 15 may, if the permit expressly authorizes him to do so, take or make any photograph, sketch or model of any part of a prohibited place or anything in that place.

(4) If a person contravenes the provisions of subsection (3), he shall be guilty of an offence punishable under subsection (2) of section 26.

6. (1) If any person, for any purpose prejudicial to the safety or interests of the State—

- (a) approaches, inspects, passes over, is in the neighbourhood of or enters any prohibited place; or
- (b) takes any measurements or soundings or carries out a survey of any prohibited place; or
- (c) takes or makes any photograph, sketch or model of any prohibited place or of anything in any such place; or
- (d) makes any record or note relating to any prohibited place or to anything in any such place ; or
- (e) obtains, collects, records, publishes, or uses, or communicates to any other person any official secret or secret document, or any information which is calculated to be or might be or is intended to be directly or indirectly useful to an enemy,

he shall be guilty of an offence punishable under subsection (1) of section 26.

(2) On a prosecution under this section—

(a) it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case, or his conduct, or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State; and if any official secret or secret document, or any such information as is referred to in paragraph (e) of subsection (1) is obtained, collected, recorded, published, used, or communicated by any person other than a person acting under lawful authority, it shall be deemed to have been obtained, collected, recorded, published, used, or communicated for a purpose prejudicial to the safety or interests of the State unless the contrary is proved; and

(b) the fact that the accused person has been in communication with, or attempted to communicate with, a foreign agent, whether within or without Sri Lanka, shall be evidence that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is calculated to be or might be or is intended to be directly or indirectly useful to an enemy.

(3) For the purposes of paragraph (b) of subsection (2), without prejudice to the generality of the provisions of that paragraph—

[a] a person shall, unless he proves the contrary, be deemed to have been in communication with a foreign agent if—

(i) he has, either within or without Sri Lanka, visited the address of a foreign agent or consorted or associated with a foreign agent, or

(ii) either, within or without Sri Lanka, the name or address of, or any other information regarding, a foreign agent has been found in his possession, or has been supplied by him to any other person, or has been obtained by him from any other person ;

(b) the expression "foreign agent" includes any person who is or has been or is reasonably suspected of being or having been employed by a foreign power either directly or indirectly for the purpose of committing an act, either within or without Sri Lanka, prejudicial to the safety or interests of the State or who has or is reasonably suspected of having, either within or without Sri Lanka, committed, or attempted to commit, such an act in the interests of a foreign power;and

(c) any address, whether within or without Sri Lanka, reasonably suspected of being an address used for the receipt of communications intended for a foreign agent, or any address at which a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, shall be deemed to be the address of a foreign agent, and communications addressed to such an address shall be deemed to be communications with a foreign agent.

7. (1) If any person entrusted with any official secret or secret document, communicates or delivers it to any other person who is not a person to whom he is authorized to communicate or deliver it or to whom it is in the interests of the State his duty to communicate or deliver it, he shall be guilty of an offence punishable under subsection (2) of section 26.

Communica-
tion of official
secret, &c., to
unauthorized
persons.

(2) If any person who is not entrusted with, but who is otherwise having possession or control of, any official secret or secret document, communicates or delivers it to any other person who is not authorized to receive it or who is not a person to whom it is in the interests of the State his duty to communicate or deliver it, he shall be guilty of an offence punishable under subsection (2) of section 26.

Receiving unauthorized communication of official secret,&c

8. (1) If any person receives any official secret or secret document or permits it to be communicated or delivered to him, having reasonable cause to believe that it is communicated or delivered to him in contravention of this Act, he shall be guilty of an offence punishable under subsection (2) of section 26.

(2) It shall be a sufficient defence for any person charged with an offence under subsection (1) to prove that the communication or delivery of the official secret or secret document was not due to any solicitation or demand on his part.

Conduct endangering safety of official secret &c

9. If any person who is entrusted with, or is otherwise having possession or control of, any official secret or secret document—

- (a) fails to take reasonable care of such secret or document; or
- (b) conducts himself in such manner as to endanger the safety or secrecy of the information or document; or
- (c) in the case of such document, retains it in his possession or control when he has no right, or when it is contrary to his duty, to retain it, or fails to comply with any direction issued by lawful authority with regard to the return or disposal thereof,

he shall be guilty of an offence punishable under subsection (2) of section 26.

Unauthorized use of uniforms, false declarations, forgery personation and forged documents

10. (1) If any person, for the purpose of gaining admission, or of assisting any other person to gain admission, to a prohibited place, or for any other purpose prejudicial to the safety or interests of the State—

- (a) uses or wears, without lawful authority, any naval, military, air force, police or other official uniform, or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform; or
- (b) orally or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission; or
- (c) forges, alters, or tampers with any passport or any naval, military, air force, police, or official pass, permit, certificate, licence or other document of a similar character (hereafter in this section referred to as an " official document "), or uses or has in his possession any such forged, altered, or irregular official document; or
- (d) personates, or falsely represents himself to be a person holding, or in the employment of a person holding office under the Republic, or to be or not to be a person to whom an official document or a secret official code word or pass word has been duly issued or communicated, or with intent to obtain an official document, secret official code word or pass word, whether for himself or any other person, knowingly makes any false statement; or
- (e) uses or has in his possession or under his control, without lawful authority, any die, seal, or stamp used in the service of the Republic or any die, seal or stamp so nearly resembling any die, seal or stamp used in the service of the Republic as to be calculated to deceive, or counterfeits any die, seal or stamp used in the service of the Republic or uses, or has in his possession, or under his control, any such conteredited die, seal or stamp,

he shall be guilty of an offence punishable under subsection (2) of section 26.

- (2) If any person—
 - (a) retains, for any purpose prejudicial to the safety or interests of the State, any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or fails to comply with any directions issued by lawful authority with regard to the return or disposal thereof; or
 - (A) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code word or pass word so issued, or without lawful authority or excuse, has in his possession any official document or secret official code word or pass word issued for the use of some person other than himself, or on obtaining possession of any official document by finding it or otherwise, neglects or fails to restore it to the person or authority by whom or for whose use it was issued, or to the officer in charge of a police station,

he shall be guilty of an offence punishable under subsection (2) of section 26.

(3) In the case of any prosecution under this section involving the proof of a purpose prejudicial to the safety or interests of the State, subsection (2) (a) of section 6 shall apply in like manner as it applies to prosecutions under that section.

Power to require the production of telegrams.

11. (1) Whenever it appears to the President to be expedient in the public interest, he may, by order under his hand, require any person who owns or controls any telegraph or wireless telegraph used for the sending or receipt of messages to or from any place outside Sri Lanka, to produce to him, or to any person named in the order, the originals and transcripts, either of all messages, or of messages of any class or description specified in the order, or of messages sent from or addressed to any

person or place specified in the order, being messages sent to or received from any place outside Sri Lanka by means of any such telegraph or wireless telegraph, and all other papers relating to any such message.

(2) If any person who is required to produce any original or transcript or paper referred to in subsection (1) refuses or neglects to do so or mutilates or destroys such original or transcript or paper, he shall be guilty of an offence punishable under subsection (3) of section 26.

(3) In this section, the expressions "message", "telegraph" and "wireless telegraph" shall have the same meanings as in the Telecommunications Ordinance.

12. (1) Where the Inspector-General of Police is satisfied that there is reasonable ground for suspecting that an offence under this Act has been committed and for believing that any person is able to furnish information as to the suspected offence, he may apply to the Minister for permission to exercise the powers conferred by this subsection and, if such permission is granted, he may authorize any police officer not below the rank of Inspector to require the person believed to be able to furnish information to give any information in his power relating to the suspected offence, and, if so required and on tender of his reasonable expenses, to attend at such reasonable time and place as may be specified by the Inspector-General of Police or by the police officer authorized as aforesaid.

(2) Where the Inspector-General of Police has reasonable ground for believing that a case is one of great emergency and that in the public interest immediate action is necessary, he may exercise the powers conferred by subsection (1) without applying for or being granted the permission of the Minister, but, if he does so, shall forthwith report the circumstances to the Minister.

(3) References in this section to the Inspector-General of Police shall be construed as including references to any other officer of police expressly authorized by the Inspector-General of Police to act

on his behalf for the purposes of this section when by reason of illness, absence, or other cause the Inspector-General is himself unable to act.

(4) If any person who is required under the preceding provisions of this section to give any information or to attend as aforesaid fails to comply with the requirement or knowingly gives false information, he shall be guilty of an offence punishable under subsection (3) of section 26.

13. (1) If any person—

- (a) knowingly harbours any other person whom he knows, or has reasonable grounds for believing, to be a person who is about to commit or who has committed an offence under this Act; or
- (b) knowingly permits any such persons to meet or assemble in any premises in his occupation or under his control; or
- (c) having harboured any such person, or having permitted any such persons to meet or assemble in any premises in his occupation or under his control, wilfully omits or refuses to disclose to a police officer any information which it is in his power to give in relation to any such person,

he shall be guilty of an offence punishable under subsection (2) of section 26.

(2) For the purposes of this section any person who, knowing or having reasonable cause to believe that any other person is about to commit or has committed any offence under this Act, supplies such other person with shelter, food, drink, money, clothes, arms, ammunition, or means of transport, or otherwise maintains or assists such other person or conceals him with a view to preventing his apprehension or screening him from legal punishment, shall be deemed to harbour such other person.

14. If any person attempts to commit, or solicits or incites or endeavours to persuade or conspires with any other person to

commit, or aids or abets or does any act preparatory to the commission of, an offence under this Act, he shall be guilty of an offence and shall be liable to be proceeded against in the same manner, and on conviction thereof shall be liable to the same punishment, as that provided in this Act for the first-mentioned offence.

15. (1) The competent authority of a Permits. prohibited place—

- (a) may issue to any person a permit, subject to such conditions as may be specified in the permit, authorizing him to enter that place for such purpose as may be so specified, and
- (b) may authorize a person to whom a permit is issued, by express provision in the permit, to take any camera or sketching materials into the aforesaid place and take or make any photograph or sketch of any such part of that place or any such thing therein as may be specified in the permit.

(2) Where the competent authority of a prohibited place issues a permit under subsection (1) expressly authorizing the taking or making of any photograph or sketch, he shall specify in the permit a condition that every photograph or sketch taken or made under the authorization given by the permit shall be submitted to him for examination and approval and that any such photograph or sketch, if disapproved wholly or in part by him, shall be liable to be confiscated or destroyed or to be modified by the obliteration of any part or otherwise, as he may in each case deem necessary.

(3) If a person to whom a permit is issued under subsection (1) contravenes or fails to comply with any condition specified in the permit, he shall be guilty of an offence punishable under subsection (2) of section 26.

16. Where any person is found to be committing or is known or reasonably suspected to have committed an offence under any of the foregoing provisions of this Act in or in the vicinity of a prohibited

Power to search offenders or suspects and seize photographs, &c.

Harbouring offenders or intending offenders.

Attempts, incitements, &c.

place or in- relation to any such place, the competent authority of that place or any officer acting under his direction may—

- (a) detain such person for purposes of search; and
- (b) cause such person and any camera or sketching materials in his possession to be searched ; and
- (c) seize any photograph or sketch found on such person or in his camera or among his sketching materials or otherwise in his possession.

Where it is necessary to search the person of a female under this section, the search shall in every case be carried out by a female and with strict regard to decency.

Search warrant to look for and seize photographs, &c.

17. Where a Magistrate is satisfied that there is reasonable cause to believe that there is in existence within his local jurisdiction a photograph, sketch or model which contains or affords matter or information relating to a prohibited place or anything therein, being matter or information likely to be directly or indirectly useful to an enemy or to any foreign power or otherwise likely to be prejudicial to the safety or interests of the State, he may issue a search warrant to search for and seize such photograph, sketch or model, whether or not an offence under this Act is alleged or is reasonably suspected to have been committed,

Disposal of photographs, &c., seized or produced.

18. (1) Every photograph, sketch or model seized under section 16 or in the execution of a search warrant under section 17 shall be produced before a Magistrate, and shall be transmitted by the Magistrate, through the appropriate channels, to the Minister for directions as to the disposal thereof.

(2) The Minister, if he considers that any photograph, sketch or model transmitted to him under subsection (1) contains matter or information directly or indirectly useful to an enemy or to any foreign power or otherwise prejudicial to the safety or interests of the State, may direct that the photograph, sketch or model be forfeited or that any part thereof be obliterated, erased, or removed.

(3) The directions given by the Minister under subsection (2) in respect of any photograph, sketch or model shall apply to every copy or print thereof then existing or thereafter made, and in the case of a photograph shall apply, also, to the film, plate or developed negative from which the photograph was reproduced.

(4) If any person; contravenes any direction given by the Minister under subsection (2), or resists or obstructs, or prevents by any act, default or refusal, the execution of any such direction, he shall be guilty of an offence punishable under subsection (3) of section 26.

19. (1) Any person who is found committing an offence under this Act, or who is reasonably suspected of having committed, or having attempted to commit, or being about to commit, such an offence, may be arrested without a warrant. Power to arrest-

(2) Without prejudice to the generality of the provisions of subsection (1) it is hereby declared that it shall be lawful for any commissioned officer, warrant officer, petty officer, non-commissioned officer or leading rating of any of the armed forces or for any police officer, with or without a warrant or other process, to arrest or cause to be arrested any person who, in a prohibited place or on any land or premises in the occupation of any of the armed forces, is found committing or is reasonably suspected to be committing an offence under this Act, and forthwith to bring or cause to be brought the person so arrested before a Magistrate for the purpose of being dealt with according to law.

20. (1) If a Magistrate is satisfied by information on oath or affirmation that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed, he may grant a search warrant authorizing any police officer named therein, or authorizing, if so requested, any police officer accompanied by an officer deputed by the Commander of the Army, the Commander of the Navy, or the Commander of the Air Force to enter at any time any premises or place specified in the warrant, if necessary by force, and to search the premises or place and every Search warrants-

person found therein, and to seize and retain any photograph, sketch, model, note or document, or any such other article as is evidence of an offence under this Act, having been or being about to be committed, which he may find on the premises or place or on any such person and with regard to or in connexion with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.

(2) When it appears to a police officer not below the rank of Assistant Superintendent in charge of a district that a case is one of great emergency and that in the interests of the State immediate action is necessary, he may, by a written order under his hand, give to any subordinate police officer the like authority as may be given by the warrant of a Magistrate under this section.

Manner of making arrests, searches, &c.

21. The provisions of the Code of Criminal Procedure Act relating to arrests, searches, search warrants, the production of persons arrested before a Magistrate and the investigation of offences shall apply to all action taken in these respects under this Act.

Restriction on prosecution.

22. A prosecution for an offence under this Act shall not be instituted except by, or with the sanction of, the Attorney-General :

Provided that, notwithstanding that the sanction of the Attorney-General to the institution of a prosecution for an offence under this Act has not been obtained, a person who is known or is reasonably suspected to have committed that offence may be arrested, or a warrant for his arrest may be issued and executed, and on being brought before a Magistrate the charge upon which he has been arrested may be explained to him, and he may be remanded in custody or released on bail, so however that he shall not be called upon to plead and the case against him shall not be further prosecuted until the sanction of the Attorney-General has been obtained,

Venue.

23. For the purpose of the trial of a person for an offence under this Act, the offence shall be deemed to have been committed either at the place in which it

was actually committed or at any place in Sri Lanka in which the offender may be found.

24. In addition and without prejudice to any powers which a court may possess to order the exclusion of the public from any proceedings, if, in the course of any preliminary proceedings before a court against any person for an offence under this Act, or in the course of the trial of a person for an offence under this Act, or in the course of the hearing of an appeal in any such case, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings, trial or hearing would be prejudicial to the safety or interests of the State, that all or any portion of the public shall be excluded - during any part of the proceedings, trial or hearing, the court may make an order to that effect; but in every case where a sentence has to be passed, such sentence shall be passed in public:

Exclusion of public from hearing of cases.

Provided that, except in case of gross misconduct, no attorney-at-law appearing for the accused shall be excluded.

25. Where the person guilty of an offence under this Act is a company or corporation, or a member or servant of a partnership or firm, acting in the course of the business of the partnership or firm, every director and officer of the company or corporation or every member of the partnership or firm (as the case may be) shall be guilty of the like offence unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

Offences by companies, firms, &c.

26. (1) Every person who is guilty of an offence under section 6 shall be liable to imprisonment of either description for a term not exceeding fourteen years, and shall also be liable to a fine not exceeding twenty thousand rupees.

Penalties.

(2) Every person who is guilty of an offence under any of the sections 3, 4, 5, 7, 8, 9, 10, 13 and 15 shall be liable, on conviction before the High Court, to imprisonment of either description for a term not exceeding two years, and shall also be liable to a fine not exceeding two thousand rupees.

A person charged with an offence under any section mentioned in this subsection may, with the sanction of the Attorney-General, be tried before a Magistrate's Court, and such person shall, on conviction by that court, be liable to imprisonment of either description for a term not exceeding six months and shall also be liable to a fine not exceeding one thousand rupees.

(3) A person who is guilty of an offence under section 11 or section 12 or section 18 (4) shall be liable, on conviction before a Magistrate's Court, to imprisonment of either description for a term not exceeding six months, and also to a fine not exceeding one thousand rupees.

Any person charged with any offence under any section mentioned in this subsection may, if the Attorney-General so directs, be tried before the High Court, and such person shall on conviction by that court be liable to imprisonment of either description for a term not exceeding two years, and also to a fine not exceeding two thousand rupees.

(4) In the case of a Magistrate's Court, the provisions of this section shall prevail over any other law by which any limit is placed on the punishment that may ordinarily be imposed by such court.

Interpretation.

27. (1) In this Act, unless the context otherwise requires—

"armed forces" means the Sri Lanka Army, Sri Lanka Navy and the Sri Lanka Air Force, and includes—

- (i) any volunteer force which has for the time being been called out for active service under any law in Sri Lanka ; and
- (ii) in the event of war, any forces of any Power allied with the Republic, which are for the time being stationed in Sri Lanka and are deemed to be armed forces for the purposes of this Act by virtue of any direction in that behalf given by the Minister by Order published in the Gazette :

"camera" includes every instrument, device or contrivance, of whatsoever nature or description, which is used or is capable of being used for the purpose of taking photographs, and all implements or equipment used or capable of being used as ancillary to that purpose.;

"competent authority", in relation to each prohibited place, means the officer specified in that behalf by the Minister by Order published in the Gazette either in respect of that prohibited place or in respect of any class or description of prohibited places to which that prohibited place belongs;

"contract made on behalf of the Republic" includes any contract made by any department of the Government of the Republic, and, in the event of war, of the Government of any ally of the Republic in that war;

"document" includes a part of a document;

"implements of war " includes the whole or any part of any ship, submarine, aircraft, tank, or similar vessel, vehicle or engine, arms and ammunition, and any bomb, torpedo, or mine, intended or adapted for use in war, and any other article, material or device, whether fitted together or in parts, intended for such use;

"lawful authority", in any context relating to any permission or direction or order required for any •of the purposes of this Act, means an officer in the service of the Republic who is duly empowered to grant such permission or to issue such direction or order;

" Minister " means the Minister in charge of the subject of Defence;

*' model" includes design, pattern, and specimen;

" office under the Republic ** includes any office or employment in the armed forces or in any department of Government;

" official secret " means—

- (i) any secret official code word, countersign or pass word;
- (ii) any particulars or information relating to a prohibited place or anything therein;
- (iii) any information of any description whatsoever relating to any arm of the armed forces or to any implements of war maintained for use in the service of the Republic or to any equipment, organization or establishment intended to be or capable of being used for the purposes of the defence of Sri Lanka; and
- (iv) any information of any description whatsoever relating directly or indirectly to the defences of Sri Lanka;

" photograph " includes a photographic film or plate, any developed or processed negative, and any printed or other pictorial representation or diagram produced in whole or part by photographic means;

" prohibited place" means a place declared to be a prohibited place by an Order made and published under section 2;

*'secret document" means any document containing any official secret and includes—

- (i) any secret official code or anything written in any such code; and
- (ii) any map, sketch, plan, drawing, or blue-print, or any photograph or model or other representation, of a prohibited place or anything therein or of any implement of war or of anything relating to the defences of Sri Lanka;

"sketch" includes any drawing, map, plan, tracing, blue-print or other print, or painting, or other pictorial representation;

" sketching materials" includes every description of material, implement or equipment used or capable of being used for making any sketch as hereinbefore defined;

" the Republic " or " the State " means the Democratic Socialist Republic of Sri Lanka..

(2) For the purposes of this Act—

(a) a person shall be deemed to have been entrusted with any official secret or secret document if—

(i) it has been entrusted in confidence to him by any person holding office under the Republic, or

(ii) he has obtained it or has had access thereto owing to his position as a person who holds or has held office under the Republic, or as a person who holds or has held a contract made on behalf of the Republic or as a person who is or has been employed by any person who holds or has held such an office or contract;

(b) expressions referring to the act of communicating, delivering or receiving any official secret or secret document include any act of communicating, delivering or receiving a part of such secret or document or the substance, effect, or description thereof;

(c) expressions referring to the act of obtaining or retaining any secret document include the act of copying or causing to be copied the whole or any part of such document" and

(d) expressions referring to the communication or delivering of any secret document include the transfer or transmission of such document.

(3) During the continuance of any war in which the Republic may be engaged and for the purposes of which the territory or any part of the territorial waters of Sri Lanka is used by or on behalf of the Republic the expression "the Republic" in any of the preceding provisions of this Act shall, unless the context otherwise requires, be deemed to include a reference to each foreign Power or State taking any part in that war as an ally of the Republic.

CHAPTER 38

OFFENSIVE WEAPONS

Act
No. 18 of 1966.

AN ACT TO PROVIDE FOR THE PROHIBITION OF THE IMPORTATION, MANUFACTURE, POSSESSION, SALE, EXPOSURE FOR SALE, ACQUISITION, TRANSPORT, USE OR SUPPLY OF, AND OF THE DOING OF CERTAIN OTHER ACTS OR THINGS WITH, OFFENSIVE WEAPONS.

[21st June. 1966.]

Short title. **1.** This Act may be cited as the Offensive Weapons Act.

Prohibition of the importation, &c., of offensive weapons. **2.** (1) Any person who, except with lawful authority the proof whereof shall lie on him,—

- (a) imports or offers to import any offensive weapon into Sri Lanka ; or
- (b) manufactures, possesses, sells, exposes for sale, supplies, acquires, transports or uses, for any purpose or in any manner whatsoever any offensive weapon ; or
- (c) offers to do any act or thing referred to in paragraph (b) of this subsection,

shall be guilty of an offence under this Act punishable with imprisonment of either description for a term not exceeding ten years, and also with a fine not exceeding ten thousand rupees, and may in addition be punished with whipping.

(2) For the purposes of this section, any offensive weapon in the control, power or disposition of any person shall be deemed to be in his possession.

(3) For the purposes of this section,- the expression " lawful authority ", in relation to any act or thing referred to in subsection (1) which is done or offered to be done by any person in respect of any offensive weapon, means—

- (a) any such act or thing so done or offered to be done by him in his capacity as a member of the Sri Lanka Army, the Sri Lanka Air Force, the Sri Lanka Navy, or the Sri Lanka Police Force, and in the course or for the purposes of his duties as such member ; or

(b) any such act or thing so done or offered to be done by him under and in accordance with—

- (i) the provisions of the Explosives Ordinance or any other written law, or
- (ii) the authority of any instrument by whatsoever name or designation called duly issued or granted to him under such provisions.

3. Any person who does with any offensive weapon any act or thing—

- (a) which causes, whether directly or indirectly, damage or destruction to any movable or immovable property of the State, any body of persons whether corporate or unincorporate, or any individual; or
- (b) which causes, whether directly or indirectly, any such change in such property as destroys its value or utility,

shall be guilty of an offence under this Act punishable with imprisonment of either description for a term not exceeding twenty years, and also with a fine not exceeding ten thousand rupees, and may in addition be punished with whipping.

4. (1) Any person—

- (a) who attempts to cause the death of any other person with any offensive weapon but does not cause injury to such other person, or
- (b) who attempts to cause injury to any other person with an offensive weapon,

shall be guilty of an offence under this Act punishable with imprisonment of either description for a term not exceeding ten

Damage, &c., to property by use of offensive weapons.

Attempt to cause death or injury, and causing of injury, with offensive weapons.

years, and also with a fine not exceeding ten thousand rupees, and may in addition be punished with whipping.

(2) Any person who causes injury to any other person with any offensive weapon shall be guilty of an offence under this Act punishable with imprisonment of either description for a term which shall not be less than ten years and not more than twenty years, and also with a fine not exceeding ten thousand rupees.

Attempts to commit offences under this Act.

5. Any person who attempts to commit any offence under this Act, other than any such offence under section 4 (1), shall also be guilty of that offence, and accordingly shall be punished with the penalty provided for that offence by this Act.

Abetment of offences under this Act.

6.. (1) Any person who—

(a) instigates any other person to commit an offence under this Act; or

(b) engages in any conspiracy for the commission of that offence ; or

(c) intentionally aids, by any act or illegal omission, the commission of that offence,

shall also be guilty of that offence, and accordingly shall be punished with the penalty provided for that offence by this Act.

(2) The provisions of the Penal Code relating to the abetment of an offence shall not apply to the abetment of an offence under this Act.

Power of police to arrest without a warrant.

7. (1) Any police officer may, without any order or warrant from a Magistrate,—

(a) arrest any person who has in his possession any offensive weapon if such officer has reasonable cause to believe that such person is committing, or is about to commit, an offence under this Act; and

(b) remove such weapon from the possession of such person.

(2) A police officer who removes any offensive weapon from the possession of any person under subsection (1) may take all such steps as such officer may deem necessary to render such weapon harmless.

Power of police to search premises.

8. (1) Where a police officer of a rank not below that of Sub-Inspector has reasonable cause to believe that an offence

under this Act has been, or is about to be, or is being, committed and that evidence of the commission of such offence is to be found on any premises or in any vehicle or vessel, such officer may, with such assistance as may be required, enter such premises or, as the case may be, the premises on which the vehicle or vessel may be, and search such premises or, as the case may be, the vehicle or vessel.

(2) Any police officer searching any premises, or any vehicle or vessel, under subsection (1) and every person assisting such officer may search any person who is found in, or whom he has reasonable cause to believe to have recently left, or to be about to enter such premises or such vehicle or vessel, as the case may be, and may seize any article, found in such premises or in such vehicle or vessel, which he has reasonable cause to believe to be evidence of the commission of an offence under this Act. Any article so seized which is an offensive . weapon may be immediately rendered harmless by such officer or other person assisting such officer.

(3) Such police officer shall, within forty-eight hours of such search, make a report to the nearest Magistrate's Court stating the circumstances and the manner in which such search was made and the result thereof.

9. Notwithstanding anything to the contrary in the First Schedule to the Code of Criminal Procedure Act, any offence under this Act shall be a cognizable offence within the meaning and for the purposes of that Act.

offences under this Act to be cognizable offences

10. Notwithstanding anything to the contrary in the Code of Criminal Procedure Act or any other written law, no person charged with, or accused of, an offence under this Act shall be released on bail except on the order of the Court of Appeal.

Offences under this Act to be non-bailable except on order of the Court of Appeal.

11. The provisions of Chapter XXV of the Code of Criminal Procedure Act shall not apply to or in relation to persons charged with, or accused of, offences under this Act, and accordingly such provisions shall be read and construed, and shall have force and effect, subject to the provisions of this section.

Chapter XXV of the Code of Criminal Procedure Act not to apply to persons charged with, or accused of, offences under this Act.

Certain offenders to be indicted without preliminary inquiry.

12. (1) Anything in the Code of Criminal Procedure Act or any other written law to the contrary notwithstanding, the Attorney-General may indict a person for an offence under this Act committed by reason of a contravention of any of the provisions of section 2 (1) before the High Court without a preliminary inquiry by a Magistrate's Court as provided in Chapter XV of that Act.

(2) The following provisions shall apply in any case where the Attorney-General indicts a person before the High Court under subsection (1) :—

- (a) An indictment prepared in the manner prescribed by section 162 of the Code of Criminal Procedure Act shall be transmitted by the Attorney-General to the High Court. He shall at the same time transmit to the Fiscal of that Court in which the trial will take place a copy or copies of the indictment for service on the accused person or each of the accused persons who will be tried upon the indictment. The Fiscal shall forthwith and at least fourteen days before the day specified for trial serve or cause to be served on the accused person or each of the accused persons, the copy or a copy of the indictment received by him from the Attorney-General and shall make a return of such service to the High Court and to the Attorney-General or any officer appointed by the Attorney-General to represent him.
- (b) The High Court shall forthwith upon the receipt of the indictment cause to be served on the accused person a notice specifying the date fixed for his trial.
- (c) Service on an accused person of any indictment or notice of trial shall be effected in the manner prescribed for the service of summons in sections 45 and 46 of the Code of Criminal Procedure Act, and the provisions of section 49 of that Act shall apply accordingly for the purpose of proving such service :

Provided, however, that if service cannot be effected in such manner by the exercise of due diligence, the indictment or notice shall be affixed to some conspicuous part of the house in which the accused person ordinarily resides, and in such case the indictment or notice shall be deemed to have been duly served.

- (d) The Attorney-General shall, before the date of trial, cause to be furnished to that person—
 - (i) a concise statement of the particulars of the charge and a list of witnesses who are likely to be called to give evidence and a list of documents that may be used by the prosecutor, and
 - (ii) a summary of such of the facts as are proposed to be relied on by the prosecutor.
- (e) At the trial of that person, the High Court or the prosecutor may, notwithstanding anything to the contrary in any other written law, call any such witness, or use or produce any such document, as is not specified in the indictment.

13. The proceedings before any court for an offence under this Act shall be taken up before any other business of that court unless special circumstances of urgency in such other business render it impossible to do so.

Priority to be given to proceedings for offences under this Act.

14. (1) A court may, on conviction of any person for an offence under this Act, make order that any article (including any offensive weapon or any ship or boat or other vessel or any vehicle) in connection with which the offence was committed or which was used in or in connection with the commission of the offence, shall be forfeited to the State.

Forfeiture of articles

(2) Any article forfeited to the State under any order made by any court under subsection (1) which is an offensive weapon shall be sent by the court to the Commander of the Sri Lanka Army for disposal in such manner as he may deem fit.

Evidence of offensive weapon.

15. (1) The following provisions shall apply in any case where in any proceedings before a court for an offence under this Act it has to be determined whether any article is an offensive weapon :—

(a) A certificate under the hand of the Government Analyst or a Deputy Government Analyst to the effect that such article is an offensive weapon shall be received in such proceedings as evidence of the fact that such article is an offensive weapon.

(b) The court may presume that the signature of such Analyst on such certificate is genuine and that he held the office of such Analyst at the time he signed such certificate ;

Provided that if the court is of opinion that it is necessary or expedient that, or either party to the case requests that, such Analyst should be present to give evidence at such proceedings, such Analyst shall be summoned as a witness for the purpose of giving evidence in the same manner as the other witnesses for the prosecution.

(c) The court may, if it thinks fit, summon and examine such Analyst as to the subject-matter of such certificate.

(2) Every certificate issued under this section shall be in the following form :—

I,..... Government Analysts/Deputy Government Analyst, do hereby certify that I have examined the article marked and that such article is an offensive weapon within the meaning of the Offensive Weapons Act.

Signature ;

Date :... .

(* Delete inapplicable words.).

16. In thiS Act, unless the context Interpretation. otherwise requires—

" manufacture ", in relation to an offensive weapon, includes the assembling of any parts whatsoever so as to form an offensive weapon ;

" offensive weapon " means a bomb or grenade or any other device or contrivance made for a use or purpose similar to that of a bomb or grenade ;

" premises " includes any place or spot, whether open or enclosed, and any ship, boat or other vessel, whether afloat or not, and any vehicle.

CHAPTER 66

PRISONS

Ordinances AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO PRISONS.

Nos-16of1877,
1 of 1883,
24 of 1890,
3 of 1894,
14 of 1907,
17 of 1916,
4 of 1923,
50 of 1935,
53 of 1939,
3 of 1940,
9 of 1941,
41 of 1944,
12 of 1945,

Acts
Nos.10of1948-,
12 of 1952,
35 of 1952,
21 of 1958,
6 of 1980.

[1st May, 1878.]

Short title. **1.** This Ordinance may be cited as the Prisons Ordinance.

PART I

ESTABLISHMENT AND OFFICERS OF PRISONS

Establishment of prisons. **2.** The prisons situated at the places mentioned in the Schedule shall be or continue to be prisons for the reception of prisoners of every description committed or remanded under the authority of any court, having Jurisdiction within any part of the districts or limits set opposite the names of such places respectively in the said Schedule :

Prisons may be closed and new prisons established. Provided always that it shall be lawful for the Minister, by Order, at any time or from time to time to close any of the prisons mentioned in the Schedule, or to make any alteration in the districts or limits within which any such prisons are appointed, and also to establish any other prison or prisons for Sri Lanka or for any part thereof, and any such Order to revoke, alter, or amend ; and every prison so established shall become subject to the provisions of this Ordinance in the same manner as if such prison had been mentioned in the Schedule.

Temporary shelter of prisoners. **3.** Whenever it appears to the Minister that the number of prisoners in any prison is greater than can conveniently or safely be

kept therein, or whenever from the outbreak of epidemic disease within any prison or for the performance of labour or for any other reason it is desirable to provide for the temporary shelter or safe custody of any prisoners without the walls of any prison, provision shall be made in such manner as the Minister may from time to time specially or by any general rules to be made in the manner provided in section 94 direct, for the temporary shelter or safe custody without the walls of the prison of so many of the prisoners as cannot be conveniently or safely kept therein. Prisoners for whom such shelter or custody is provided as aforesaid shall be subject to the provisions of this Ordinance and to any rules to be made under section 94 in the same manner in every respect as if they were within a prison.

4. It shall be lawful for the Minister or the Commissioner, by writing under his hand, to direct the removal of any prisoner from one prison to another; and such writing shall be sufficient warrant for the Superintendent or the jailer of the prison, to which such prisoner shall be so directed to be removed, to receive and detain such prisoner and deal with him according to law.

Minister or Commissioner may remove prisoners from one prison to another.

Warrants of commitment by Judges, &c., when good out of their jurisdiction.

5. The warrant or sentence of any Judge, Magistrate, or Primary Court committing any person for any offence cognizable by such Judge, Magistrate or Primary Court to any prison wherein such person may be lawfully detained, shall be good and sufficient, whether such prison shall or shall not be within the jurisdiction of such Judge, Magistrate or Primary Court.

Appointment of Commissioner and Deputy Commissioner of Prisons.

6. (1) There may be appointed—
- (a) a person, by name or by office, to be or to act as Commissioner of Prisons ;
 - (b) a person, by name or by office, to be or to act as Deputy Commissioner of Prisons.

Direction and control of prisons.

(2) The general direction and administrative control of all prisons in Sri Lanka shall, subject to the orders of the Minister, be vested in the person for the time being holding the office of Commissioner of Prisons.

(3) Any power, duty or function vested in, or imposed or conferred upon, the Commissioner, by this Ordinance or by any other written law may, subject to such general or special directions as may be issued in that behalf by the Commissioner with the approval of the Minister, be exercised, performed or discharged by the person for the time being holding the office of Deputy Commissioner of Prisons.

Prison officers.

7. (1) The staff of every prison shall consist of a Superintendent, a medical officer, a jailer and such number of subordinate officers as the Minister may in each case determine.

(2) In any case where the Minister deems it necessary the staff of a prison may also include one or more of any of the following classes of officers, namely, Assistant Superintendents, Probationary Superintendents, assistant medical officers, deputy jailers, and apothecaries.

(3) In every prison in which female prisoners are detained there shall be at least one female officer.

(4) In every prison there shall be at least one officer competent to interpret the Sinhala language and one officer competent to interpret the Tamil language.

8. (1) The medical officer, assistant medical officer or apothecary required for any prison shall be posted to such prison by the Director of Health Services with the concurrence of the Commissioner.

Appointment and supervision of medical officers and apothecaries.

(2) The medical officer, assistant medical officer or apothecary of a prison shall, for the purposes of section 81, be deemed to be a prison officer ; but shall in all other respects be under the supervision and control of the Director of Health Services.

9. All appointments of any such officers as aforesaid heretofore made shall be deemed to have been made under the provisions of this Ordinance.

Past appointments void.

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

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

(2) Every prisoner while being taken to or from any prison or while working outside prison walls or remaining for any other authorized 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.

11. All prison officers shall be provided with such weapons including batons, staves, arms, ammunition and accoutrements as may be prescribed by rules made under section 94.

Weapons and arms for prison officers,

11A. (1) The Minister may, with the concurrence of the Minister in charge of the subject of Finance, make rules providing for the establishment and operation of a scheme for the grant of compensation to any prison officer who is permanently totally or partially disabled, or to the legal heir or heirs of any prison officer who is dead, in any case where such disablement or death, as the case may be, is due to any injury—

Power to make rules for the establishment and operation of a scheme for the grant of compensation in respect of the permanent total or partial disablement or death of prison officers in the discharge of their duties. [§2, 6 of 1980.]

- (a) received by such officer while on duty, or
- (b) received by such officer while not on duty in the performance of some act which is within the scope of his ordinary duties, or
- (c) received by such officer in consequence of any act performed - in the execution of his duties, or

(d) received by such officer as a result of any act of reprisal occasioned by or arising out of any action taken by him in the execution of his duties.

Such rules may provide for the principles, exceptions, restrictions and conditions according, and subject, to which such compensation will be granted and for all other matters necessary or expedient for the establishment and operation of such scheme.

(2) Any compensation granted in accordance with rules made under the preceding provisions of this section shall be a charge on the Consolidated Fund.

(3) Where in any case a dispute arises as to whether or not compensation is payable or as to the amount of compensation payable under any rules made under the preceding provisions of this section, such dispute shall be determined by the Secretary to the Ministry charged with the subject of Justice.

(4) Any compensation granted in accordance with rules made under the preceding provisions of this section in respect of the disablement or death of a prison officer shall be in addition to any pension, gratuity, compensation, allowance, or other benefit, granted in respect of such disablement or death under the Minutes on Pensions.

(5) For the purposes of this section " prison officer ", means the Commissioner of Prisons, Deputy Commissioner of Prisons, officers of the prison staff and includes any other person employed in the Department of Prisons.

PART II

DUTIES OF OFFICERS

12. (1) All prison officers shall obey the directions of the Superintendent.

(2) The matron and all subordinate officers shall perform such duties as may be directed by the jailer with the sanction of the Superintendent; and the duties of the matron and of each subordinate officer shall be inserted in a book to be kept by her or him.

Officers to obey Superin-tendent.

13. It shall be the duty of every prison officer to preserve order and discipline among the prisoners in accordance with the provisions of this Ordinance and the rules made under section 94 and of any other written law applicable to prisons ; and for such purpose it shall be lawful for a prison officer to use all such means, including such degree of force, as may reasonably be necessary to compel obedience to any lawful directions given by him.

Duty of prison officers to maintain discipline and order among prisoners.

14. No prison officer shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner.

Officers not to sell or let to prisoners.

15. No prison officer shall, nor shall any person in trust for or employed by him, have any interest direct or indirect in any contract for the supply of the prison ; nor except so far as is expressly allowed by rules made under section 94, shall he derive any benefit directly or indirectly from the sale of any article on behalf of the prison or belonging to a prisoner.

Officers not to contract with prisoners.

SUPERINTENDENT

16. Subject to the directions of the Commissioner, the Superintendent shall—

Duties of Superin-tendent.

(a) manage the prison in all matters relating to discipline, labour, expenditure, punishment, and control;

(b) correspond on all matters connected with the prison with the Commissioner ;

(c) submit to the Commissioner all prison accounts with proper vouchers for audit;

(d) periodically inspect all property of the Government in his charge and report thereon to the Commissioner ;

(e) generally obey all rules made under section 94 for the guidance of the Superintendent.

17. Any of the duties or functions, imposed on the Superintendent by the provisions of this Ordinance and the rules made under section 94 or of any other written law, may be performed or exercised by an Assistant Superintendent or a Probationary Superintendent, under the general or special directions of the Superintendent, or in the absence of the Superintendent; and for the purposes of the

Duties and powers of Assistant Superintendents and Probationary Superintendents.

performance or exercise of such duties or functions, an Assistant Superintendent or Probationary Superintendent shall be deemed to have all the powers, privileges, protections and immunities conferred by any of the aforesaid provisions of law upon the Superintendent.

MEDICAL OFFICER

Power to make rules as to medical officer's duties.

18. (I) It shall be lawful for the Minister after consulting the Minister in charge of the subject of Health to make rules as to each of the following matters :—

- (a) how often the medical officer shall visit the prison and see each prisoner ;
- (b) the records to be made respecting sick prisoners ;
- (c) periodical inspection of every part of the prison ;
- (d) reports on its cleanliness, drainage, warmth, and ventilation ;
- (e) reports on the provisions, water, clothing, and bedding supplied to the prisoners,

Medical officer to obey rules.

(2) The medical officer shall obey all rules made under subsection (I).

Medical officer to report cases requiring special attention.

19. Whenever the medical officer has reason to believe that the health of a prisoner is or is likely to be injuriously affected by the discipline, diet, or treatment to which he is subjected, the medical officer shall report the case in writing to the Superintendent, together with such recommendations as the medical officer thinks proper.

Treatment of prisoners failing or refusing to take food,

20. (1) It shall be the duty of the medical officer to keep under close observation every prisoner whose health is or is likely to be injuriously affected by any inability or failure to take food or sufficient food, and to subject every such prisoner to any medical treatment that may be necessary at the earliest possible stage after his condition is discovered.

(2) The medical officer may, whenever he considers it to be necessary or advisable, adopt any device or means which may appear to him to be suitable—

(a) for the compulsory feeding of any prisoner who, in the opinion of the medical officer, feigns inability to take food or wilfully refuses food with intent to procure a discharge from prison or any exemption from labour or for any other reason ; or

(b) for the artificial feeding of any prisoner who has become unconscious or otherwise unable to feed himself.

(3) The medical officer shall personally carry out the compulsory or artificial feeding required in any case referred to in subsection (2), and shall, in every such case, take all due precautions to ensure that no greater force is used than may be reasonably necessary for the purposes of such feeding.

(4) The medical officer shall report to the Superintendent for the information of the Commissioner, and to the Director of Health Services, full particulars of every case of compulsory or artificial feeding carried out by him.

(5) No criminal prosecution or civil action shall be instituted or maintained against the medical officer in respect of any injury caused or alleged to have been caused to any prisoner by any act of the medical officer in the course of any compulsory or artificial feeding carried out by him or by the omission of the medical officer in the exercise of his discretion to adopt any measures for the compulsory or artificial feeding of the prisoner.

21. On the death of any prisoner the medical officer shall forthwith record in writing the following particulars, namely :—

Medical officer to make entries as to death of prisoners.

- (a) when the deceased was taken ill;
- (b) when the medical officer was first informed of the illness ;
- (c) the nature of the disease ;
- (d) when the prisoner died ;
- (e) and (in cases where a post-mortem examination is made) an account of the appearances after death; together with any special remarks that may appear to the medical officer to be required.

Assistant medical officer. **22.** Where an assistant medical officer is appointed to a prison, he shall be competent to perform any duty required by this Ordinance or by any rule made hereunder to be performed by the medical officer.

Duties of medical officer, &c. **23.** The medical officer, and any assistant medical officer or apothecary appointed to a prison shall perform their duties in the prison in co-operation with the prison staff and with due regard to the maintenance of discipline and the security and the proper administration of the prison in accordance with this Ordinance and the rules made in that behalf under section 94 or with any other written law.

JAILER

Residence of Jailer, **24.** (1) The jailer shall reside in the prison or in such convenient place near thereto as the Superintendent shall by writing appoint.

(2) The jailer shall not without the Commissioner's sanction be concerned in any other employment.

Jailer to deliver lists of prisoners (if any) in punishment cells. **25.** The jailer shall deliver to the medical officer daily a list of such prisoners (if any) as are confined in punishment cells.

Jailer to give notice of death of prisoners. **26.** Upon the death of a prisoner the jailer shall give immediate notice thereof to the Superintendent and to the Magistrate having jurisdiction over the area in which the prison is situated, and also when practicable, to the nearest relative of the deceased. The jailer shall also report to the Superintendent from time to time, as they occur, all escapes and recaptures. He shall also report to the Superintendent and to the medical officer, without delay, all outbreaks of epidemic disease.

Jailer to keep books and accounts. **27.** The jailer shall keep or cause to be kept the following records :—

- (a) a register of warrants ;
- (b) book showing when each prisoner is to be released ;
- (c) punishment book for the entry of the punishments inflicted for prison offences ;
- (d) a Visitors* book for the entry of any observations made by Visitors to the prison;

(e) a record of the money and other articles taken from prisoners ;

and all such other records as may be prescribed by rules made under section 94.

28. The jailer shall be responsible for the safe custody of the records to be kept by him under the preceding section, and also for the commitments and all other documents committed to his care. Jailer responsible for safe custody of documents.

29. The jailer shall not be absent from the prison or from his residence, if residing outside the prison, for a night without permission in writing from the Superintendent; but if absent without leave for a night from unavoidable necessity, he shall at the earliest opportunity report the fact and the cause of it to the Superintendent. Jailer not to be absent without leave

30. When an assistant jailer is appointed to a prison, the Superintendent may at his discretion by written order assign any part of the jailer's duties to such assistant jailer ; and in such case the same responsibilities shall attach to such assistant jailer in respect of such duties as attach to the jailer. Assistant Jailer

31. Where there is no assistant jailer, or when his services are not available by reason of sickness or other cause, the Superintendent shall, when the jailer is absent from the prison or temporarily incapacitated, appoint by writing under his hand some person to act as his substitute during such absence or incapacity, and the substitute so appointed shall have all the powers and perform all the duties of the jailer. Substitute for jailer in case of necessity.

MATRON

32. The matron shall reside in the prison or in such convenient place near thereto as the Superintendent shall by writing appoint ; and she shall not without the Superintendent's sanction absent herself from the prison or from her other dwelling place, nor shall she without such sanction be concerned in any other employment. It shall be her duty constantly to superintend the female prisoners. Residence and duties of matron.

SUBORDINATE OFFICERS

33. The officer acting as gate-keeper, or any other prison officer, may examine anything carried into or out of the prison Powers of gate-keeper.

and may stop and search any person suspected of bringing spirits or other prohibited articles into the prison, and if any such articles or property be found shall give immediate notice thereof to the jailer ;

Provided that the persons of females shall be searched by some female prison officer.

Subordinate officers not to be absent without leave.

34. Subordinate officers shall not be absent from the prison without leave from the Superintendent or from the jailer, and before absenting themselves they shall leave their keys in the jailer's office.

PART III VISITORS

Power to appoint, and remove from office. Board of Prison Visitors, Local Visiting Committees, and Additional Prison Visitors. [§2,21 of 1958.]

35. (1) It shall be lawful for the Minister, by notice published in the Gazette, to appoint—

- (a) for all prisons in Sri Lanka generally, a Board of Prison Visitors consisting of seven members, all of whom shall be persons who do not hold any public office under the State ;
(b) for each of the prisons in Sri Lanka, a Local Visiting Committee consisting of four persons who are not members of the Board of Prison Visitors and do not hold any public office under the State ; and
(c) for any specified prison or group of prisons, one or more Additional Prison Visitors, each of whom shall be a person who is not a member of the Board of Prison Visitors or of a Local Visiting Committee and does not hold any public office under the State.

(2) Every member of a Local Visiting Committee shall for the purposes of this Ordinance be deemed to be a Visitor of the prison for which the committee is appointed, and, save as otherwise expressly provided, shall, in relation to that prison, exercise the powers and perform the duties of a Visitor accordingly,

(3) Any person appointed under this Ordinance as a Visitor may be removed from office by the Minister at any time.

(4) Every Visitor appointed under this Ordinance shall hold office for a period of three years from the date of his appointment, unless he is earlier removed from office by the Minister :

Provided, however, that where any Visitor is appointed for any shorter period specified in the notice relating to his appointment, such Visitor shall hold office only for the period so specified.

36. (1) It shall be the duty of the Board of Prison Visitors—

- (a) to hold a meeting of the board at least once in three months ;
(b) to elect a chairman from among the members at the first meeting held after the appointment of the board ;
(c) to advise the Commissioner in matters relating to the general administration of prisons in Sri Lanka ; and
(d) to investigate and report on any matter concerning prisons referred to the board either by the Minister or by the Commissioner.

Duties of Board of Prison Visitors, Local Visiting Committees, and Additional Prison Visitors. [§3, 21 of 1958.]

The quorum for any meeting of the board shall be three members.

(1A) The chairman of the Board of Prison Visitors shall, unless he earlier resigns the office of such chairman or ceases to be a member of the board, hold such office during the term for which he is a member of the board.

(2) It shall be the duty of every Local Visiting Committee—

- (a) to elect a chairman from among the members at a meeting held as soon as may be after the appointment of the committee ;
(b) to conduct such inquiry as may be necessary, whenever any special matter, concerning the prison for which the committee has been appointed, is referred to the committee for inquiry by the Minister or the Commissioner, and

to report their opinion thereon to the Minister or the Commissioner as the case may be ;

- (c) to hold a meeting once in each half-year at the prison for the purpose of considering matters concerning the prison not specially referred to the committee by the Minister or the Commissioner under sub-paragraph (b), and to furnish a half-yearly report to the Commissioner on any matter which in the opinion of the committee it is expedient to refer to him for consideration.

(3) It shall be the duty of the chairman of each Local Visiting Committee—

- (a) to prepare a rota of attendance and to make all such arrangements as may be necessary to ensure that at least one member of the committee shall visit the prison once at least in every week and shall hold himself in readiness to attend at the prison at any reasonable time to hear any complaint that a prisoner may desire to make;
- (b) to sign all letters and reports on behalf of the committee ; and
- (c) to summon the half-yearly meetings of the committee and all such other meetings as may from time to time be necessary for the purposes of any inquiry to be held under subsection (2)(fr).

(4) It shall be the duty of every Visitor who is a member of a Local Visiting Committee—

- (a) to inquire into and report on any matter relating to the prison which may be specially referred to him for inquiry or report by the Minister or the Commissioner ;
- (b) unless he is prevented by illness or other sufficient cause, to visit the prison once at least in every week in any period during which he is required in accordance with the rota of attendance or other arrangements made by the chairman, to visit the prison, and to hold himself in readiness during

that period to attend at the prison at any reasonable time to hear any complaint that a prisoner may desire to make ;

- (c) to attend at the prison whenever he is summoned to act as memembr of a tribunal for the purposes of section 81 ;

(d) to enter in the log book after each visit made by him to the prison, a statement of all matters relating to the prison which were investigated by him during the visit; and

- (e) to record in the complaint book each complaint made to him by a prisoner and the proceedings taken by him on such complaint.

(5) Any Additional Prison Visitor shall, in relation to the prison or any of the prisons to which he has been appointed, be entitled to exercise the rights of an individual member of a Local Visiting Committee, and shall, whenever called upon by the Superintendent of such prison, perform in respect of such prison any of the duties imposed by this Ordinance or any other written law upon an individual member of a Local Visiting Committee.

(6) Every Visitor shall, in the performance of his duties, act in conformity with the provisions of this Ordinance, the rules made thereunder and any other written law relating to prisons, and shall co-operate with the prison staff in the maintenance of discipline in, and the good management of, the prison in or in respect of which such duties are performed.

37. (1) Every Visitor shall be entitled—

Powers of Visitors.

- (a) to visit any prison at any time ;
- (b) to have free access to any part of any prison or to any prisoner therein ;
- (c) to inspect the condition of any part of the buildings or the premises of any prison, • or any appliance or equipment provided therein for the use of the prisoners ;
- (d) to inspect or test the diet provided for the prisoners in any prison ;
- (e) to inquire into the general condition and treatment of the prisoners in anyprison;

(f) to record in the Visitors* book or in the log book, as the case may be, a statement of the facts discovered by him in the course of any inspection or inquiry under any of the foregoing paragraphs of this subsection and any observations he may desire to make as a result of such inspection or inquiry :

(ii) a log book in which members of Local Visiting Committees or Additional Prison Visitors may record statements or particulars of the business transacted during their visits which they are required or authorized to record by this Ordinance or the rules made thereunder ;

Provided, however, that no Visitor shall be entitled—

- (i) if he is a member of a Local Visiting Committee or an Additional Prison Visitor, to visit or to have access to, or to hold any inspection or inquiry in, any prison other than the prison or one of the prisons for which he has been appointed ; or
- (ii) to hold any inquiry, or make any observation or recommendation, as to any matter connected with the appointment, promotion or transfer of any prison officer or the supervision, control or discipline of the prison staff; or
- (iii) save as provided in sections 41 (2) and 79, to issue any order to any prison officer or prisoner.

(iii) a complaint book in which any Visitor may record the complaints made to him by prisoners and the proceedings taken upon such complaints ; and

(b) to produce the Visitors' book, log book, or complaint book, as the case may be, on demand made by any of the aforesaid persons in the course of any visit made by him to the prison.

(2) It shall be the duty of the Superintendent to transmit to the Commissioner, within such period as may be specified by him, a copy of each new entry made in the Visitors' book or the log book.

(3) The Commissioner may, after consideration of any report transmitted to him under section 36 or section 41 or of any entry in a Visitors' book or log book, of which a copy is transmitted to him under subsection (2), take such action thereon as to him may seem expedient.

(2) Nothing in this section contained shall be deemed to authorize the Board of Prison Visitors or a Local Visiting Committee to hold any inquiry, or make any observation or recommendation, as to any matter connected with the appointment, promotion, or transfer of any prison officer, or the supervision, control, or discipline of the prison staff or to issue any order to any prison officer or prisoner.

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

Power of Judges and Members of Parliament and Magistrates to visit prisons.

Visitors' book, log book, and complaint book.

38. (1) It shall be the duty of the jailer of every prison—

- (a) to keep within the prison—
 - (i) a Visitors' Book in which the Judges of the Supreme Court, Judges of the Court of Appeal, Members of Parliament, Judges of the High Court, and members of the Board of Prison Visitors may record any observations or recommendations after a visit paid by them. to the prison ;

(2) Any Member of Parliament, District Judge, Judge of a Family Court, or Magistrate, or Judge of a Primary Court may visit any prison, between the hours of 5.30 a.m. and 5.30 p.m. on any day for the purpose of inspecting the general condition of the prison and of the prisoners therein, and may record in the Visitors' book any observations or recommendations which he may think fit to make after such inspection.

(3) The provision of section 38 as to the production of the Visitors' book and the transmission of copies of entries made therein to the Commissioner shall apply in the case of Judges of the Supreme Court, Judges of the Court of Appeal, Members of Parliament, Judges of the High Court, District Judges, Judges of the Family Courts, Magistrates and Judges of the Primary Courts in like manner as in the case of members of the Board of Prison Visitors.

(4) Every District Judge, Judge of a Family Court, Magistrate or Judge of a Primary Court shall for the purposes of this Ordinance be deemed to be a Visitor of any prison situated within his jurisdiction, and may, in relation to any such prison, exercise the powers and perform the duties of a Visitor accordingly.

Penalty for resistance or obstruction to persons authorized to enter prisons.

40. (1) No jailer or subordinate prison officer shall refuse admittance or offer any hindrance or obstruction to a Visitor, a Judge of the Supreme Court, a Judge of the Court of Appeal, a Member of Parliament, a Judge of the High Court, a District Judge, a Judge of a Family Court, a Magistrate, a Judge of a Primary Court, or any other person authorized by any written law to enter a prison.

(2) A jailer 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 87.

Visitors to hear complaints and punish or report under section 81.

41. (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 jailer 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 Commissioner, 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 Commissioner.

PART IV

ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS

42. When a prisoner is first admitted, and at any time thereafter when considered necessary, he shall be searched, and all weapons and prohibited articles shall be taken from him.

Prisoners to be searched on entrance and as often as necessary.

43. Every criminal prisoner shall also, as soon as convenient after admission, be examined by the medical officer who shall enter in a book to be kept by the Jailer a record of the state of the prisoner's-health and any observations which the medical officer thinks fit to add.

Medical examination of criminal prisoners.

44. (1) The Commissioner or the Superintendent may cause to be taken or recorded, in such manner as may be prescribed by rules made under section 94—

Finger printing, Ac.; of criminal prisoners.

- (a) photographs, measurements, finger-prints and foot-prints of any criminal prisoner ; and
- (b) the name, age, height, weight, distinctive marks, and any other prescribed measurements and particulars, of any prisoner.

(2) Any prisoner refusing or failing to give any answer, or knowingly giving any answer which is false, to any question addressed to him for the purposes of subsection (1), shall be guilty of an offence against prison discipline.

(3) No photograph, finger-print, foot-print or record taken or kept under this section shall be supplied or sent save to such officers or persons as may be specified by rules made under section 94.

Effects of criminal prisoners retained.

45. All money or other effects in respect whereof no order of a competent court has been made, and which may be brought into prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the jailer, and disposed of as may be directed by rules to be made under section 94.

Medical examination before removal of prisoners.

*46. All prisoners, previously to being removed to any other prison, shall be examined by the medical officer.

Discharge of prisoners.

47. (1) The jailer shall be responsible for the due discharge of each prisoner upon his becoming entitled to release whether by the expiration of his term of sentence, or on the grant of a pardon or on remission or commutation of sentence, or by operation of law.

(2) The equivalent in days, and the date of expiry, of every sentence of imprisonment or preventive detention, shall be calculated in such manner as may be prescribed by rules made under section 94.

(3) Each prisoner entitled to release shall be discharged from prison on the date on which he becomes entitled to release, or, if that date falls on a Sunday or other day which is for the time being specified in any rule made under section 94 as a non-working day for all prisoners generally, then on the day next preceding that date, at such time as may be prescribed by any such rule :

Provided, however, that where any such prisoner is on that date under medical treatment for any acute or dangerous illness, he may be formally discharged, but unless he himself desires to leave, may be further detained in prison until the medical officer certifies that the prisoner can be removed from prison without danger to his health.

(4) On the discharge of a prisoner from any prison the Superintendent may, in accordance with such rules as may be made in that behalf under section 94, provide him with a railway warrant or with such amount of money as may be necessary, or with both such warrant and such money, to enable him to return to his home or intended place of residence. All expenses incurred by the Superintendent in providing such warrant or money shall be met out of such funds as may be allocated for the purpose out of the Consolidated Fund.

PARTY

DISCIPLINE OF PRISONERS

48. The requisitions of this Ordinance with respect to the separation of prisoners are as follows:—

Requisitions of Ordinance as to separation of prisoners.

- (a) males shall be separated from females ;
- (b) juvenile prisoners, whenever it is practicable, shall be separated from adults ;
- (c) convicted prisoners, whenever it is practicable, shall be separated from unconvicted ;
- (d) civil prisoners, whenever it is practicable, shall be separated from criminal prisoners ;
- (e) prisoners committed for contempt of court or for the non-payment of any fine or penalty or of money due upon any estreated recognizance or for want of securities shall, whenever it is practicable, be separated from other criminal prisoners.

49. No cell shall be used for separate confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with a "prison officer.

Cells to be furnished with means of communication.

50. Every prisoner under warrant or order for execution shall, immediately on his arrival in the prison after sentence, be searched by or by order of the jailer, and all articles shall be taken from him which the jailer deems it dangerous or inexpedient to leave in his possession :

Prisoners under sentence of death.

Provided that the prisoner, if a female, shall be searched by some female prison officer.

51. Every prisoner under such warrant or order, as is mentioned in the preceding section, shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of an officer or guard.

Every prisoner under warrant for execution to be separately confined and guarded.

52. Due provision shall be made in every prison for the enforcement of hard labour in the cases of such prisoners as may be sentenced thereto.

Sentence of hard labour to be enforced.

Female prisoners to be attended by females.

53. Female prisoners shall in all cases be attended by female officers.

No gaming to be allowed.

54. No gaming shall be permitted in any prison, and the jailer shall seize and destroy all dice, cards, or other instruments of gaming found in the prison or on the person of any prisoner.

No fee to be taken from a prisoner.

55. No money shall be taken by any prison officer by way of garnish, fee, or gratuity from any prisoner or any person on his behalf or account, on his entrance into or discharge from or during his detention in the prison, under any pretence whatsoever.

Rules as to classification, &c., of prisoners.

56. The classification, separation, safe custody, treatment and discipline of prisoners shall, without prejudice to the provisions of sections 48 to 55, be subject to such rules as may be made in that behalf under section 94.

Religious instruction and education.

57. Facilities at the discretion of the Commissioner may be allowed in every prison, in accordance with such rules as may be made in that behalf under section 94, for imparting religious or other instruction to the prisoners.

Remission of sentences and rewards for good conduct.

58. A remission of sentence, or a gratuity or privileges, according to such scales as may be prescribed by rules made under section 94, may be earned by industry and good conduct by any prisoner who is undergoing a sentence of imprisonment of either description for a term or terms in the aggregate exceeding one month :

Provided, however, that this section shall not apply to—

- (a) a civil prisoner ; or
- (b) a person committed to prison under Chapter VII of the Code of Criminal Procedure Act; or
- (c) a person committed to prison to serve the unexpired portion of any sentence of imprisonment or preventive detention upon the forfeiture or revocation of a licence to be at large under the Prevention of Crimes Ordinance.

PART VI

FOOD, CLOTHING, AND BEDDING OF CIVIL PRISONERS

Civil prisoner may maintain himself.

59. A civil prisoner shall be permitted to maintain himself and to purchase or receive from private sources at proper hours, food,

clothing, bedding, or other necessaries, but subject to examination and to such conditions as may be approved by the Commissioner.

60. No part of any food, clothing, bedding, or other necessaries belonging to any civil prisoner shall be sold to any other prisoner; and any civil prisoner transgressing this regulation shall lose the privilege of purchasing food or receiving it from private sources for such time as the Superintendent thinks proper.

Civil prisoner not to sell provisions.

61. Every civil prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

Allowance of clothing and bedding.

62. The food, clothing and bedding issued to each prisoner or each class of prisoners shall, without prejudice to the provisions of sections 59, 60, and 61, be in accordance with such rules as may be made in that behalf under section 94.

Nature of food, clothing and bedding of prisoners.

PART VII

EMPLOYMENT OF PRISONERS

63. Civil prisoners may with the Superintendent's permission work and follow their respective trades and professions, and when they find their own implements, and are not maintained at the expense of the prison or of the State, they shall be allowed to receive the whole of their earnings ; but the earnings of such as are furnished with implements or are maintained at the expense of the prison or the State shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

Work and earnings of civil prisoners.

64. The medical officer shall from time to time examine the labouring prisoners while they are employed, and shall enter in his journal the name of any prisoner whose health he thinks likely to be injured by a continuance of hard labour, and thereupon such prisoner shall not again be employed at such labour until the medical officer certifies that he is fit for such employment ; but if the medical officer certifies that such prisoner may without detriment to his health be employed on some lighter kind of labour, it shall be lawful for the jailer so to employ him.

Examination by medical officer of labouring prisoners.

Nature of labour or employment to be assigned to prisoners.

65. Every prisoner shall perform such labour, whether manual or otherwise, as may be assigned to him ; and the nature and the amount of labour assigned to and exacted from each class of such prisoners shall be in accordance with such rules as may be made in that behalf under section 94:

Provided that unconvicted prisoners or civil prisoners shall not be required to perform any labour in excess of such labour as may, in the opinion of the Superintendent, be reasonably necessary for keeping in a clean and proper condition the prison or part of the prison in which they are confined and the clothing, bedding, furniture and utensils allotted to prisoners of the class to which they are assigned, and for preparing and serving the food of prisoners of that class.

PART VIII

HEALTH OF PRISONERS

Names of sick prisoners to be reported to jailer. Jailer to report them to the medical officer.

66. The names of prisoners desiring to see the medical officer or appearing out of health in mind or body shall be reported by the officer attending them to the jailer ; and the jailer shall without delay call the attention of the medical officer to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect the medical officer's written recommendations respecting alterations of the discipline or treatment of such prisoner.

Entry of recommendations by medical officer.

67. All recommendations given by the, medical officer in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the medical officer himself or under his superintendence, shall be entered day by day in his journal, which shall have a separate column, wherein entries shall be made by the Superintendent stating in respect of each recommendation the fact of its having been or not having been complied with, accompanied by such observations, if any, as the Superintendent thinks fit to make, and the date of the entry.

Infirmaries.

68. In every prison an infirmary or proper place for the reception of sick prisoners shall be provided.

Removal of prisoners to hospital, place of observation, or mental hospital.

69. (1) Where any prisoner is found or is suspected to be suffering from any disease (other than leprosy or a mental disease) which cannot adequately be treated or kept under observation, in a prison, the Commissioner may, by a warrant of transfer under his hand, direct the removal of the prisoner to any public hospital in Sri Lanka (other than a leprosy hospital or a mental hospital) maintained or controlled by the Government ; and such warrant shall be sufficient authority for the detention of the prisoner in the hospital for such period as the medical officer in charge of the hospital may consider necessary.

(2) Where any prisoner is suspected to be of unsound mind or to be suffering from any mental disease, and adequate facilities for keeping him under observation or for diagnosing the disease are not provided in the prison in which the prisoner is detained, the Commissioner may, by a warrant of transfer under his hand, direct the removal of the prisoner to any place of observation or mental hospital appointed or maintained for the purposes of the Mental Diseases Ordinance, and such warrant shall be sufficient authority for the detention of the prisoner in such place or hospital for any period not exceeding fourteen days in the first instance ; and where any further observation is required, the Commissioner may authorize in writing the detention of the prisoner for such further period as may be necessary, but so that the aggregate period of detention in such place or hospital shall not exceed twenty-eight days in any case.

(3) Every prisoner who is removed to a hospital under subsection (1) or to a place of observation or mental hospital under subsection (2) shall, during the period of his detention therein and so long as he is not entitled to be discharged from prison in due course of law, continue to be subject to the provisions of this Ordinance, the rules made thereunder and any other written law relating to prisons, in the same manner and to the same extent as if he were detained in a prison.

(4) The medical officer in charge of the hospital or the place of observation or mental hospital to which a prisoner is removed under subsection (1) or subsection (2), as the case may be, shall, in respect of that

prisoner, and during the period of the detention of that prisoner in such hospital, place or mental hospital and so long as he is not entitled to be discharged from prison in due course of law, have the powers conferred, and perform the duties imposed, on the Superintendent of a prison by this Ordinance or the rules made thereunder or by any other written law.

(5) Where a prisoner removed under subsection (2) to a place of observation or a mental hospital is found by the medical officer in charge thereof to be of unsound mind, the medical officer shall, by writing under his hand, certify to the Commissioner that the prisoner is of unsound mind ; and such writing shall, for the purposes of section 9 of the Mental Diseases Ordinance be deemed to be the certificate of the medical officer referred to in that section.

(6) The Superintendent of the prison from which a prisoner is removed under this section to a hospital or place of observation or mental hospital shall cause him to be taken back to the prison as soon as may be after the medical officer certifies in writing that it is no longer necessary to detain the prisoner in such hospital, place of observation or mental hospital.

Bathing of prisoners.

70. All prisoners shall be furnished with proper means of washing or otherwise cleansing themselves and of having their clothing washed ; and provision shall be made for their bathing within the prison, if possible, or otherwise at the nearest convenient place ; and during such bathing or washing care shall be taken that different classes and sexes of prisoners be kept separate.

PART IX

VISITS To AND CORRESPONDENCE OF PRISONERS

Visits from and communication with relations, &c.

71. Every prisoner shall be allowed, in accordance with such rules as may be made in that behalf under section 94, to receive visits from, and to communicate with, his relations and friends and his legal adviser, subject to such restrictions as may be imposed by the rules with a view to the maintenance of discipline and order in the prison and the prevention of crime.

72. (1) The jailer may—

- (a) demand the name and address of any person desiring to visit a prisoner ; and
- (b) where he has ground for suspicion, search or cause such person to be searched before giving him admission ; and
- (c) where such person does not submit to such search, deny him admission.

Powers of jailers as to admission of persons desiring to visit prisoners.

(2) Whenever the jailer denies admission to any person under subsection (1), the reasons for his decision shall be recorded by him in his journal.

(3) A search under this section shall not be carried out in the presence of any person other than a prison officer.

(4) Where a person desiring to visit a prisoner is a female, no search necessary for the purposes of this section shall be carried out except by a female prison officer or in the presence of any person other than a female prison officer.

PART X

OFFENCES IN RELATION TO PRISONS

73. Whoever, without lawful authority, brings, throws, or attempts by any means whatever to introduce into any prison or any palce provided under section 3 for the temporary shelter and safe custody of prisoners, or who supplies or attempts to supply to any prisoner, while in custody outside any prison, any spirituous or fermented liquor, or tobacco, betel, opium, bhang, or other intoxicating or poisonous drug, or any money or any other article which may be prohibited by any rule made under section 94, and every prison officer who knowingly suffers any such liquor, tobacco, betel, opium, bhang, drug, money, or other article to be brought, thrown, or introduced into or used in any such prison or place or to be supplied to any prisoner, while in custody outside any prison, without lawful authority, and whoever aids and abets any person in committing any offence under this section, shall be guilty of an offence, and on conviction be liable to a fine not exceeding fifty rupees, or to imprisonment of either description, for any period not exceeding three months, or to both.

Carrying liquor, tobacco, or drugs into prison.

Suffering liquor, &c., to be sold or used in prison,

Offenders under section 73 may be arrested without warrant by prison officers.

74. It shall be lawful for any prison officer to arrest any person who commits an offence under section 73 or who abets another in committing such offence, and forthwith to make over the person so arrested to the nearest police officer, or to produce him before the nearest Magistrate, to be dealt with according to law.

Jailer or Deputy Jailer or officer for the time being acting for the jailer, use weapons on or against any prisoner engaged in an outbreak or attempt to escape, unless such senior officer orders such weapons to be used.

Carrying letters to prisoners.

75. Whoever, without lawful authority, conveys or attempts to convey any letter or other writing to any prisoner in custody, whether within or without any prison, or from any such prisoner to any other person, and every prison officer who aids and abets any person in committing any offence under this section, shall be guilty of an offence and on conviction be liable to a fine not exceeding fifty rupees, or to imprisonment of either description, for any period not exceeding three months, or to both.

(4) The use of weapons under this section shall be as far as possible to disable and not to kill.

Prison officers abetting.

(5) Every police officer who is for the time being engaged in escorting any prisoner or prisoners, or in guarding any prison or other place where prisoners are confined or employed, or in assisting in the quelling of any disturbance or violence on the part of any prisoners, or in recapturing any escaped prisoner, shall be deemed to have all the powers and right granted by this section to prison officers.

Notice of penalties to be affixed outside prison.

76. The Superintendent shall cause to be affixed in a conspicuous place outside the prison or the place provided as aforesaid a notice in the Sinhala, Tamil and English languages respectively, setting forth the penalties incurred by persons committing any offence under sections 73 and 75 respectively.

(6) Nothing in this section contained shall be deemed to be in derogation of the provisions of sections 89 to 99, inclusive, of the Penal Code.

Use of weapons and force.

77. (1) A prison officer may use weapons on or against any prisoner escaping or attempting to escape from custody:

78. A prisoner shall be guilty of an offence against prison discipline if he— List of prison offences.

Provided that resort shall not be had to the use of any weapon unless such officer has reasonable ground for believing that he cannot otherwise prevent the escape of the prisoner ;

- (i) mutinies or incites another prisoner to mutiny ;
- (ii) 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 ;
- (iii) fails or refuses to obey any lawful order of the Superintendent or of any other prison officer or commits a breach of any prison regulation ;
- (iv) escapes or conspires to escape from lawful custody;
- (v) swears, curses, or uses any abusive, insulting, threatening or other improper language or gesture ;
- (vi) is indecent in language, conduct, act or gesture ;
- (vii) is impertinent, insubordinate or insolent in demeanour to any prison officer or to any Visitor ;
- (viii) creates a disturbance or behaves in a disorderly manner \

And provided further that no firearms shall be used on or against any such prisoner unless the prison officer shall have first given a warning to the prisoner that he is about to use such firearms against the prisoner.

(2) A prison officer may use weapons on or against any prisoner engaged in any combined outbreak of the prisoners or in any attempt to force or break open the doors, gates or enclosure wall of a prison, and may continue to use such weapons so long as such combined outbreak or attempt is actually continued.

(3) No prison officer shall, in the presence of a senior officer of rank not lower than a

- (ix) refuses to work, or wilfully mismanages work, or fails to perform his allotted task, or is idle, careless or negligent at work ;
- (x) wilfully evades 'labour by self-disablement or by refusing to take food or by feigning madness or illness or other incapacity for work;
- (xi) wilfully damages or disfigures any part of the prison, any prison property or any prison clothing or equipment ;
- (xii) is in possession of, or keeps in a cell or any other place any article not permitted by the rules of the prison;
- (xiii) leaves a cell or other place of work or location without permission ;
- (xiv) gives to, or receives from, or exchanges with, any other prisoner any article whatever without the permission of the Superintendent ;
- (xv) trafficks or has any business dealings with any prison officer or with any other person ;
- (xvi) 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 ;
- (xvii) gambles, or possesses any playing cards, dice or other instrument or device for gambling ;
- (xviii) prefers a false charge against a prison officer or another prisoner or incites any other prisoner to do so;
- (xix) makes groundless complaints or incites others to do so ;
- (xx) removes food from the place where meals are consumed, or conceals food ;
- (xxi) commits any nuisance ;
- (xxii) bathes or washes at unauthorized places or times ;
- (xxiii) writes or receives any unauthorized letter or communication ;
- (xxiv) 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 ;

- (xxv) omits to give a warning or an alarm when it is known that a prisoner is escaping or attempting to escape ;
- (xxvi) omits to give immediate information to the prison authorities when he is aware of a design to commit an offence against the rules ;
- (xxvii) files, cuts or tampers with iron bars, locks or doors ;
- (xxviii) commits a breach of any rule or lawful order;
- (xxix) offends in any other way against the good order and discipline of the prison;
- (xxx) aids and abets another prisoner in committing or attempting to commit any of the foregoing offences against prison discipline ; or
- (xxxi) attempts to commit any of the foregoing offences other than those specified in paragraphs (iii), (v), (vii), (viii), (ix), (xii), (xix), (xxiv), (xxv), and (xxvi).

79. Save as provided in section 81, the Superintendent or in his absence a Visitor, may examine any person touching the offences in the preceding section mentioned, and determine thereupon and punish such offences—

Superintendent's power to punish prison offenders

- (a) by warning or reprimand ;
- (b) by the forfeiture of any number of remission marks not exceeding three hundred and sixty for each offence;
- (c) 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 ;
- (d) by postponement or forfeiture of any one or more privileges ;

- (e) by confinement in a punishment cell for any time not exceeding fourteen days ;
- (f) by ordering the offender for any time not exceeding three days to close confinement, to be there kept upon a diet reduced to such extent as shall be prescribed by any rule made under the provisions of section 94 ;
- (g) where the offender is not serving a sentence of rigorous imprisonment, by hard labour for any time not exceeding seven days ; or
- (h) by any two of the above-mentioned punishments :
 Provided that—
 - (i) in all cases where the complaint is made by or on behalf of the Superintendent or the Commissioner, 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
 - (ii) the Commissioner 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.

Jailer to enter punishments in a book.

80. The jailer shall enter in a separate book, called the Punishment Book, a statement of the nature of any offence that has been punished under the preceding section, with the addition of the name of the offender, the date of the offence, and the amount of punishment inflicted. Such statement shall be signed by the Superintendent or by the Visitor who shall have inflicted such punishment.

81. (1) (a) If any prisoner is charged with mutiny or incitement to mutiny, or with escape or attempt to escape or abetment of escape from lawful custody, or with causing hurt or grievous hurt to a prison officer or with attempt to cause hurt or grievous 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

Constitution and powers tribunal for punishment of prisoners.

(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 79, 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 Magistrate of the division 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) 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 Magistrate may appoint:

Provided that no delay beyond the aforesaid period of seven days shall be deemed to invalidate any inquiry held under this section, if the Magistrate certifies that the delay was due to a cause which, in his opinion, is good and sufficient.

(3) 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 Magistrate and the Visitor who is present or the Magistrate alone, as the case may be, may perform all the functions and exercise all the powers of the tribunal.

(4) 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 authorized to impose under section 79 ; 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 twenty-four lashes with a whip or twenty-four 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.

(5) Nothing in this section shall authorize the infliction of corporal punishment on any offender below the age of sixteen years otherwise than in accordance with the provisions of the Corporal Punishment Ordinance, or on any female prisoner or on any civil prisoner or on any person remanded by a court pending inquiry or trial.

(6) 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 Magistrate 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 subsection 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.

(7) 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.

(8) 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.

82. (1) Where a prisoner, undergoing Punishment for any sentence or punishment of any description duly imposed on him, is convicted, under section 79 or section 81 or under any other written law, of any of the following offences against prison discipline, namely—

- (a) refusing to work,
- (b) failing to perform his allotted task,
- (c) wilfully evading labour by self-disablement or by refusing to take food or by feigning madness or illness or other incapacity for work,

he shall, after undergoing such sentence or punishment as may be imposed on him for that prison offence, undergo for an additional period equal to the period during which that prison offence may have been continued, the sentence or punishment which he was undergoing at the time the prison offence was committed.

(2) Where any new sentence of imprisonment is imposed on a prisoner after the date of his conviction of any of the offences specified in subsection (1), such new sentence shall commence only on the expiry of the additional period referred to in that subsection.

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

83. Every prisoner found guilty by a court of law, or by the authority or tribunal specified in section 79 or section 81 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 Commissioner by order in writing so directs, in addition to any other punishment—

- (a) forfeit all or any of the remission marks previously earned by him ;
- (b) be classed and treated in all other respects as a prisoner commencing a new sentence ;
- (c) wear, for such period as may be specified in the order, such distinctive clothing as may be prescribed by rules made under section 94.

No appeal from convictions under section 79 or section 81.

84. There shall be no appeal from a conviction or sentence under section 79 or section 81.

Ordinary criminal courts to retain jurisdiction.

85. Nothing contained in sections 79, 81, 82, 83, and 84 shall be deemed to deprive any competent court in Sri Lanka of its jurisdiction to hear and determine any charge in respect of an offence punishable under the 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.

Corporal punishment.

86. All corporal punishment within the prison shall be inflicted in the presence of the Superintendent or a Visitor and the medical officer, subject to the law for the time being in force relating to the infliction of corporal punishment.

Punishment of offences committed by prison officers.

87. (1) Any jailer or subordinate prison officer charged with ill-treating a prisoner, or with negligence or remissness or inefficiency in the discharge of his duties, or with a contravention of any of the

provisions of this Ordinance or of any rule made thereunder, or with any other misconduct, may be dealt with in accordance with the regulations for the time being in force relating to the dismissal or other punishment of public officers.

(2) Every jailer or subordinate prison officer, who ill-treats a prisoner or contravenes any of the provisions of this Ordinance or of any rule made thereunder, shall be guilty of an offence and may, where he is not in the discretion of the Commissioner dealt with under subsection (1), be prosecuted in the Magistrate's Court having jurisdiction over the place where the offence is alleged to have been committed, and punished by such court on conviction after summary trial with a fine not exceeding two hundred rupees, or with imprisonment of either description for a term not exceeding three months or with both such fine and such imprisonment.

(3) No person shall be punished both under subsection (1) and under subsection (2) for the same offence.

PART XI

RESTRAINTS

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

Prohibition of mechanical restraint as punishment.

89. (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 wristcuffs.

Means of restraint for purposes of extra-mural security.

(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.

90. 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

Means of restraint for purposes of intra-mural discipline.

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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 Commissioner for final decision.

Duration of restraint.

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

Register of Restraints.

92. Particulars of every case in which any mechanical restraint is used under section 89 (2) or section 90 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 94.

Means of restraint to be prescribed.

93. 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 prescribed by rules made under section 94.

PART XII

MISCELLANEOUS

Power to make rules.

94. (1) The Minister may from time to time; make all such rules, not inconsistent with this Ordinance or any other written law relating to prisons, as may be necessary for the administration of the prisons in Sri Lanka and for carrying out or giving effect to the provisions and principles of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing powers, the Minister may make rules for all or any of the following purposes or matters :—

- (a) the medical examination and the taking of measurements, photographs, finger-prints, foot-prints or other records, of

prisoners, including particulars of the previous history of any such prisoners ;

- (b) the persons, if any, to whom such measurements, photographs, finger-prints, foot-prints or other records may be sent or supplied ;
- (c) the disposal of the clothing and property of prisoners on admission ;
- (d) the classification, separation, safe custody, treatment and discipline of prisoners, and the classes of diet to be provided for prisoners ;
- (e) the specifications and requirements of the several types of cells and wards;
- (f) the kind of labour to be exacted from prisoners at the different stages of their imprisonment, the manner in which and the place or places at which such labour may be exacted ;
- (g) the computation of sentences ;
- (h) visits to prisoners, and correspondence or other communication with prisoners ;
- (i) the religious instruction and the education of prisoners ;
- (j) rewards for good conduct and the remission of sentences to be allowed to prisoners for industry and good conduct, and the conditions in which such remissions may be allowed ;
- (k) means of restraint, the patterns or types that may be used and the circumstances and the manner in which they may be used ;
- (l) the supply of money, food, clothing or means of travelling to prisoners on their discharge ;
- (m) rewards for the recapture of escaped prisoners ;
- (n) the sanitation of the prisons and the health of prisoners and prison officers ;
- (o) inspection, inquiries and other proceedings by Visitors ;
- (p) the duties of the Superintendent and other prison officers, and of persons • appointed to act as jail guards or

sentries or as escorts for the purposes of the custody of prisoners outside prison walls ;

(q) any other purposes or matters for which rules are authorized or required by this Ordinance or by any other written law in any context relating to prisons.

(3) No rule made under this section shall have effect until it is approved by Parliament and notification of such approval is published in the Gazette. Every rule, in respect of which such notification is published, shall be as valid and effectual as if it were herein enacted.

Certified copy of committal sufficient evidence of lawful custody.

95. A copy of the committal of any prisoner by a competent court, or a copy of the extract from the calendar relating to any prisoner who may have been convicted by the High Court, shall, if such copy be certified by the Superintendent of any prison, be sufficient prima facie evidence for all purposes of the lawful custody of such prisoner ;

Provided, however, that it shall be lawful for a competent court to require the production of the original committal, where the court shall deem the same necessary.

Order for production of prisoners before any court,

96. Whenever any prisoner is required to appear before any court, to give evidence, or for any other purpose, 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 to direct the Superintendent of the prison, where such prisoner shall be imprisoned to produce such prisoner before such court, and such Superintendent shall in the absence of good and sufficient cause to the contrary, cause such prisoner to be produced in compliance with such order.

No prisoner to be an assessor at an inquest.

97. In case any Magistrate or inquirer shall hold an inquest on the body of any prisoner who shall have died while in custody, no prison officer or prisoner or person engaged in any trade or dealing with the prison shall be an assessor at such inquest.

Warrants may be addressed to Fiscal, who shall give prisoner into charge of jailer.

98. All warrants of commitment (except warrants of commitment for trial) and all warrants of remand or of arrest in civil or criminal process issued by any court, may,

as heretofore, be addressed to the Fiscal, and such Fiscal shall, with as little delay as possible after taking charge of or arresting the person required by such warrant to be committed, remanded, or arrested, give such person into the charge of the Superintendent or jailer of some prison of the district over which such court may have jurisdiction, together with a copy of the warrant certified under the hand of such Fiscal. It shall thereupon become the duty of such Superintendent or jailer to take charge of and keep safely such prisoner until he shall be delivered from prison in due course of law. And the copy of such warrant, so certified as aforesaid, shall be sufficient prima facie evidence for all purposes of the lawful custody of such prisoner.

99. It shall be the duty of the jailer to deliver over to the Fiscal or to any person authorized in writing in that behalf by such Fiscal, any civil and any unconvicted criminal prisoner in charge of such jailer, whenever so required by such Fiscal or authorized person aforesaid :

Jailer to deliver over to Fiscal civil and unconvicted criminal prisoners, when so required.

Provided, however, that no civil prisoner shall be removed or allowed by the Fiscal to go beyond the walls or other enclosed limit of the prison, in which such prisoner may be confined, unless upon special rule and order of court requiring the attendance of such prisoner, or upon the application of such prisoner to be carried before any such court for the purpose of preferring any complaint or application.

Civil prisoner not to go beyond limit of prison except by order of court.

100. The allowance for the maintenance of judgment-debtors when supplied to the Fiscal under the provisions of section 315 of the Civil Procedure Code, shall be paid by the Fiscal to the jailer of the prison wherein such prisoners are confined, for the purpose of such maintenance,

Allowance for maintenance of judgment-debtors to be paid over by Fiscal to jailer.

101. All warrants of commitment for trial or of remand or deliverance from prison issued by any court, shall be addressed to the Superintendent or jailer of the prison to or from which the person named in the warrant is to be committed or delivered, and such Superintendent or jailer shall directly carry such warrant into effect according to law.

Warrants of commitment, Ac., to be addressed to the Superintendent or jailer of the prison.

Table of rates of allowance for judgment-debtors to be affixed in prison.

102. There shall be affixed in a conspicuous part of every prison in which judgment-debtors are confined a table of rates, of prison allowance for judgment-debtors, in the Sinhala and Tamil languages together with a translation thereof in the English language.

(i) to rigorous imprisonment for contempt of court;

(ii) to simple or rigorous imprisonment as for a contempt of court under section 449 (1) of the Code of Criminal Procedure Act 'or

Bar of actions.

103. All actions which may lawfully be brought against the Government of Sri Lanka or against any prison officer, in respect of any act done in pursuance of this Ordinance or the rules made thereunder or any other written law for the time being in force relating to the prisons in Sri Lanka, shall be instituted within six months from the date of such act and not afterwards.

(f) a person committed to prison by order of a civil court under any provision of written law which does not authorize a sentence of rigorous imprisonment to be imposed ;

Interpretation.

104. In this Ordinance, unless the context otherwise requires—

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

"assault ", " criminal force ", " hurt ", and " grievous hurt ", respectively, have the same meaning as in the Penal Code ;

" Commissioner" means the Commissioner of Prisons ;

" civil prisoner " means—

" criminal prisoner " means any prisoner other than a civil prisoner ;

(a) a judgment-debtor committed to prison under the Civil Procedure Code ; or

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

(b) a person committed to prison under section 252 of the Code of Criminal Procedure Act, in default of payment of a fine imposed under that section of that Act; or

" prison officer " means an officer of the prison staff;

(c) a person ordered to be detained in prison under section 390 of the Code of Criminal Procedure Act; or

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

(d) a person committed to prison under section 422 (4) of the Code of Criminal Procedure Act; or

" Visitor " means—

(e) a person committed to prison for contempt of court, not being a person sentenced—

(a) a member of the Board of Prison Visitors or of a Local Visiting Committee, acting individually in any matter in which he is authorized by this Ordinance to act individually, or

(b) an Additional Prison Visitor.

SCHEDULE

section2

Prisons

Limits or Districts

Anuradhapura

Badulla

Batticaloa

Colombo Remand Prison

Galte

Jaffna

Kalutara

Kandy (Bogambara)

Kandy Remand Prison

Kegalla

Mahara

Matara

Negombo

New Magazine Prison

Tangalla

Trincomalee

Welikada

The whole of Sri Lanka.

CHAPTER 81

PRESCRIPTION

Ordinances Nos. 22 of 1871. 2 of 1889. AN ORDINANCE TO AMEND THE LAWS REGULATING THE PRESCRIPTION OF ACTIONS.

[1st January. 1872.]

Short title. 1. This Ordinance may be cited as the Prescription Ordinance. Provided that the said period of ten years shall only begin to run against parties claiming estates in remainder or reversion from the time when the parties so claiming acquired a right of possession to the property in dispute. Saving in case of reversioners and remainder men.

Interpretation. 2. In this Ordinance, unless the context otherwise requires—

" immovable property " shall be taken to include all shares and interests in such property, and all rights, easements, and servitudes thereunto belonging or appertaining. 4. It shall be lawful for any person who shall have been dispossessed of any immovable property otherwise than by process of law, to institute proceedings against the person dispossessing him at any time within one year of such dispossession, And on proof of such dispossession within one year before action brought, the plaintiff in such action shall be entitled to a decree against the defendant for the restoration of such possession without proof of title ; Possessory action may be brought within one year of ouster.

Term of prescription for lands or immovable property. 3. Proof of the undisturbed and uninterrupted possession by a defendant in any action, or by those under whom he claims, of lands or immovable property, by a title adverse to or independent of that of the claimant or plaintiff in such action (that is to say, a possession unaccompanied by payment of rent or produce, or performance of service or duty, or by any other act by the possessor, from which an acknowledgement of a right existing in another person would fairly and naturally be inferred) for ten years previous to the bringing of such action, shall entitle the defendant to a decree in his favour with costs. And in like manner, when any plaintiff shall bring his action, or any third party shall intervene in any action for the purpose of being quieted in his possession of lands or other immovable property, or to prevent encroachment or usurpation thereof, or to establish his claim in any other manner to such land or other property, proof of such undisturbed and uninterrupted possession as hereinbefore explained, by such plaintiff or intervenient, or by those under whom he claims, shall entitle such plaintiff or intervenient to a decree in his favour with costs: 5. No action shall be maintainable for the recovery of any sum due upon any hypothecation or mortgage of any property, or upon any bond conditioned for the payment of money, or the performance, of any agreement or trust, or the payment of penalty, unless the same be commenced, in the case of an instrument payable at, or providing for the performance of its condition within, a definite time, within ten years from the expiration of such time, and in all other cases within ten years from the date of such instrument of mortgage or hypothecation, or of last payment of interest thereon, or of the breach of the condition. Mortgage debt or bond prescribed after ten years.

PRESCRIPTION

[Cap.

Term in case of partnership deeds, written promise, contract, bargain, agreement, or security, or upon promissory note, bill of exchange, &c.

6. No action shall be maintainable upon any deed for establishing a partnership, or upon any promissory note or bill of exchange, or upon any written promise, contract, bargain, or agreement, or other written security not falling within the description of instruments set forth in section 5, unless such action shall be brought within six years from the date of the breach of such partnership deed or of such written promise, contract, bargain, or agreement, or other written security, or from the date when such note or bill shall have become due, or of the last payment of interest thereon.

Term in cases of action to recover goods, rent, money lent, Ac., without written security.

7. No action shall be maintainable for the recovery of any movable property, rent, or mesne profit, or for any money lent without written security, or for any money paid or expended by the plaintiff on account of the defendant, or for money received by defendant for the use of the plaintiff, or for money due upon an account stated, or upon any unwritten promise, contract, bargain, or agreement, unless such action shall be commenced within three years from the time after the cause of action shall have arisen.

Term in case for goods sold, shop bill, book debt, or work and labour.

8. No action shall be maintainable for or in respect of any goods sold and delivered, or for any shop bill or book debt, or for work and labour done, or for the wages of artisans, labourers, or servants, unless the same shall be brought within one year after the debt shall have become due.

Term in cases for damages.

9. No action shall be maintainable for any loss, injury, or damage, unless the same shall be commenced within two years from the time when the cause of action shall have arisen.

Term in case of actions not hereinbefore provided for.

10. No action shall be maintainable in respect of any cause of action not hereinbefore expressly provided for, or expressly exempted from the operation of this Ordinance, unless the same shall be commenced within three years from the time when such cause of action shall have accrued.

Claims in reconvention not to be allowed where action is barred.

11. No claim in reconvention or by way of set-off shall be allowed or maintainable in respect of any claim or demand after the right to sue in respect thereof shall be barred by any of the provisions hereinbefore contained.

12. In any of the forms of action referred to in sections 5, 6, 7, 8, 10, and 11 of this Ordinance, no acknowledgment or promise by words only shall be deemed evidence of a new or continuing contract, whereby to take the case out of the operation of the enactments contained in the said sections, or any of them, or to deprive any party of the benefit thereof, unless such acknowledgment shall be made or contained by or in some writing to be signed by the party chargeable, or by some agent duly authorized to enter into such contract on his behalf; and that where there shall be two or more joint contractors, or heirs, executors, or administrators of any contractor, no such joint contractor, or heir, executor, or administrator shall lose the benefit of the said enactments, or any of them, by reason of any written acknowledgment or promise made by any other or others of them :

No acknowledgment to take a case out of the operation of this Ordinance unless in writing.

Provided always that nothing herein contained shall alter or take away, or lessen the effect of any payment of any principal or interest made by any person whatsoever;

Provided also that in actions to be commenced against two or more such joint contractors, or heirs, executors, or administrators, if it shall appear at the trial or otherwise that the plaintiff, though barred by any of the provisions contained in the said sections as to one or more of such joint contractors, heirs, executors or administrators, shall nevertheless be entitled to recover against any other or others of the defendants by virtue of a new acknowledgment or promise, or otherwise, judgment may be given for the plaintiff as to such defendant or defendants against whom he shall recover and for the other defendant or defendants against the plaintiff.

13. Provided nevertheless, that if at the time when the right of any person to sue for the recovery of any immovable property - shall have first accrued, such person shall have been under any of the disabilities hereinafter mentioned, that is to say—

Proviso in case of disabilities with reference to claims for land.

- (a) infancy,
- (b) idiocy,

PRESCRIPTION

- (c) unsoundness of mind,
- (d) lunacy, or
- (e) absence beyond the seas,

this Ordinance, notwithstanding the disability of any adverse claimant.

then and so long as such disability shall continue the possession of such immovable property by any other person shall not be taken as giving such person any right or title to the said immovable property, as against the person subject to such disability or those claiming under him, but the period of ten years required by section 3 of this Ordinance shall commence to be reckoned from the death of such last-named person, or from the termination of such disability, whichever first shall happen ; but no further time shall be allowed in respect of the disabilities of any other person;

14. Provided also, that if at the time when the right of action in respect of any of the causes referred to in sections 5, 6, 7, 8, 10, and 11 of this Ordinance shall accrue, the person so entitled to sue shall be subject to any of the said hereinbefore mentioned disabilities, then the several periods of limitation hereinbefore provided shall not commence to run until the removal of such disability or the death of such person, whichever first shall happen ; but no further time shall be allowed in respect of the disability of any other person.

Proviso in case of disabilities affecting claims other than those for lands.

Provided also that the adverse and undisturbed possession for thirty years of any immovable property by any person claiming the same, or by those under whom he claims, shall be taken as conclusive proof of title in manner provided by section 3 of

15. Nothing herein contained shall in any way affect the rights of the State, or shall be taken to apply to any proceedings in any action for divorce, or to any case in which special provision has been or may hereafter be made for regulating and determining the period within which actions may be commenced against any public officer or other person.

This Ordinance not to affect State or causes matrimonial.-

CHAPTER 179

PARTNERSHIP

Ordinance AN ORDINANCE TO AMEND AND DECLARE THE LAW RELATING TO PARTNERSHIP.
No. 21 of 1866.

[24th December, 1866.]

Short title. 1. This Ordinance may be cited as the Partnership Ordinance.

Interpretation. 2. In the construction of this Ordinance the word " person" shall include a partnership firm, a joint stock company and a corporation.

Lender not a partner by advancing money for share of profits. 3. The advance of money B^-way of loan to a person engaged or about to engage in any trade or undertaking upon a contract in writing with such person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on such trade or undertaking, shall not, of itself, constitute the lender a partner with the person carrying on such trade or undertaking, or render him responsible as such.

Remuneration of agents, &c., by profits not to make them partners. 4. No contract for the remuneration of a servant or agent or any person engaged in any trade or undertaking by a share of the profits of such trade or undertaking, shall, of itself, render such servant or agent responsible as a partner therein, nor give him the rights of a partner.

Certain annuitants not to be deemed partners. 5. No person being the widow or child of the deceased partner of a trader, and receiving by way of annuity a portion of the

profits made by such trader in his business, shall, by reason only of such receipt, be deemed to be a partner of, or to be subject to, any liabilities incurred by such trader.

6. No person receiving by way of annuity or otherwise a portion of the profits of any business, in consideration of the sale by him of the goodwill of such business, shall, by reason only of such receipt, be deemed to be a partner of, or to be subject to, the liabilities of the person carrying on such business.

7. In the event of any such trader as aforesaid being a bankrupt or insolvent, or taking the benefit of any enactment for the relief of insolvent debtors, or entering into an arrangement to pay his creditors less than ten rupees for every ten rupees, or dying in insolvent circumstances, the lender of any such loan as aforesaid shall not be entitled to recover any portion of the profits or interest payable in respect of such loan, nor shall any such vendor of a goodwill as aforesaid be entitled to recover any such profits as aforesaid, until the claims of the other creditors of the said trader for valuable consideration in money or money's worth have been satisfied.

Receipt of profits, &c., not to make the seller a partner.

In case of bankruptcy, &c., lender not to rank, as respects profit or interest, with other creditors.

CHAPTER 237

PILOTS

Ordinances Nos. 4 of 1899, 5 of 1928.

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO PILOTS.

[20th October, 1899.]

Short title. 1. This Ordinance may be cited as the Pilots Ordinance.

Interpretation. 2. In this Ordinance, unless the context otherwise requires—

" Master Attendant " means the Master Attendant* of any port, and includes his deputies and assistants ;

" master " includes any person having for the time being the charge, command, or control of any vessel;

" pilot" means any person appointed under section 5 for the purposes of conducting vessels to or out of any port named in such appointment;

" port " means any port brought within the operation of this Ordinance under section 3;

" vessel " includes any ship or boat or any other description of vessel used in navigation of above 100 tons register.

Minister to declare ports brought under the operation of this Ordinance and to define their limits. 3. The Minister may, from time to time , by Order declare the ports which are to be brought within the operation of this Ordinance, and define the limits of such ports respectively.

Vessel not to move into, out of or within a port without a pilot except when authorized. 4. (1) It shall be unlawful to bring into, or move when within, or remove out of, any port any vessel without having a pilot on board, except in accordance with any general authority to do so granted by the Master Attendant and published in the

Gazette, or in accordance with the special authority of the Master Attendant or some officer empowered by him in that behalf communicated to the master of the vessel in writing or by a Government telegraph or signal station.

(2) If there shall be any contravention of this section, the master of the vessel concerned shall on conviction be liable to a fine not exceeding two hundred rupees for each offence.

5. (1) There shall be appointed from time to time fit, proper, and qualified persons to be pilots for the purpose of conducting vessels into or out of any port. Appointment of pilots

(2) All such pilots shall be under the control and subject to the orders of the Master Attendant of the port for which they may be appointed.

6. No pilot shall be in anywise bound to conduct any vessel to sea, neither shall any vessel proceed to sea, until the full amount of the outward pilotage of such vessel and the charges due on account of such vessel to the Master Attendant's department shall be first paid or secured to be paid to the satisfaction of such pilot and Master Attendant. Amount of outward pilotage to be paid in advance.

7. Every pilot in charge of any vessel in, or entering, or proceeding from any port, who shall remain on board any such vessel for a period exceeding forty-eight hours, either on account of stress of weather or under quarantine, shall be entitled to demand and receive over and above the Pilots in certain cases to demand payment over and above the amount of pilotage.

* All references to Master Attendant in this Ordinance shall be deemed to be a reference to the Ports Authority in the application of its provisions to any " specified port " within the meaning of section 2 of the Sri Lanka Ports Authority Act—See section 86 (3) thereof.

amount of pilotage charged under port rules made or to be made under the authority of section 3 of the Masters Attendant Ordinance the sum of five rupees for each and every day he shall so remain on board any vessel.

Penalty on pilot for misconduct.

8. Every pilot who shall refuse, neglect, or delay to take charge of any vessel when required to do so by the Master Attendant, unless upon good and sufficient cause to justify such refusal, neglect, or delay, and every pilot who shall quit any such vessel or decline the piloting thereof after he has taken charge thereof, or shall by drunkenness or otherwise render himself incapable of conducting any vessel, or do any injury to the same or to the tackle or furniture thereof, shall, in addition to his civil liability, be guilty of an offence, and be liable on conviction to a fine not exceeding two hundred rupees.

Penalty on person acting as pilot without authority.

9. It shall be lawful for any pilot within the limits of the port for which he is appointed to supersede in the charge of any vessel any person not appointed to act as a pilot within such limits, and every person assuming or continuing in the charge and conduct of any vessel, not being a pilot, or not being duly appointed to act as a pilot within the limits in which such vessel shall actually be, after any pilot duly appointed to act within such limits shall have offered to take charge of such vessel, shall be guilty of an offence, and be liable to a fine not exceeding two hundred rupees;

Provided always that, notwithstanding anything in this Ordinance contained, any person shall and may lawfully and without being subject to any penalty by this Ordinance imposed assume or continue in the charge or conduct of any vessel as a pilot where and so long as a pilot duly appointed shall not have offered to take charge of such vessel or made a signal for that purpose, or where and so long as such vessel shall be in distress, or under circumstances which shall have rendered it necessary for the master or person in charge of such vessel to avail himself of the best assistance which at the time could be procured.

10. The liability of a pilot for neglect or want of skill shall not exceed the sum of one thousand five hundred rupees, and in the event of his being entitled to fees on account of pilotage in respect of the voyage in which he was engaged when he became so liable, his liability shall not exceed the said sum and the amount payable to him as such fees.

Pilot's liability limited.

11. The Government or the owner or master of a ship shall not be answerable to any person whatsoever for any loss or damage occasioned by the fault or incapacity of any pilot acting in charge of that ship within the limits of any port brought under the operation of this Ordinance.

Non-liability of Government, owner, or master where pilot is employed.

12. If any pilot shall in any case fail or neglect to observe any lawful directions of the Master Attendant, or to do anything required by him by this Ordinance or by any port rule made or to be made under the authority of section 3 of the Masters Attendant Ordinance or shall do or omit to do anything contrary to the true and plain meaning of this Ordinance or of any such port rule, he shall be guilty of an offence, and be liable on conviction to a fine not exceeding two hundred rupees.

Penalty on pilot offending against Ordinance or port rule.

13. Nothing in this Ordinance contained shall extend to any vessel belonging to or in the service of the Republic, or to any vessel of war belonging to any foreign prince or State, nor affect any law relative to the customs, nor any order or direction which shall have been lawfully made or given in pursuance of the provisions of any such law.

Ordinance not to extend to vessels in the service of the Republic and to vessels of war belonging to any foreign state.

14. All offences against this Ordinance shall and they are hereby declared to be fully cognizable and punishable by Magistrates' Courts, and all sums becoming due by reason of any of the provisions thereof shall and they are hereby declared to be recoverable before Primary Courts, though such offences and sums should exceed the ordinary jurisdiction of those courts.

Offences against this Ordinance and debts due thereunder to be respectively punishable and recoverable in Magistrates' Courts and Primary Courts.

CHAPTER 362

PILGRIMAGES

Ordinances Nos. 13 of 1896, 51 of 1945.

AN ORDINANCE TO PROVIDE FOR THE MAKING OF REGULATIONS FOR THE CONTROL OF PERSONS PROCEEDING ON PILGRIMAGES.

[12th December. 1896.]

Short title.

1. This Ordinance may be cited as the Pilgrimages Ordinance.

Minister empowered to make certain regulations and to appoint officers to enforce them.

2. It shall be lawful for the Minister, from time to time, in anticipation of any pilgrimage proposed to be made which in his judgment may probably occasion such a concourse of people as, in the absence of adequate regulation or restriction, to give rise to public inconvenience or be dangerous to the public health, by notification in the Gazette, to make regulations for any of the following purposes and to appoint officers to enforce the observance of such regulations:—

- (a) to restrict the number of persons who shall be allowed to proceed on any pilgrimage from the different parts of Sri Lanka, and the period of their stay at the place to which such pilgrimage is made;
- (b) to regulate the collection of people at such place and their march to and from such place, and at the different starting and halting places;
- (c) to impose such conditions and restrictions as may be necessary to prevent accidents, to promote cleanliness, and to check the breaking out and spread of infectious diseases:

Provided that, in respect of any place to which pilgrimages are made frequently, the Minister may, in lieu of making such regulations in anticipation of any specified pilgrimage to that place, make such regulations declared by him to be applicable to every pilgrimage to that place.

3. If any person shall disobey or contravene any regulation made under the provisions of the preceding section, or shall obstruct, hinder, or resist any officer appointed to enforce any such regulation, or any officer of the police force, or any grama seva niladhari, police, or peace officer aiding and assisting in enforcing any such regulation, he shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding one thousand rupees, or to rigorous or simple imprisonment for a term not exceeding one year.

Disobedience of such orders or obstructing officers enforcing them made penal.

4. It shall be the duty of the officers appointed to enforce the regulations made under section 2, and of all officers of the police force, and of all grama seva niladharis, police, and peace officers generally, to aid and assist in the prevention of offences against this Ordinance or the regulations made thereunder; and every officer or grama seva niladhari who, being made cognizant of any such offence, shall fail to act promptly and vigorously thereupon, or who shall wantonly exceed or abuse his authority in the execution of any act or the exercise of any power under this Ordinance, or the regulations made thereunder, shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding five hundred rupees.

Officers to assist in enforcing regulations.

Liability of such officers.

5. It shall be lawful for a Magistrate's Court to make cognizance of any offence committed under this Ordinance or the regulations made thereunder, and to award in respect thereof so much of the punishment assigned thereto as Magistrates' Courts are empowered by law to award.

Case may be tried before Magistrates' Courts though otherwise out of their jurisdiction.

CHAPTER 634

PETROLEUM

Ordinances AN ORDINANCE TO REGULATE THE IMPORTATION, POSSESSION, TRANSPORT, AND
 Nos. 6 of 1887, HAWKING OF PETROLEUM AND OTHER FLUIDS OF A LIKE NATURE.
 1 of 1893,
 2 of 1902.
 14 of 1904,
 13 of 1905.
 28 of 1909,
 4 of 1911,
 18 of 1918.
 9 of 1920,
 4 of 1935,
 15 of 1936,
 61 of 1939,
 27 of 1940,
 3 of 1946,
Act
 No. 24 of 1956.

[1 st July, 1887.]

Short title. 1. This Ordinance may be cited as the Petroleum Ordinance.

DANGEROUS PETROLEUM

Regulation of the importation, transport, and possession of dangerous petroleum. 2. No quantity of dangerous petroleum exceeding forty gallons shall be imported, or transported, or kept by any one person, or on the same premises, except under and in accordance with the conditions of a licence from the local authority; and such licence shall be granted as next hereinafter provided.

Application for licence to import, transport or possess such petroleum. 3. Every application for such licence shall be in writing, and shall declare—

- (a) the quantity of such petroleum which it is desired to import, transport, or possess, as the case may be ;
- (b) the premises at and the vessels in which such petroleum is to be stored;
- (c) the purpose for which the applicant believes such petroleum will be used; and
- (d) that petroleum other than dangerous petroleum cannot be used for such purpose.

4. If the local authority sees reason to believe that such petroleum will be used for such purpose, and that no petroleum other than dangerous petroleum can be used for such purpose, he may grant such licence for the importation, transport, or possession, as the case may be, of such petroleum, absolutely or subject to such conditions as he thinks fit.

Power to grant licence.

5. No quantity of dangerous petroleum equal to or less than forty gallons shall be kept or transported without a licence from the local authority:

Transport of dangerous petroleum.

Provided that nothing in this section shall apply in any case where the quantity of such petroleum kept by any one person, or on the same premises, or transported, does not exceed three gallons, and such petroleum is placed in separate glass, earthenware, or metal vessels, each of which contains not more than a pint, and is securely stopped.

6. All dangerous petroleum—

Vessels containing dangerous petroleum to be labelled.

- (a) which is kept at any place after seven days from the date on which it is imported ; or
- (b) which is transported; or
- (c) which is exposed for sale,

shall be contained in vessels which shall bear a label in conspicuous characters in the Sinhala, Tamil and English languages, stating the nature of the contents thereof, with the addition of the words "highly inflammable", and with the addition—

- (d) in the case of a vessel kept, of the name and address of the consignee or owner;
- (e) in the case of a vessel transported, of the name and address of the sender; and
- (f) in the case of a vessel sold or exposed for sale, of the name and address of the vendor.

PETROLEUM GENERALLY

Owner or master of ship carrying petroleum to give notice on entering into port.

7. The owner or master of every ship carrying a cargo, any part of which consists of petroleum, on entering any port of Sri Lanka shall give notice of the nature of the cargo to the principal officer of customs of such port.

Power to make rules as to the importation of petroleum.

8. The Minister may, from time to time, make rules consistent with this Ordinance to regulate the importation of petroleum, and in particular—

- (a) to determine the ports at which only petroleum may be imported ;
- (b) to ascertain the quantity and description of any petroleum on board any ship;
- (c) to determine the places at which, and the conditions on and subject to which, petroleum may be discharged into boats, landed, transhipped, or stored ;
- (d) to provide for the selection by an officer specially appointed thereto by the Minister in this behalf, and for the delivery to him, either after or before petroleum has been landed, of samples of all petroleum landed or intended to be landed ;

(e) to provide, in the case of each consignment which is stated to be of one uniform quality, for the number of samples to be selected, and for the averaging of the results of the testing of those samples ;

(f) to provide, where the results of the testing of the samples raise a doubt as to the uniformity of the quality of the petroleum in any such consignment, for the division of the consignment into lots, and for the selection and testing of samples of each lot, and for the treatment of the lot in accordance with the results of the testing of those samples;

(g) to fix fees for the sampling and testing of petroleum; and

(h) to fix fees for the storage of petroleum.

9. Petroleum discharged into boats or landed in accordance with rules made under section 8 shall not be removed from the boats or places in or at which it is stored until the samples selected therefrom in accordance with those rules have been tested by an officer appointed by the Minister in this behalf with such apparatus and in such manner as may be prescribed, from time to time, by the Minister by rules under section 19 and until the officer has given a certificate that the petroleum is not dangerous petroleum,

Procedure after petroleum has been discharged or landed. Testing of samples.

10. If the officer, after testing the samples, refuses to give the certificate in respect of any petroleum, the Minister may permit the consignee, within a time to be fixed by him in this behalf—

Minister may allow consignee to apply for a new licence, or to rectify, or re-export.

- (a) to rectify the petroleum;
- (b) to apply for a licence to import the petroleum as dangerous petroleum; or
- (c) to re-export the petroleum.

11. If the consignee does not within the time fixed under section 10 avail himself of the permission granted under that section, the petroleum may be disposed of as the Minister directs:

When Minister may dispose of petroleum.

Provided, however, that the Minister may, in his discretion, when the officer has

refused the certificate, direct that the petroleum be retested by another officer appointed by him in this behalf, and may, if that officer advises that the petroleum is not dangerous petroleum, authorize its removal from the boats or places in or at which it is stored.

12. No quantity of petroleum exceeding fifty gallons shall be kept by any one person or on the same premises, or shall be transported, except under and in accordance with the conditions of a licence from the local authority:

Provided that nothing in this section contained shall extend to the possession or transportation of oil ordinarily used as liquid fuel, and having its flashing point at or above the temperature for the time being fixed by notification in the Gazette by the Minister.

13. The Minister may, from time to time, make rules consistent with this Ordinance as to the granting of licences to possess or transport petroleum in cases where such licences are herein required. Such rules may provide for the following among other matters, that is to say:—

(a) In the case of licences to possess petroleum—

(i) the nature and situation of the premises for which they may be granted ; and

(ii) the inspection of such premises, and the testing of petroleum found thereon.

(b) In the case of licences to transport petroleum—

(i) the manner in which the petroleum shall be packed, the mode and time of transit, and the route by which it is to be taken; and

(ii) the stoppage and inspection of it during transit.

(c) In the case of both such licences—

(i) the fee to be charged for it;

(ii) the quantity of petroleum it is to cover;

(iii) the conditions which may be inserted in it;

(iv) the time during which it is to continue in force ; and

(v) the renewal of the licence.

14. Any officer specially authorized, by name or by virtue of his office in this behalf, by the local authority, may require any dealer in petroleum to show him any place and any of the vessels in which any petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same, and to deliver to him samples of such petroleum on payment of the value of such samples.

Power to inspect and require dealers to sell samples.

15. When any such officer has, in exercise of the powers conferred by section 14, obtained a sample of petroleum in the possession of a dealer, he may give a notice in writing to such dealer informing him that he is about to test such sample, or cause the same to be tested, with such apparatus and in such manner as may be prescribed, from time to time, by the Minister by rules under section 19, at a time and place to be fixed in such notice, and that such person or his duly authorized agent may be present at such testing.

Notice to be given when officer proposes to test samples.

16. On any such testing, if it appears to the officer or other person so testing that the petroleum from which such sample has been taken is or is not dangerous petroleum, such officer or other person may certify such fact, and the certificate so given shall be receivable as evidence in any proceedings which may be taken under this Ordinance against the dealer in whose possession such petroleum was found, and shall, until the contrary is proved, be evidence of the fact stated therein ; and a certified copy of such certificate shall be given gratis to the dealer at his request.

Certificate as to result of such testing.

17. Any person who is licensed to keep petroleum may, subject to any enactment for the time being in force with respect to

Power to hawk petroleum.

Possession and transport of petroleum.

Power to make rules as to possession and transport of petroleum.

hawkers and peddlers, hawk such petroleum by himself or his servants :

Regulations for hawking petroleum.

Provided he observes the following regulations:—

- (a) the quantity of petroleum conveyed at one time in any one carriage shall not exceed twenty-four gallons, except when conveyed in a cart specially constructed for the purpose, which has been licensed by writing under the hand of the local authority for the conveyance of petroleum;
- (b) the petroleum shall be conveyed in a closed vessel or cart so constructed as to be free from leakage;
- (c) proper care shall be taken to prevent any petroleum escaping into any part of a house or building, or of the curtilage thereof, or into a drain or sewer;
- (d) all due precautions shall be taken for the prevention of accidents by fire or explosion, and for preventing unauthorized persons having access to the vessels containing the petroleum, and every person concerned in hawking the petroleum shall abstain from any act whatever which tends to cause fire or explosion, and is not reasonably necessary for the purpose of such hawking;
- (e) no article or substance of an explosive or inflammable character other than petroleum, nor any article liable to cause or communicate fire or explosion, shall be in the carriage while such carriage is being used for the purpose of hawking petroleum.

Minister may make rules regarding the licensing of carts for the conveyance of petroleum.

18. The Minister may, from time to time, make rules regarding the licensing of carts for the conveyance of petroleum. Such rules may provide for the following, among other matters:—

- (a) the fee to be charged for the licence;
- (b) the maximum quantity of petroleum which may be carried in a licensed can;

(c) the conditions which may be inserted in the licence;

(d) the time during which the licence is to continue in force; and

(e) the renewal of the licence.

19. The Minister may, from time to time, make rules prescribing—

- (a) the apparatus which shall be used for testing petroleum for the purpose of ascertaining the flashing point thereof;
- (b) the manner in which the petroleum shall be tested by such apparatus ;
- (c) the corrections which shall be applied to the result of any test so conducted; and
- (d) all other matters connected with or incidental to the use of the apparatus or the conduct of the test.

Rules as to apparatus and tests for determining flashing point.

PENALTIES

20. Any person who in contravention of this Ordinance, or of any rules made hereunder, imports, possesses, or transports any petroleum, and any person who otherwise contravenes any such rules or any conditions contained in a licence granted hereunder, shall be punished with simple or rigorous imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Penalty for illegal importation, &c., of petroleum.

21. Any person keeping, transporting, selling or exposing for sale petroleum in vessels not marked or labelled as prescribed by section 6, shall be punished with a fine which may extend to five hundred rupees.

Penalty for keeping, transporting, selling, &c., petroleum in contravention of section 6.

22. Any owner or master of a ship who fails to give the notice required by section 7 shall be punished with a fine not exceeding five thousand rupees, unless it is shown to the satisfaction of the court before which the case is tried that he did not know the nature of the goods to which the proceedings relate, nor could with reasonable diligence have obtained such knowledge.

Penalty for owner or master of a ship failing to give the required notice.

Penalty for refusing to comply with section 14.

23. Any dealer in petroleum who refuses or neglects to show to any officer authorized under section 14 any place or any of the vessels in which petroleum in his possession is stored or contained, or to give him such assistance as he may require for examining the same, or to give him samples of such petroleum on payment of the value of such samples, shall be punished with a fine which may extend to two hundred rupees.

Penalty for hawking in contravention of section 17.

24. In the event of any contravention of section 17 with reference to any petroleum, the licensee, by whom or by whose servants the petroleum was being hawked, shall be liable, on summary conviction, to a penalty not exceeding two hundred rupees :

Provided that—

- (a) where some servant of the licensee or other person has in fact committed the offence, such servant or other person shall be liable to the same penalty as if he were the licensee;
- (b) where the licensee is charged with the contravention of section 17, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if the licensee proves to the satisfaction of the court that he had used due diligence to enforce the requirements of the said section, and that the said other person had committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence and the licensee shall be exempt from any penalty.

Prosecution to be instituted in Magistrate's Court.

25. Every prosecution under this Ordinance or for the breach of any rules made hereunder may be instituted before the Magistrate of the division in which the offence was committed wholly or in part, or where the offender is found ; and it shall be lawful for such Magistrate to impose the full fine or penalty provided herein or in any rule made under the provisions of this

Ordinance, notwithstanding that such fine or penalty may exceed the sum which it is competent for him in the exercise of his summary jurisdiction to award.

26. In any case in which an offence under sections 17, 20, or 21 has been committed, the convicting Magistrate may direct that—

Confiscation of petroleum.

- (a) the petroleum in respect of which the offence has been committed ; or
- (b) where the offender is importing, transporting, hawking, or is in possession of any petroleum exceeding the quantity, if any, which he is permitted to import, transport, hawk, or possess, as the case may be, the whole of the petroleum which he is importing, transporting, hawking, or is in possession of,

shall, together with the tins or other vessels in which it is contained, be confiscated.

27. All confiscations may be sold or otherwise disposed of in such manner as the Magistrate may direct.

Confiscations to be sold, &c., as Magistrate may direct.

MISCELLANEOUS

28. All rules made by the Minister under this Ordinance shall be published in the Gazette, and shall on the expiry of one month from the date of such publication, have the force of law. Such rules may, from time to time, be altered, amended, or repealed by the Minister, and notice of such alteration, amendment, or repeal shall likewise be published in the Gazette.

Rules when to have force of law.

29. The Minister may, from time to time, by notification in the Gazette—

Minister may exempt petroleum from operation of this Ordinance may apply this Ordinance to other fluids, and limit operation of enactments relating to Municipalities, Urban Councils, or Town Councils.

- (a) exempt from the operation of all or any of the rules made under this Ordinance any petroleum which has its flashing point at one hundred and twenty degrees of Fahrenheit's thermometer, and is imported as ordinary cargo, and in quantity not exceeding that specified in the notification;

(b) apply the whole or any portion of this Ordinance to any substance other than petroleum, and fix in substitution for the quantities of petroleum fixed by sections 2, 5 and 12 the quantities of such substance to which those sections shall apply;

(c) limit in any manner he deems fit the operation of any enactment for the time being in force relating to Municipalities, Urban Councils, or Town Councils, and the exercise of any powers conferred by any such enactment in so far as it relates to the possession or transport of petroleum.

Power to revoke or vary Notification.

30. A notification made by the Minister under this Ordinance may be revoked or varied by a like notification published in the same manner as the notification so revoked or varied.

Magistrates may grant search warrants for petroleum.

31. When any Magistrate is satisfied, by information on oath or affirmation, that there is reasonable ground to believe that any petroleum is being imported, kept, transported, sold, or exposed for sale within his jurisdiction in contravention of this Ordinance or of any rules made thereunder, at any place, whether a building or not, or in any ship or carriage, such Magistrate shall grant a search warrant, by virtue whereof it shall be lawful for any person named in such warrant to enter the place, ship, or carriage named in such warrant, and every part thereof and examine the same and search for petroleum therein, and take samples of any petroleum found therein; and if any petroleum be found therein which is imported, kept, transported, sold or exposed for sale in contravention of this Ordinance or of any rules made thereunder, to seize and remove such petroleum and the vessel containing the same, and to detain such petroleum and vessel until the court having jurisdiction in the matter has determined whether the same shall or shall not be confiscated, the proceedings for which confiscation shall be commenced forthwith after the seizure. Any person seizing any petroleum in pursuance of this section shall not be liable to any suit for detaining the same, or for any loss or

damage incurred in respect of such petroleum, otherwise than by any wilful act or neglect.

32. Where a police officer has reasonable cause to believe that a contravention of section 17 is being committed in relation to any petroleum, he may seize and detain such petroleum and the vessels and carriage containing the same until the court has determined whether there was or was not a contravention of the said section, and section 31 shall apply to such officer as if he were the person named in the warrant mentioned in that section, and as if the seizure were a seizure in pursuance of that section.

Power of police officers to seize and detain petroleum for contravention of section 17.

33. Any exception, exemption, proviso, excuse, or qualification, whether it does or does not accompany the description of the offence in this Ordinance, may be proved by the defendant, but need not be specified or negatived in the plaint or information; and if so specified or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the informant or prosecutor.

Burden of proof as to exceptions, exemptions, &c.

34. The Minister may, from time to time, make, and when made may revoke, vary, or amend special regulations for the keeping, transport, and use of petroleum or dangerous petroleum for the purposes of aircraft, motor cars, motor cycles, and launches ; all regulations so made shall have effect, notwithstanding anything in this Ordinance or in any regulation made thereunder.

Special regulations with regard to petroleum for motor cars. &c.

35. Every local authority may delegate the power to sign licences issued by such authority under this Ordinance to any person authorized in writing by that authority.

Delegation by local authority of power to sign licences to other persons.

36. In this Ordinance, unless the subject or context otherwise requires—

Interpretation.

" carriage " means any carriage, wagon, cart, truck, vehicle, or other means of conveyance by land, in whatever manner the same may be drawn or propelled, but does not include any carriage, wagon, or truck employed on the railway;

"dangerous petroleum " means petroleum of which the flashing point is below the temperature for the time being fixed by notification in the Gazette by the Minister;

"flashing point" means the lowest temperature at which the petroleum yields a vapour which will furnish a momentary flash or flame when tested with such apparatus and in such manner as may be prescribed, from time to time, by the Minister by rules under section 19 ;

a person shall be deemed for the purposes of this Ordinance to "hawk" petroleum, if by himself or his servants he goes about carrying petroleum to sell, whether going from district to district, or town to town, or village to village, or to other men's houses, or selling it in the streets of the place of his residence or otherwise, and whether with or without any horse or other beast bearing or drawing burden ;

" local authority" means any officer appointed by the Minister to issue licences under this Ordinance ;

" master " includes every person, except a pilot or harbour master, having for the time being the charge or control of a ship;

" person " includes a body corporate ;

" petroleum " includes also the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosene, paraffin oil, mineral oil, petrol, gasoline, benzol, benzoline, benzine, and any inflammable liquid that is made from petroleum, coal, schist, shale, peat, or any other bituminous substance, or from any products of petroleum; but it does not include any oil ordinarily used for lubricating purposes, and having its flashing point at or above two hundred degrees of Fahrenheit's thermometer;

" ship " includes anything made for the conveyance by water of human beings or property;

" transport" means to remove from one place to another within Sri Lanka.

CHAPTER 484

PLANTERS' ASSOCIATION

Ordinance No. 12 of 1916. AN ORDINANCE TO INCORPORATE THE PLANTERS' ASSOCIATION OF CEYLON.

[26th June. 1916.]

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|-------------------------------------|--|--|
| Short title. | 1. This Ordinance may be cited as the Planters' Association of Ceylon Ordinance. | (2) The register shall contain the following particulars:— |
| Incorporation of the association. | 2. From and after the passing of this Ordinance the present chairman and members of the committee of the Planters' Association of Ceylon (hereinafter referred to as "the association"), and such and so many persons as now are members of the association or shall hereafter be admitted members of the corporation hereby constituted, shall be a corporation with limited liability in manner hereinafter provided, with perpetual succession and a common seal, under the style and name of "The Planters' Association of Ceylon" and by that name shall and may sue and be sued in all courts. | <ul style="list-style-type: none"> (a) the name, address, and occupation of each member; (b) the date at which the name of any person was inscribed in the register as a member; (c) the date at which any person ceased to be a member. <p>6. (1) It shall be lawful for the corporation from time to time, at any general meeting of the members, and by a majority of votes, to make such rules as it may deem expedient for any of the following purposes:—</p> |
| General objects of the corporation. | 3. The general objects for which the corporation is constituted are hereby declared to be to promote, foster, and protect the planting industry of Sri Lanka and the interests of the planting community, and to manage and control the Ceylon Labour and Coast Agency Commission. | <ul style="list-style-type: none"> (a) the admission, withdrawal, or expulsion of members; (b) the imposition of fines and forfeitures for breaches of rules; (c) the powers, conduct, and duties of the committee and of the various officers, agents, and servants of the corporation; |
| Committee. | 4. The affairs of the corporation shall be administered, subject to the rules for the time being of the corporation as hereinafter provided, by a committee to be elected in accordance with the rules for the time being of the corporation. | <ul style="list-style-type: none"> (d) the procedure and the transaction of business; |
| The register. | 5. (1) The committee shall cause a register to be kept, in which every person who at the date of the passing of this Ordinance is a member of the association, and every person thereafter duly admitted a member of the corporation hereby constituted, shall have his name inscribed. | <ul style="list-style-type: none"> (e) the administration and management of the property of the corporation and of all other property that may be vested in it in pursuance of this Ordinance; (f) the decision of matters of local custom and usage; |

- (g) the provision of means of settlement or arbitration of disputes that may be referred to it for that purpose by members of the corporation;
- (h) the determination of any question as to the interpretation of any provision of this Ordinance or of any rules made thereunder;
- (i) generally the management of the affairs of the corporation and the accomplishment of its objects.

the committee, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

(2) Any rules made under this section shall be at all times binding upon the members for the time being of the corporation.

(3) Pending the making of rules under this section the affairs of the corporation shall be administered, as nearly as may be, in accordance with the rules of the association in force at the date of its incorporation,

10. The corporation shall be capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition, or otherwise, whether absolutely or in trust—

Corporation may hold property, movable and immovable.

(a) for the collective benefit of the members of the corporation, or of the members of any district association the whole of whose members are members of the corporation; or

(b) for any object in which the members of the corporation or of such district association are interested; or

(c) for the benefit of any local community or body of persons which is, wholly or mainly, composed of members of the corporation,

Property vested in corporation.

7. On the coming into operation of this Ordinance all and every the property belonging to the association, whether held in the name of the association or in the name or names of any person or persons in trust for the association, shall be and the same is hereby vested in the corporation hereby constituted, and (he same, together with all after-acquired property, movable or immovable, and all subscriptions, contributions, donations, fines, amounts of loans, and advances received or to be received, shall be held by the said corporation for the purposes of this Ordinance, and subject to the rules for the time being of the said corporation.

and all such property shall be held by the corporation for the purposes of this Ordinance and subject to the rules for the time being of the said corporation, with full power (subject to any trusts attaching to any such property and the law regulating such trusts) to sell, mortgage, lease, exchange, or otherwise dispose of the same.

Debts due by, and payable to, the association.

8. All debts and liabilities of the association existing at the time of the coming into operation of this Ordinance shall be paid by the corporation hereby constituted, and all debts due to, and subscriptions, contributions, and fines payable to, the association shall be paid to the said corporation for the purposes of this Ordinance.

11. The liability of each member of the association shall be limited to the transactions of the association which shall have occurred during the period of his membership, and shall in no case exceed the sum of fifteen rupees over and above such annual subscriptions as may be due from such member to the association. And such limitation of liability shall include any contribution that such member may be called upon to make under the rules of the association to meet any deficit in the annual expenses of the association.

Limit of liability of members.

Procedure in affixing the seal of the corporation.

9. The seal of the corporation shall not be affixed to any instrument whatsoever, except in the presence of two members of

CHAPTER 247

PASSPORT (REGULATION) AND EXIT PERMIT

Acts
Nos.53 of 1971,
1 of 1980.

AN ACT TO PROVIDE FOR THE REGULATION AND CONTROL OF THE ISSUE AND RENEWAL OF PASSPORTS; FOR THE ISSUE OF EXIT PERMITS TO CITIZENS OF SRI LANKA; TO IMPOSE AN OBLIGATION ON CITIZENS OF SRI LANKA EMPLOYED ABROAD TO REMIT A PART OF THEIR EARNINGS IN FOREIGN EXCHANGE TO SRI LANKA; AND TO PROVIDE FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[17th December. 1971.]

Short title.

1. This Act may be cited as the Passport (Regulation) and Exit Permit Act.

This Act to prevail over other written law.

2. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other written law :

Provided however that, in the event of any inconsistency or conflict between the provisions of this Act and the provisions of any other written law, the provisions of this Act shall to the extent, and to the extent only, of such inconsistency or conflict, prevail over the provisions of such other written law.

PART I

PASSPORTS AND EMERGENCY CERTIFICATES

Discretion of competent authority to issue passports and emergency certificates.

3. It shall be in the discretion of the competent authority to issue or renew a passport or emergency certificate or to refuse to issue or renew a passport or emergency certificate, and no such refusal to issue or renew a passport or emergency certificate shall be called in question in any court of law or tribunal by way of writ or otherwise:

Provided, however, that any person aggrieved by the decision of the competent authority shall be entitled to appeal to the Minister.

4. (1) It shall be deemed to be a condition of the issue or renewal of any passport or emergency certificate that the competent authority may, at any time and in his discretion,—

Cancellation, suspension or restriction of validity of passport or emergency certificate.

(a) cancel or suspend such passport or emergency certificate; or

(b) restrict the validity of such passport or emergency certificate as regards its duration or as regards the countries of travel.

(2) Where the competent authority cancels or suspends or restricts the validity of any passport or emergency certificate under subsection (1), he shall cause notice of such cancellation or suspension or restriction to be served on the holder of such passport or emergency certificate and upon the receipt of such notice, the holder of such passport or emergency certificate shall surrender such passport or emergency certificate to the competent authority or to an officer specified by him.

5. (1) The duration of validity of a passport shall be a period not exceeding five years. The competent authority may from time to time renew the validity of such passport for a further period not exceeding five years, so however that the total period of validity of such passport shall not exceed ten years from the date of its issue.

Period of validity of passports and emergency certificates. [§2, 1 of 1980.]

(2) The duration of validity of an emergency certificate shall be a period not exceeding two years. The competent

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authority may from time to time renew the validity of such emergency certificate for a further period not exceeding two years from the date of expiry of such certificate.

(3) The competent authority, in fixing the duration of validity of such passport or emergency certificate or renewal thereof, shall have regard to the requirements and circumstances of each case.

Issue of diplomatic passports and their period of validity.

6. (1) A diplomatic passport shall be issued only to a person or category of persons approved by the Minister.

(2) The duration of validity of a diplomatic passport shall, in the first instance, be a period not exceeding five years. The competent authority may renew the validity of such passport for a further period not exceeding five years.

Countries which may be visited on passports and emergency certificates.

7. (1) The competent authority may, in his discretion, determine the countries of travel in respect of which any passport or emergency certificate shall be issued and such passport or emergency certificate shall be valid for travel only to the countries so specified.

(2) An emergency certificate may be endorsed by the competent authority as valid for travel only to India, Nepal or Pakistan.

Restriction on number of journeys.

8. The validity of a passport or emergency certificate may be restricted to a single journey or to a specified number of journeys. Where the number of journeys is not so specified, such passport or emergency certificate shall be valid for any number of journeys.

Fees for the issue and renewal of passports, diplomatic passports and emergency certificates. [§3, 1 of 1980.]

9. (1) The fee for the issue of a passport shall be rupees one hundred and the fee for its renewal shall be rupees twenty per annum.

(2) The fee for the issue of a diplomatic passport shall be rupees one hundred and the fee for its renewal shall be rupees twenty per annum.

(3) The fee for the issue of an emergency certificate shall be rupees twenty-five and

the fee for its renewal shall be rupees ten per annum.

(4) The fee for the alteration of a passport shall be rupees twenty.

(5) The fee for the alteration of an emergency certificate shall be rupees ten.

PART II

EXIT PERMITS

10. No citizen of Sri Lanka who, on the date of the coming into operation of this Act, is in possession of a valid passport or emergency certificate, shall leave Sri Lanka except under the authority of an exit permit issued by the competent authority: Exit permits.

Provided, however, that the preceding provisions of this section shall not apply to a citizen of Sri Lanka who has been residing in any foreign country for a period of not less than three months immediately prior to the date of the coming into operation of this Act and comes to Sri Lanka after that date.

11. No airline, shipping company or travel agent shall sell or issue a ticket or provide a passage, whether payment for such ticket or passage has been or will be made in Sri Lanka or otherwise, for travel out of Sri Lanka to any person who is required to obtain an exit permit under the provisions of section 10, unless such person is in possession of such an exit permit. Prohibition of the sale or issue of tickets for travel out of Sri Lanka, without exit permits.

12. Where the competent authority is of opinion that a person who has applied for an exit permit referred to in section 10, will be leaving Sri Lanka for the purpose of engaging in any employment in any foreign country, whether or not he had already obtained or sought such employment, the competent authority may, as a condition precedent to the issue of the exit permit, require such person to enter into an agreement with the competent authority of the nature specified in section 14. Issue of exit permits to persons seeking employment abroad.

13. Where the competent authority issues an exit permit under this Part, he may, in his discretion, restrict the validity of the passport of the holder of the exit permit Restriction of passport where exit permit is issued.

PASSPORT (REGULATION) AND EXIT PERMIT [Cap. 247]

to expire on a date not later than three years from the date of the issue of such exit permit or restrict the countries to which the holder of such passport may travel;

Provided, however, that any person aggrieved by the decision of the competent authority shall be entitled to appeal to the Minister.

PART III

IMPOSITION OF CONDITIONS ON HOLDERS OF PASSPORTS, EMERGENCY CERTIFICATES AND EXIT PERMITS, WHEN LEAVING SRI LANKA

Agreement to remit foreign exchange to Sri Lanka by persons leaving Sri Lanka.

14. (1) Where a person applies to the competent authority for the issue or renewal of a passport or emergency certificate or for the issue of an exit permit referred to in section 10, and the competent authority is of opinion that the applicant will be leaving Sri Lanka for the purpose of engaging in any employment in any foreign country, whether or not he has already obtained or sought such employment, the competent authority may, as a condition precedent to the issue or renewal of such passport or emergency certificate or to the issue of such exit permit, require the applicant to—

- (a) if he does not already have an account in his name in a commercial bank in Sri Lanka, open such an account; and'
- (b) enter into an agreement with the competent authority for and on behalf of the Government, substantially in such form as may be required by the competent authority, that he shall remit in foreign exchange to his account in such bank, such amounts, at such intervals and for such period, as may be determined by the competent authority.

(2) In determining the amount to be remitted under subsection (1), the competent authority shall take into consideration the ability of such person to remit such amount, so however that the

amount determined shall in no case exceed ten *per centum* of the total monthly emoluments that he is likely to obtain from such employment.

PART IV

PROVISIONS APPLICABLE TO CITIZENS OF SRI LANKA IN FOREIGN COUNTRIES

15. (1) Where any citizen of Sri Lanka who is in a foreign country and is engaged in any employment in such country applies for the issue or renewal of his passport or emergency certificate to the competent authority in such country, the competent authority may, as a condition precedent to the issue or renewal of such passport or emergency certificate, require the applicant to enter into an agreement with the competent authority for and on behalf of the Government substantially in such form as may be provided by the competent authority and containing the following terms and conditions:—

- (a) that such person shall, if he does not already have an account in his name in a commercial bank in Sri Lanka, open such an account; and
- (b) that he shall remit in foreign exchange to his account in such bank, such amounts, at such intervals and for such period, as may be determined by the competent authority,

(2) In determining the amount to be remitted under subsection (1) the competent authority shall take into consideration the ability of such person to remit such sum, so however that the amount determined shall in no case exceed ten *per centum* of the total monthly emoluments that he obtains from such employment.

PART V

GENERAL

16. The Minister may, from time to time, issue to the Controller such general or special directions as may be necessary to

Terms applicable to passports and emergency certificates of citizens of Sri Lanka in foreign countries.

Power of the Minister to issue directions.

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give full force and effect to the principles of this Act or to the policy of the Government, so however that no such direction shall be in conflict or inconsistent with the provisions of this Act or the regulations made thereunder.

Refusal or cancellation of passport, emergency certificate, &c.

17. (1) Without prejudice to the powers of the competent authority under section 3, it shall be lawful for the competent authority to refuse to issue or renew a passport or emergency certificate or to refuse to issue an exit permit to—

- (a) any person who does not enter into the agreement required to be entered into under the provisions of section 14(1) or section 15 (1); or
- (b) any person who defaults in the performance of the terms of an agreement entered into under the provisions of section 14 (1) or section 15 (1); or
- (c) any person who fails to discharge his obligations under the Compulsory Public Service Act:

Provided, however, that the competent authority shall, if such person applies for the issue or renewal of a passport or emergency certificate solely for the purpose of returning to Sri Lanka, issue to such person a passport or emergency certificate which is valid for a period not exceeding six months.

(2) Any person who defaults in the performance of the terms of an agreement entered into under the provisions of section 14 (1) or section 15 (1) or who fails to discharge his obligations under the Compulsory Public Service Act shall be liable to have his passport or emergency certificate cancelled.

Offences.

18. Any person—

- (a) who contravenes or fails to comply with any provisions of this Act or any regulation made thereunder; or
- (b) who contravenes or fails to comply with any terms or conditions of his relevant agreement,

shall, in addition to any penalty or other punishment otherwise specially provided for, be guilty of an offence under this Act and shall on conviction after summary trial before a competent Magistrate be liable to a fine not exceeding five thousand rupees or to

imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

19. No prosecution for an offence under this Act shall be instituted except by the Controller or with his written sanction. Prosecutions.

20. The Controller, in consultation with the Governor of the Central Bank of Ceylon or a person deputed by him, may compound an offence committed under section 18 (b) by accepting from the offender the sum of foreign exchange which he has failed to remit to Sri Lanka under the agreement or a sum in Sri Lanka rupees not exceeding three times the value of such foreign exchange. Compounding of offences.

21. (1) The Minister may make all such regulations as may be necessary for the purpose of carrying out the provisions and giving effect to the principles of this Act. Regulations.

(2) Every regulation made by the Minister shall as soon as may be possible be placed before Parliament for approval, and every such regulation shall be valid and effectual from the date on which notification of such approval is published in the Gazette.

22. In this Act, unless the context otherwise requires— Interpretation.

" commercial bank " has the same meaning as in the Monetary Law Act;

" competent authority " has the same meaning as in the Immigrants and Emigrants Regulations, 1956;

" competent Magistrate " means a Magistrate having jurisdiction within the limits of the judicial district of Colombo;

" Controller " has the same meaning as in the Immigrants and Emigrants Act, and includes any Deputy or Assistant Controller of Immigration and Emigration;

" emergency certificate " has the same meaning as in the Immigrants and Emigrants Regulations, 1956;

" exit permit " means an exit permit issued by the competent authority under this Act;

" foreign country " means any country other than Sri Lanka;

" foreign exchange " has the same meaning as in the Exchange Control Act.

Cap. 616] PUBLIC AND JUDICIAL OFFICERS (RETIREMENT)

CHAPTER 616

PUBLIC AND JUDICIAL OFFICERS (RETIREMENT)

Ordinances AN ORDINANCE TO PROVIDE FOR THE COMPULSORY RETIREMENT OF PUBLIC
Nos. 11 of 1910, OFFICERS AND JUDICIAL OFFICERS.
21 of 1917.

[12th August, 1910.]

Short title. **1.** This Ordinance may be cited as the Public and Judicial Officers (Retirement) Ordinance.

Power to make rules for compulsory retirement of public or judicial officers. **2.** (1) The President may make, and when made may revoke, vary, or amend, rules regulating the age at which, the reasons for which, and the conditions subject to which, public or judicial officers shall be required to retire from the public or judicial service.

(2) In particular and without prejudice to the generality of the power conferred by the preceding subsection, such rules may—

(a) prescribe the age at which the retirement of public or judicial officers or of any particular class of public or judicial officers shall be compulsory;

(b) provide, in such cases and subject to such conditions as may be prescribed, for the extension of the

employment of public or judicial officers beyond the age prescribed by rule for compulsory retirement, and for the exemption of any particular class of public or Judicial officers from the operation of any rule relating to the compulsory retirement of public or judicial officers;

(c) prescribe an age earlier than the age at which retirement from the public or judicial service is compulsory at which the authority competent to make the respective appointments may, subject to such conditions as to notice and otherwise as may be prescribed, require public or judicial officers to retire from the public or judicial service.

3. In this Ordinance, "judicial officer" has the same meaning as in Article 114 of the Constitution, and "public officer" has the same meaning as in Article 170 of the Constitution.

CHAPTER 480

POST AND TELEGRAPH BENEFIT ASSOCIATION

Ordinance No. 14 of 1947. AN ORDINANCE TO INCORPORATE THE POST AND TELEGRAPH BENEFIT ASSOCIATION.

[13th March. 1947.]

Short title. 1. This Ordinance may be cited as the Post and Telegraph Benefit Association Ordinance.

POST& Telegraph Benefit Association incorporated.

2. On and after the passing of this Ordinance, such and so many persons as are now members of the Post and Telegraph Benefit Association (hereinafter referred to as " the association "), or shall hereafter be admitted members of the association and whose names shall be inscribed in the register mentioned in section 8 hereof shall be and become a corporation with continuance for ever under the name of "The Post and Telegraph Benefit Association" (hereinafter referred to as " the corporation ") and by that name shall sue and be sued in all courts, and shall have full power and authority to have and to use a common seal and to change and alter the same at their will and pleasure.

(2) The first committee of management shall consist of the president, the honorary secretary, the honorary treasurer and the other members of the committee of management holding office at the time of the coming into operation of this Ordinance.

5. The committee shall, subject to the provisions of the Ordinance and of any rules in force from time to time have full power and authority generally to govern, direct and decide all matters whatsoever connected with the appointment and dismissal of officers, agents, and servants and with the administration of the affairs of the corporation and the accomplishment of the objects thereof, and to defray out of the funds of the corporation all expenses necessary for the purposes of such appointment and administration: Powers of committee.

General objects.

3. The general objects for which the corporation is constituted are hereby declared to be to promote thrift, to give relief to its members in times of sickness or need, to give to any member on retirement, resignation or dismissal from the public service or withdrawal from membership, his accumulated savings, or on or after the death of any member, to his nominee or nominees or heirs-at-law, his accumulated savings and such donation, if any, as may be authorized by the rules of the corporation made as hereinafter provided.

Provided that the said committee shall not exercise any powers which are by this Ordinance or by any rules in force from time to time declared to be exercisable by the corporation in general meeting ;

Provided further that no rule made by the corporation in general meeting shall invalidate any prior act of the said committee which would have been valid if such rule had not been made.

Committee of management.

4. (1) The affairs of the corporation shall be administered subject to the provisions of this Ordinance and the rules for the time being of the corporation, by a committee of management to be elected in accordance with rules which the corporation shall make hereunder.

6. (I) On the death, resignation, transfer from Colombo or absence from Sri Lanka of the president or the secretary or the treasurer or of any elected member of the committee, or in the event of any of them either absenting himself from three consecutive meetings of the committee without reasonable excuse forwarded in writing addressed to the president and Vacancies how filled-

accepted by the committee, or ceasing to be a member of the corporation under the rules in force from time to time it shall be lawful for the remaining members of the committee to elect as his successor any member of the corporation who is eligible for election under the rules of the corporation and the member so elected shall continue in office until the annual general meeting of the corporation next following his election.

(2) This section shall apply to the secretary or treasurer only so long as no full-time paid secretary or treasurer is appointed by the corporation under any rule for the time being in that behalf.

Membership.

7. Every person holding an appointment in the service of the Posts and Telecommunications Departments of Sri Lanka who fulfils the requirements of the rules shall be eligible for admission as a member, and may, in the discretion of the said committee, be admitted a member.

Register of members.

8. (1) The committee of management shall cause a register to be kept in which every person who at the date of the passing of this Ordinance is a member of the association, and every person thereafter duly admitted a member of the corporation shall have his name inscribed.

(2) The register shall contain the following particulars:—

- (a) the name, age on admission, address and official designation of each member;
- (b) the date on which the name of any person was inscribed in the register as a member;
- (c) the date on which any person commenced or ceased to be a member;
- (d) such other information as the committee of management from time to time may decide that the register should contain.

(3) All members of the association at the date of the coming into operation of this Ordinance and whose names shall be duly

inscribed in the register shall be deemed to have been members of the corporation from the said date.

9. The committee of management shall also cause proper books of account to be kept, which shall be open at all reasonable times to the inspection of members of the corporation, and of any person or persons whom the Secretary to the Treasury may at any time appoint to examine the same.

Books of account.

10. It shall be lawful for the corporation, by resolution passed at any general meeting, to remunerate the services of any member or members of the committee of management and of the auditor to be elected in accordance with this Ordinance and the rules of the corporation and from time to time to fix the amount of such remuneration, and to require such security from such member or members of the committee of management so remunerated as may be deemed sufficient.

Remuneration 10 member or members of committee and auditor.

11. (1) It shall be lawful for the corporation from time to time at any general meeting of the members, and by a majority of votes, without prejudice to the generality of the powers hereby conferred, to make rules for any of the following purposes and for giving effect to the provisions of this Ordinance;—

Rules.

- (a) the admission, withdrawal or expulsion of members;
- (b) the determination and collection of contributions or other calls payable by members and the payment of moneys due to them;
- (c) the imposition of penalties and forfeitures for breaches of rules ;
- (d) the election, the powers, conduct and duties of the committee of management and of the various officers, agents, and servants of the corporation;
- (e) the procedure in the transaction of business;
- (f) the withdrawal or refunding of any contributions;

- (g) the regulation of extraordinary loans to be given to members under section 22 (A) and the prescribing of the conditions of such loans including the nature and situation of the immovable property that may be accepted as security;
- (h) generally for the management of the affairs of the corporation and the accomplishment of its objects:

first day of January each year when there shall be submitted—

- (a) a report of the committee on the working of the corporation during the twelve months ending on the preceding thirtieth day of September;
- (b) a balance sheet containing a statement of assets and liabilities of the corporation on the preceding thirtieth day of September and a statement of income and expenditure of the corporation during the twelve months ending on the said thirtieth day of September;
- (c) the auditor's report.

Provided that until such rules are made, the relevant rules of the association in force at the date of the coming into operation of this Ordinance shall continue to be in force.

(2) Such rules when made may at a like meeting be altered, added to, amended or cancelled, subject however to the requirements of section 18 hereof:

Provided that no rule or alteration, addition, amendment, or cancellation of any rule shall have effect until the same is confirmed by the Minister.

(3) Notice of such confirmation shall be published in the Gazette and thereupon the same shall be as valid and effectual as if it had been herein enacted.

The balance sheet and the aforesaid statement of income and expenditure shall be prepared by the treasurer and shall be duly examined by the auditor who shall also certify to the correctness of the said balance sheet and statement. The report of the auditor shall include references to any irregularities that he may have discovered and to any loans which may have been granted contrary to the rules of the corporation.

General meetings.

12. (1) The secretary, upon the request of the committee of management, or upon the written requisition of twenty or more members of the corporation, shall call a special general meeting.

(2) Copies of the documents referred to in (a) and (b) of subsection (1) of this section shall be forwarded by the secretary in triplicate to the Minister through the patron of the corporation appointed under the rules and to the Secretary to the Treasury within one month of the annual general meeting.

(2) No special general meeting or annual general meeting shall be held unless the quorum of members prescribed by section 15 hereof be present, and unless at least fourteen days' notice, specifying the time and place of such meeting and the purpose for which it is to be held, has been given by advertisement in two or more of the local newspapers or by notice to members sent either by post or through the medium of the Ceylon Post Office Circular, and no business shall be brought before or transacted at such meeting other than the business specified in such notice.

(3) If any auditor duly elected is unable to act as such through death or any other cause, or refuses or neglects to perform his duties, the committee may elect an auditor in his stead.

(4) Every auditor elected by the committee shall receive such remuneration for his services as may be fixed by the committee at the time of his election.

Annual general meeting,

13. (1) An annual general meeting of the members of the corporation shall be held in Colombo not later than the thirty-

(5) If no election of an auditor is made as aforesaid, the Secretary to the Treasury may, on the application of any member of the corporation, appoint an auditor or

auditors for the purposes of this Ordinance and fix the remuneration to be paid to him or them by the corporation and such remuneration shall be paid accordingly.

(6) At every annual general meeting, all business shall be transacted of which due notice has been given and there shall also be elected the president, and the secretary and the treasurer (until such time as fulltime secretary or treasurer or secretary and treasurer is appointed by the committee under the rules) and the members of the committee and the auditor who shall respectively hold office as such until the next annual general meeting.

(7) No person shall be appointed auditor unless he is—

- (a) the Auditor-General to the Sri Lanka Government; or
- (b) a member of the Institute of Chartered Accountants of England and Wales or of any society incorporated by Royal Charter whose members are entitled to use the designation "Chartered Accountant"; or
- (c) a member of the Society of Incorporated Accountants and Auditors of Great Britain ; or
- (d) a public auditor appointed under section 18 of the Societies Ordinance; or
- (e) a member of the corporation who is stationed in Colombo.

14. The president of the corporation shall preside at all annual general meetings and special general meetings of the corporation, and in his absence, the members present shall elect a chairman for the occasion. The president, or in his absence the chairman, shall have a casting vote, in addition to his original vote.

15. The quorum of members required to constitute any annual general meeting or special general meeting shall be twenty.

16. No member of the corporation who is two months in arrears with his monthly contribution under the rules of the corporation shall be entitled to vote at any general meeting of the corporation, or if he is a member of the committee at any meeting of that body.

17. No decision arrived at by an annual general meeting or a special general meeting shall be reconsidered at a special general meeting within a period of twelve months unless the committee agrees that it is a matter of importance and urgent necessity that such decision should be superseded.

18. No rule passed and no decision come to by the corporation in general meeting shall be altered, added to, amended, or cancelled, except by at least a majority of three-fourths of the members present and voting at any subsequent general meeting.

19. The rules of the corporation for the time being shall bind the corporation and all members thereof and all persons claiming through them respectively to the same extent as if each member had subscribed his name thereto and there were contained in such rules a covenant on the part of himself, his nominees, his heirs, executors, and administrators to conform thereto subject to the provisions of this Ordinance.

20. It shall be lawful for the committee of management to require security to be given by any of the officers, agents, or servants appointed by them, and to determine the nature and value of such security.

21. All debts and liabilities of the association existing at the time of the coming into operation of this Ordinance shall be paid by the corporation hereby constituted and all debts due to and subscriptions, contributions, fines, and amounts of loans and advances payable to the association shall be paid to the said corporation for the purposes of this Ordinance.

22. The funds of the corporation shall be placed in the name of the corporation in one or more of the local banks, and it shall be lawful for the committee of management from time to time to invest such part of the said funds as is not required for loans, withdrawals, advances and other current expenses

- (a) in fixed deposits in one or more of the local banks, or in debentures, stock, or other securities of the Government of Sri Lanka, or in securities issued by any Municipality in Sri Lanka; or

Time limited for reconsideration of decision of general meetings.

Mode in which rule or order once made may be subsequently altered, added to, amended, or cancelled.

Rules to bind members.

Security from officers, agents, and servants.

Debts due by and payable to association.

Funds of the corporation, how to be kept and invested.

Who shall preside at general meetings.

Quorum for general meetings.

Voting.

- (b) in extraordinary loans to members of the corporation to be secured by mortgage of immovable property situated within such limits as may be prescribed by rules of the corporation; or
- (c) in such other manner as may from time to time be approved by the Secretary to the Treasury.

covenants for re-entry in case of non-payment of rent, breach of covenant, or otherwise.

28. (1) It shall not be lawful for the corporation to sell, exchange or mortgage any of the lands vested in it without the leave of the District Court of Colombo, which leave shall be applied for by petition addressed to the said court setting out the facts and reasons for which the corporation desires to sell, exchange or mortgage such lands, and praying for an order of the said court in that behalf.

Corporation may not sell, exchange or mortgage lands without leave of court.

Funds of the corporation, how operated on.

23. All cheques and orders against the said funds shall be signed by at least two of the persons authorized by the rules of the corporation in that behalf.

Powers of committee relating to certain officers.

24. The committee of management may from time to time under the common seal of the corporation appoint such officer or officers, agent or agents, servant or servants as they may consider necessary for recovering all dividends, interest, or other revenue to be derived from investments, or for otherwise carrying out the provisions of this Ordinance; and all persons so appointed shall hold office during the pleasure of, and shall be entitled to such remuneration as may be determined by, the said committee.

(2) If the said court shall be of opinion that it will be for the general advantage of the corporation to grant the prayer of the petition, an order may be made to that effect and if the court decline to grant the prayer of the petition, it shall be competent for the petitioner to appeal to the Court of Appeal,

Seal of corporation how affixed.

25. The seal of the corporation shall not be affixed to any instrument whatsoever, except in the presence of any two of the persons authorized for the purposes of section 23, who shall sign their names to the instrument in token of their presence and such signing shall be independent of the signing of any person as a witness.

(3) Any land sold or exchanged or any land which, having been mortgaged, is sold in execution under a mortgage decree obtained from a competent court, shall be held by the purchaser or person taking the same in exchange free of the trusts created or implied in this Ordinance or otherwise.

Corporation may hold property movable or immovable.

26. The corporation shall be able and capable in law to take and hold any property movable or immovable which may become vested in it by virtue of any grant, gift, testamentary disposition or otherwise, and all such property shall be held by the corporation for the purposes of this Ordinance.

29. In case any doubt or ambiguity shall arise, and any controversy shall take place among the members of the corporation and of the committee of management, or either of them, as to the interpretation of this Ordinance or as to the powers of the committee, the same shall be referred to the Secretary to the Treasury whose decision shall be final and conclusive.

Doubt or ambiguity how decided.

Corporation may demise lands on lease.

27. It shall be lawful for the corporation to demise any land vested in it for any term not exceeding ninety-nine years, reserving the best yearly or monthly rental procurable for the same, and with the ordinary

30. Nothing in this Ordinance contained shall affect or be deemed to affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in the foregoing provisions of this Ordinance and those claiming by, from, or under them.

Saving of rights of the Republic and others.

CHAPTER 99

PAWNBROKERS

Ordinance
No. 13 of 1942,
Ads
Nos. 2 of 1953,
55 of 1956,
11 of 1963,
Law
No. 23 of 1973.

AN ORDINANCE TO PROVIDE FOR THE REGULATION OF THE BUSINESS OF PAWNBROKERS AND FOR OTHER MATTERS INCIDENTAL TO OR CONNECTED WITH SUCH REGULATION.

[24th April, 1942.]

PART I

GENERAL

Short title.

1. This Ordinance may be cited as the Pawnbrokers Ordinance.

Date of operation and application of Ordinance.

2. (1) On the appointed date this Ordinance shall come into operation in the provinces, districts, towns and places specified in the First Schedule.

(2) It shall be lawful for the Minister, by Order published in the Gazette—

- (a) to bring any province, district, town or place not specified in the First Schedule within the operation of this Ordinance; or
- (b) to amend or vary the First Schedule.

PART II

DUTIES OF PAWNBROKERS

Certain persons prohibited, from carrying on the business of a pawnbroker. [§47, 11 of 1963.]

2A. On or after the first day of January, 1964, no person shall carry on the business of a pawnbroker if such person—

- (i) is an individual who is not a citizen of Sri Lanka; or
- (ii) is a foreign company; or
- (in) is a foreign firm,

and accordingly any licence to carry on such business which was issued to any such individual, foreign company or foreign firm

and was in force on the day immediately prior to the said first day of January shall, on and after the said first day of January, be deemed, for all purposes, to be null and void.

3. (1) No person shall carry on the business of a pawnbroker unless he is the holder of a licence issued in that behalf by the Government Agent,

Pawnbroker's "licence.

(2) Every licence issued under this section shall be in the Form A set out in the Second Schedule.

[§2, Law 23 of 1973-]

(3) Every licence shall be dated on the day of which it is issued, and shall expire on the thirty-first day of July next ensuing.

3A. The holder of a licence issued under section 3 shall not transfer the business to which such licence relates to any other person without the prior approval in writing of the Government Agent, and a transfer of such business without such prior approval shall be for all purposes null and void.

Transfer of business without prior approval of Government Agent to be void. [§3, Law 23 of 1973.]

4. The Government Agent shall forward a copy of each licence issued under section 3 to the Superintendent of Police of the district within which the business to which such licence relates, is carried on.

Copies of licence to be sent to Superintendents of Police. [§4, Law 23 of 1973.]

5. (1) Every person desirous of obtaining a licence for carrying on the business of a pawnbroker shall make application in that behalf to the Government Agent,

Application for licence.

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PAWNBROKERS

[§5, Law 23 of 1973.]

(2) Every application for a licence shall be accompanied by a licence fee of one thousand rupees.

during any period preceding such application, and in relation to his business as a pawnbroker, dealt in practices which are contrary to the spirit and the purposes of the provisions of this Ordinance.

Persons entitled to a licence.

6. No person shall be entitled to a licence for carrying on the business of a pawnbroker unless he produces to the Government Agent satisfactory evidence of good character.

9. No licence for carrying on the business of a pawnbroker shall be issued to any person who is an auctioneer. Auctioneers not entitled to licence.

[§2, 55 of 1956.]

Issue of licences to certain persons prohibited. [§47, 11 of 1963.]

7. On or after the first day of January, 1964, no licence for carrying on the business of a pawnbroker shall be issued to any person who is prohibited from carrying on such business by virtue of the operation of the provisions of section 2A, and accordingly any such licence issued to any such person, whether by inadvertence or otherwise, shall be deemed, for all purposes, to be null and void.

9A. No licence for carrying on the business of a pawnbroker shall be issued to any person unless he furnishes security in cash in the prescribed amount. Security to be furnished before licence is issued. E§ 4, 55 of 1956.]

10. Every pawnbroker who intends to be absent from Sri Lanka for any period exceeding three months shall— Notice of pawnbroker's absence from Sri Lanka.

Refusal of licence.

8. (I) No licence for carrying on the business of a pawnbroker shall be issued to any person if—

(a) give written notice of his intention to the Government Agent; and

(b) appoint a person (being a person entitled under this Ordinance to a licence for carrying on the business of a pawnbroker) to act for him and on his behalf during his absence from Sri Lanka, and give to the Government Agent written notice of the name of the person so appointed.

(a) at any time during the five years immediately preceding the date on which he makes his application for such licence, he has been found guilty of any act rendered punishable under Chapters XI, XIII, XVII or XVIII of the Penal Code, or under the provisions of this Ordinance; or

It. No pawnbroker shall take any Hours of article on pawn before 8 a.m. or after 8 p.m. business. on any day.

(b) in the opinion of the Government Agent, the shop or place in which that person intends to carry on the business of pawnbroker, or any adjacent house or place possessed by him, is frequented by thieves or persons of bad character, or is used for the sale of intoxicating liquor, opium, or the preparations of the hemp plant commonly known as bhang, hashish or ganja; or

12. No pawnbroker shall act as or carry on the business of an auctioneer. Pawnbroker not to act as auctioneer.

13. Every pawnbroker shall— Notices, &c., to be exhibited by pawnbrokers. (a) always keep exhibited in large characters over the outer door of his shop or place of business his name with the word " Pawnbroker " in Sinhala, Tamil and English ; and

(c) a licence issued to him under this Ordinance has been cancelled under section 42.

(b) always keep exhibited in a conspicuous part of his shop or place of business so as to be clearly visible to and legible by every person resorting thereto a notice containing in Sinhala, Tamil and English the particulars set out in the Third Schedule.

[§6, Law 23 of 1973.]

(2) Where the holder of a licence issued under section 3 makes an application for a renewal of such licence, the Government Agent may refuse to renew such licence, if he is of the opinion that such holder has,

Language to be used in entering particulars.

14. Where any particulars are required by this Ordinance to be entered in any book, form or document, such particulars shall be entered in Sinhala, Tamil or English.

pledge, nothing in the preceding provisions of this section shall be deemed to prohibit the pawnbrokers from recovering such tax from the pawner,

Books to be kept by pawnbrokers.

15. Every pawnbroker shall keep and use in his business a pledge book in the form B and a sale book of pledges in the form C set out in the Second Schedule, and shall from time to time, as occasion demands, enter therein in a fair and legible manner all the particulars for the recording of which provision is made in such forms, and shall make all inquiries necessary for that purpose.

In this section "pledge" includes a pledge which has been pawned and which has not been redeemed before the appointed date.

PART III

PLEDGES

Pawn tickets.

16. (1) Every pawn ticket shall be executed in foil and counterfoil in the form D set out in the Second Schedule and in accordance with the directions contained in that form.

18. Every pledge shall be redeemable within a period of twelve months (hereinafter in this Ordinance referred to as the "period of redemption") from the day of pawning, exclusive of that day.

Pledges redeemable within one year.

[§7, Law 23 of 1973.]

(2) The particulars in the Third Schedule shall be printed legibly in Sinhala, Tamil and English on the back of the foil of every pawn ticket.

19. Notwithstanding anything in this Ordinance to the contrary, every pledge shall continue to be redeemable until it is disposed of as in this Ordinance provided, although the period of redemption has expired.

Pledges to continue to be redeemable until sale.

(3) Where a pledge is pawned for hundred rupees or over, the foil of the pawn ticket relating to that pledge shall bear a stamp of the value of twenty-five cents. The expense for providing such stamp shall be borne by the pawnbroker.

20. (1) The pawner shall be entitled to redeem a pledge if he surrenders to the pawnbroker the foil of the pawn ticket relating to that pledge and signs the foil in the presence of the pawnbroker or his agent or servant.

Procedure for redemption of a pledge.

(4) No article shall be or be deemed to be taken in pawn unless and until—

- (a) the pawner has signed the counterfoil of the pawn ticket;
(b) the pawnbroker has signed the foil of the pawn ticket and has given the foil to the pawner ; and
(c) the pawner has received and accepted the foil of the pawn ticket from the pawnbroker.

(2) A person other than the pawner shall be entitled to redeem a pledge if such person surrenders to the pawnbroker the foil of the pawn ticket relating to that pledge duly endorsed with the signature of the pawner and if such person signs that foil in the presence of the pawnbroker or his agent or servant.

(3) Where by reason of the death or legal disability of the pawner, the holder of the foil of the pawn ticket relating to that pledge (hereinafter in this section referred to as the "holder") claims to be entitled to redeem that pledge but is unable to surrender to the pawnbroker the foil of the pawn ticket duly endorsed with the signature of the pawner, the pawnbroker shall permit the pledge to be redeemed if such holder surrenders to him the foil of the pawn ticket relating to that pledge together with a declaration in the form E set out in the Second Schedule, duly made before a Justice of the Peace by such holder and by the person identifying him.

Rate of interest. [§7, Law 23 of 1973]

17. No pawnbroker shall, in respect of a loan on a pledge, charge interest at a rate exceeding the rates specified in the Third Schedule:

Provided that where business turnover tax is payable in respect of a loan given on a

[§ 9, Law 23 of 1973.]

(4) Subject to the provisions of subsections (1), (2) and (3), the pawnbroker shall, on payment of the loan, the interest due thereon, and the business turnover tax, if any, payable in respect of such loan, deliver the pledge to the pawner or holder, as the case may be, who produces the foil of the pawn ticket relating to that pledge ; and the pawnbroker is hereby indemnified in respect of such delivery of the pledge ;

Provided, however, that if the pawnbroker has reason to suspect that such holder has sold or otherwise illegally obtained possession of the pawn ticket, the pawnbroker may seize and detain the person and the ticket and deliver them as soon as may be to an officer of police or grama seva niladhari, who shall forthwith convey the person and the ticket before a court of competent jurisdiction to be dealt with according to law.

Compensation for depreciation of pledge.

21. If a person entitled and offering to redeem a pledge shows to the satisfaction of a civil court of competent jurisdiction that the pledge has become, or has been rendered, of less value than it was at the time of the pawning thereof, by or through the default, neglect, or wilful misbehaviour of the pawnbroker, the court may, if it thinks fit, award a reasonable satisfaction to the owner of the pledge, and the amount awarded shall be deducted from the amount payable to the pawnbroker, or shall be paid by the pawnbroker in such manner as the court directs.

Protection of owners and of pawners not having pawn tickets.

22. (1) Any person claiming to be the owner of a pledge, but not holding the foil of the pawn ticket, or any person claiming to be entitled to hold the foil of the pawn ticket, but alleging that the foil of such ticket has been lost, stolen, mislaid, destroyed, or fraudulently obtained from him, may deliver to the pawnbroker a declaration in the form F set out in the Second Schedule, duly made before a Justice of the Peace by himself and by the person identifying him, and shall thereupon have, as between himself and the pawnbroker, all the same rights and remedies as if he produced the foil of the pawn ticket:

Provided that for the purpose of redeeming a pledge he shall sign the

counterfoil of the pawn ticket and not the foil thereof as required by section 20.

(2) The pawnbroker is hereby indemnified for delivering the pledge or otherwise acting in conformity with the declaration, unless he has actual or constructive notice that the declaration is fraudulent or false in any material particular.

23. (1) Where the foil of a pawn ticket is surrendered to the pawnbroker for the purpose of redeeming a pledge, the pawnbroker shall retain in his possession the foil and counterfoil of that pawn ticket for a period of twelve months reckoned from the date of the redemption of that pledge.

Pawn tickets to be retained by pawnbroker after redemption or sale of pledge.

(2) Where a pledge is redeemed without the surrender of the foil of the pawn ticket relating to that pledge, a pawnbroker shall retain in his possession for a period of twelve months reckoned from the date of the redemption of that pledge the counterfoil of the pawn ticket relating to that pledge and the declaration delivered to him under section 22 for the purpose of such redemption.

(3) Where a pledge is sold under the provisions of this Ordinance, the pawnbroker shall retain in his possession the counterfoil of the pawn ticket relating to that pledge for a period of twelve months reckoned from the date of sale.

23A. (1) Where in any prescribed circumstance any pledge is lost while in pawn with any pawnbroker, the security furnished by such pawnbroker shall be applied in the prescribed manner to the payment of compensation to the pawner or to any other person entitled to redeem such pledge.

Application and return of security furnished by pawnbrokers. [§ 5. 55 of 1956.]

(2) Where a person ceases to carry on the business of a pawnbroker, the amount of the security furnished by him less any sum applied therefrom to the payment of such compensation as is referred to in subsection (1) shall be returned to him.

24. (1) Where a pledge is destroyed or damaged by or in consequence of fire, the pawnbroker shall nevertheless be liable, on demand, within the period of redemption, to pay the value of the pledge, after deducting

Liability of pawnbroker in case of fire. [§ 10, Law 23 of 1973.]

the amount of the loan and interest, and business turnover tax, if any, payable in respect of such loan.

(2) Every pawnbroker shall have his business insured to the full extent of the value of the articles pawned with him.

Receipt of pawnbroker. [§11, Law 23 of 1973.]

25. Every pawnbroker shall, at the time of redemption of the pledge, give a receipt for the amount of loan and interest paid to him and the business turnover tax, if any, recovered by him and preserve a copy of such receipt with the pledge book. Such receipt shall be in the Form G set out in the Second Schedule and shall not be liable to stamp duty unless the interest and business turnover tax, if any, amounts to one hundred rupees or more.

Pledges to be sold by auction.

26. (1) Every pledge which is not redeemed within the period of redemption may be disposed of by sale by public auction but shall not be disposed of otherwise, and the regulations in the Fourth Schedule shall be observed with reference to the sale.

[§ 12, Law 23 of 1973.]

(2) Where a pledge is to be sold by public auction under the preceding provisions of this section, the pawnbroker with whom such pledge had been pawned, shall give at least fourteen days' notice in writing to the Government Agent, of the date and time fixed for such sale, and the place at which such sale is to be held.

Notice of sale.

27. The pawnbroker shall give to every pawner whose pledge is to be sold under this Ordinance at least fourteen days' notice of the date fixed for the sale of his pledge by public auction and of the place at which the sale is to be held.

Procedure at sale of pledge for more than the amount of the loan, interest and business turnover tax. [§13, Law 23 of 1973.]

28. In every case where a pledge is sold under this Ordinance for more than the amount of the loan and interest due on the date of the sale and the business turnover tax, if any, payable in respect of such loan, the pawnbroker shall—

- (a) forthwith give to the pawner of that pledge notice of the amount for which the pledge was sold and of the amount lying to the credit of the pawner after deducting the

necessary costs and charges of the sale ; and

- (b) on demand made within one year from the date of such sale pay to the holder of the pawn ticket relating to that pledge the amount lying to the credit of the pawner ; and

- (c) if no such demand is made within the said period of one year, forthwith on the expiry of the said period, deposit the amount lying to the credit of the pawner in the nearest kachcheri to the credit of the pawner.

29. Where, at any time before the appointed date, any pledge pawned for above five rupees has been sold under the law then in force for more than the amount of the loan and interest due at the time of the sale, and no demand for the amount lying to the credit of the pawner is made to the pawnbroker by the holder of the pawn ticket relating to that pledge within one year after the date of such sale, then in every case where the said period of one year expires on or after the appointed date, the pawnbroker shall, forthwith on the expiry of the said period, deposit such amount in the nearest kachcheri to the credit of the pawner.

Procedure on sale of pledge before the appointed date for more than the amount due and interest.

30. Every notice under section 27 or section 28 shall be sent by registered post to the pawner at the address entered in the pledge book and the cost of registration shall be borne by the pawner and every notice under section 26 (2) shall be sent by registered post.

Method of giving notice under sections 26, 27 and 28. [§ 14, Law 23 of 1973.]

31. A pawnbroker may bid for and purchase at a sale by auction made or purporting to be made under this Ordinance, a pledge pawned with him ; and on such purchase he shall be deemed to be the absolute owner of the pledge purchased.

Purchase of pledges by pawnbroker.

PART IV

INSPECTION, EXAMINATION AND SEIZURE

32. At any time within two years from the date on which a pledge is sold under this Ordinance, the holder of the pawn ticket may

Power to inspect sale books

inspect the entry of the sale in the pawnbroker's book and in the filled-up catalogue of the auction authenticated by the signature of the auctioneer, or in either of them ; and the pawnbroker shall permit the holder of the pawn ticket to inspect the entry of the sale in such book and catalogue or in either of them.

Proceedings where persons offering articles in pawn do not give a good account of themselves.

- 33.** Where any person—
- (a) offers to a pawnbroker an article by way of pawn, but refuses or is unable to give a satisfactory account of the means by which he became possessed of it; or
 - (b) wilfully gives false information to a pawnbroker as to whether an article offered by him in pawn to the pawnbroker is his own property or not, or as to his name and address, or as to the name and address of the owner of the article ; or
 - (c) attempts or endeavours to redeem a pledge, not being entitled to redeem; or
 - (d) offers to a pawnbroker an article by way of pawn and the pawnbroker has reason to suspect that it has been stolen or otherwise illegally obtained,

the pawnbroker may seize and detain the person and the article and deliver them, as soon as may be, into the custody of an officer of police or grama seva niladhari, who shall forthwith convey the person and the article before a court of competent jurisdiction to be dealt with according to law.

Pawnbroker's book subject to examination.

34. It shall be lawful for a Magistrate, by an order served on any pawnbroker, to require such pawnbroker to attend before him on a day and hour to be specified in the order, and to produce for examination all books and papers relating to his business^ and every pawnbroker on whom any order is served under this section shall comply with the requirements of such order.

35. It shall be lawful for any officer of police not below the rank of Sub-Inspector or any public officer authorized in writing in that behalf by the Government Agent or any divisional Assistant Government Agent to enter any pawnbroker's shop or place of business or residence at any hour of the day and examine and take note of any article pledged with the pawnbroker, or any books and papers kept by him; and no person shall resist any such officer or such divisional Assistant Government Agent in the execution of his duty,

Power to search pawnbroker's shop or residence. [§6,55 of 1956.]

[§ 6, 55 of 1956.]

PART V

OFFENCES AND PENALTIES*

- 36.** Every person who—
- (a) offers to a pawnbroker an article by way of pawn but refuses or is unable to give a satisfactory account of the means by which he became possessed of it ; or
 - (b) wilfully gives false information to a pawnbroker as to whether an article offered by him in pawn to the pawnbroker is his own property or not, or as to his name and address, or as to the name and address of the owner of the article ; or
 - (c) attempts or endeavours to redeem a pledge not being a person entitled to redeem such pledge ; or
 - (d) without lawful excuse pawns with a pawnbroker anything being the property of another person ; or
 - (e) makes a declaration under this Ordinance either for himself or as identifying another, knowing such declaration to be false in any material particular ; or
 - (f) contravenes any provision of this Ordinance or fails to do anything which he is required to do by this Ordinance,

Offences by pawners and other persons.

shall be guilty of an offence.

* Primary Court has exclusive jurisdiction in respect of all offences under Part V of this Ordinance under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979.07.02.

Offences by pawnbrokers.

- 37.** Every pawnbroker who—
- (a) takes an article in pawn from any person appearing to be under the age of sixteen years or to be intoxicated; or
 - (b) takes an article in pawn without giving the pawner the foil of the pawn ticket; or
 - (c) purchases, or takes in pawn or exchange, the foil of a pawn ticket issued by another pawnbroker; or
 - (d) employs any servant apparently under the age of twenty-one years to take articles in pawn; or
 - (e) purchases, except at a sale by public auction under this Ordinance, any pledge while in pawn with him; or
 - (f) suffers any pledge while in pawn with him to be redeemed with a view to his purchasing it; or
 - (g) agrees with any person, pawning or offering to pawn any article, to purchase, sell or dispose of such article within the period of redemption; or
 - (h) sells or otherwise disposes of any pledge pawned with him, except at such time and in such manner as is authorized by this Ordinance; or
 - (i) makes any false entry in any book required to be kept by him under this Ordinance or fails to make therein any entry which he is required to make by this Ordinance; or
 - (j) seizes or detains any person under the provisions of section 20 or section 33 without reasonable or probable cause; or
 - (fc) fails to have his business insured to the full extent of the value of all the articles pawned with him; or
 - (/) contravenes any provision of this Ordinance or fails to do anything which he is required to do by this Ordinance,

[§15. Law 23 of 1973.]

shall be guilty of an offence.

38. Every pawnbroker who knowingly takes in pawn any linen or apparel, or unfinished goods or materials entrusted to any person to wash, scour, iron, mend, manufacture, work up, finish, or make up, shall be guilty of an offence ; and where any court convicts any pawnbroker of an offence under this section the court may, in addition to any other punishment which it may impose for that offence, order the pawnbroker to restore the pledge to the owner thereof in the presence of the court or as the court directs.

Prohibition of taking in pawn linen, clothing, unfinished goods, &c., in certain cases.

39. Every pawnbroker who fails to deposit in the kachcheri the amount lying to the credit of a pawner as required by section 28 or section 29 shall be guilty of an offence; and where any court convicts any pawnbroker of such offence, the court may, in addition to any other punishment which it may impose for that offence, order a sum equal to such amount to be recovered from that pawnbroker as though it were a fine imposed by the court. Every such sum when recovered by the court shall be deposited in the nearest kachcheri to the credit of the pawner.

Pawnbroker failing to deposit in kachcheri money lying to the credit of a pawner.

40. Anything done or omitted to be done by the servant or agent of a pawnbroker in the course of or in relation to the business of a pawnbroker shall be deemed to be done or omitted, as the case may be, by the pawnbroker:

Offences by servant or agent of pawnbroker.

Provided that where, in the absence of a pawnbroker from his shop or place of business, anything is done or omitted to be done by any servant or agent of the pawnbroker in contravention of any provision of this Ordinance such servant or agent shall also be guilty of an offence and shall be liable on conviction to the penalty prescribed for that offence by this Ordinance,

41. Every person who is guilty of an offence under this Ordinance shall be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Penalty. [§15. Law 23 of 1973.]

42. Where a pawnbroker or, in his absence, any agent or servant of the pawnbroker is convicted of any offence under this Ordinance, or of any fraud in his business, or of receiving stolen goods knowing them to be stolen, the Government Agent may after the first conviction and shall after the second, cancel the licence issued to that pawnbroker.

Articles in unlawful possession of pawnbroker.

43. Whenever, in any proceeding under this Ordinance, it is made to appear to a court that any article is in the unlawful possession of any pawnbroker, it shall be competent to such court to order the production of the article and its delivery to any person named by such court, under such terms, if any, as it may think proper.

PART VI

SUPPLEMENTARY

Sums of money deposited to pawner's credit in kachcheries.

44. A pawner to whose credit any sum of money is deposited in pursuance of the provisions of section 28, section 29 or section 39 shall be entitled to receive payment of such sum on demand made to the Government Agent within one year from the date of such deposit. If no such demand is made within the said period of one year, such sum shall, on the expiry of the said period, be credited to the Consolidated Fund.

Agents, servants, &c., of a pawnbroker-

45. Anything by this Ordinance required or authorized to be done by a pawnbroker may be done by his servant or agent.

Keepers of certain shops to be deemed pawnbrokers.

46. For the purposes of this Ordinance the following persons shall be deemed to be persons carrying on business of taking goods in pawn, that is to say, every person who keeps a shop for the purchase or sale of goods, or for taking in goods by way of security for money advanced thereon, and who purchases or receives or takes in goods and pays or advances or lends thereon any sum of money, with or under an agreement or understanding expressed or implied, or to be from the nature and character of the dealing reasonably inferred, that those goods may be afterwards redeemed or repurchased on any terms; and every such transaction, article, payment, advance, and loan shall be deemed a pawning, pledge, and loan, respectively, within this Ordinance.

46A. (1) The Minister may make regulations for giving effect to the provisions of this Ordinance. Regulations. [§ 7, 55 of 1956.]

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations—

- (a) prescribing any matter which is required by this Ordinance to be prescribed, and
- (b) providing for any matter incidental or supplemental to the furnishing of security by pawnbrokers.

(3) No regulation made by the Minister under this section shall have effect until it is approved by Parliament and notification of such approval is published in the Gazette. Every regulation shall, upon notification of such approval in the Gazette, be as valid and effectual as if it were herein enacted.

46B. Any power, function or duty of the Government Agent under this Ordinance may be exercised or performed by any public officer who is authorized so to do by writing under the hand of the Government Agent. Delegation of powers, &c., by the Government Agent. [§ 7, 55 of 1956.]

46C. For the purposes of the issue to any person of any licence for carrying on the business of a pawnbroker, or of any prosecution instituted against any person for any offence under this Ordinance, the burden of proving that such person is a citizen of Sri Lanka, or is not a foreign company or foreign firm, shall lie on such person. Burden of proof. [§47,11 of 1963.]

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

" appointed date " means the 24th day of April, 1942;

" citizen of Sri Lanka " means any individual who is a citizen of Sri Lanka under any law for the time being in force relating to such citizenship; [§ 47,11 of 1963-]

" district " means administrative district;

[§47, 11 of " foreign company " means a company to 1963.] which Part XI of the Companies Ordinance* applies ;

[§47, 11 of " foreign firm " means a firm— 1963.]

(a) consisting of two partners one of whom is not a citizen of Sri Lanka, or both of whom are not such citizens ; or

(b) consisting of more than two partners at least one of whom is not a citizen of Sri Lanka ;

" month " means a period of thirty days for the purpose of charging profit or interest ;

" pawnbroker " includes every person who carries on the business of taking goods in pawn ;

" pawner " means a person delivering an article for pawn to a pawnbroker ;

" pledge " means an article pawned with a pawnbroker ;

shop " includes a dwelling house, warehouse, place of business, and any place where business is transacted •

" sign " with its grammatical variations and cognate expressions means, in the case of a person who is unable to write his name, the impression in ink or some other suitable medium of the left thumb of that person ;

" unfinished goods or materials " includes any goods of any manufacture or of any part or branch of any manufacture, either mixed or separate, or any materials whatever plainly intended for the composing or manufacturing of any goods, after such goods or materials are put into a state or course of manufacture, or into a state for any process or operation to be performed thereupon or therewith, and before the same are completed or finished for the purpose of wear or consumption.

FIRST SCHEDULE

[Section 2]

The Central Province.
The Western Province.
The Province of Uva.
The Galle District.
The Hambantota District.
The JafTna District.
The Kegalla District.
TheK-urunegalaDistrict.
The Mannar District.
The Matara District.
The Puttalam and Chilaw Districts.
The Ratnapura District.
The area within the administrative limits of the Anuradhapura Urban Council,
The area within the administrative limits of the Batticaloa Urban Council.
The area within the administrative limits of the Trincomalee Urban Council.
The area within the administrative limits of the Weligama Urban Council.
The area within the administrative limits of the Eravur Town Council.
The area within the administrative limits of the Kalmunai Town Council.
The area within the administrative limits of the Mullailivu Town Council.
The area within the administrative limits of the Vavuniya Town Council.

* Repeated and replaced by the Companies Act, No. 17 of 1982.

[Section 3.]

SECOND SCHEDULE

[§ 17, Law 23 of 1973.]

Form A

LICENCE

I,, Government Agent for District, do hereby authorize and license of to carry on the business of a pawnbroker at, within the limits of in the District, under the provisions of the Pawnbrokers Ordinance.

This licence will expire on July 31, 19

.....
Government Agent.

[Section 15.]

Form B

PLEDGE BOOK

Pledge Book of, Pawnbroker, of

| No. and Date of the issue of Pawn Ticket | No. of Pledge in the Month | Amount of Loan upon each Article | Profit or Interest charged upon each Article | Name of Pawner | Address of Pawner | Name of Owner if other than Pawner | Description of each Article pawned | Weight of Article if Jewellery | Value of each Article pawned | Date of Redemption | Name and Address of Person redeeming |
|--|----------------------------|----------------------------------|--|----------------|-------------------|------------------------------------|------------------------------------|--------------------------------|------------------------------|--------------------|--------------------------------------|
| | | Rs. c. | Rs. c. | | | | | | Rs. c. | | |

Form C

[Section 15.]

SALE BOOK OF PLEDGES

Date and Place of Sale:

Name and Address of Auctioneer:

| No. of Pledge as in Pledge Book | Date of Pawning | Name of Pawner | Amount of Loan | Amount of Interest due | Amount for which each Pledge was sold by Auctioneer | Name and Address of Purchaser |
|---------------------------------|-----------------|----------------|----------------|------------------------|---|-------------------------------|
| | | | Rs. c. | Rs. c. | Rs. c. | |

Form D

[Section 16.]

PAWN TICKET

| | | |
|--|--|---|
| <p>Counterfoil. No.</p> <p>To be retained by Pawnbroker.</p> <p>Date:</p> <p>Name and address of pawnbroker</p> <p>I, the undersigned, of (address of pawner) have this day pawned with the aforesaid pawnbroker worth Rs. for Rs.</p> <p>Signature of pawner, or left thumb impression of pawner if unable to write his name.</p> | | <p>Foil. No.</p> <p>Date:</p> <p>..... (name and address of pawner) has this day pawned with the undersigned (name and address of pawnbroker) worth Rs. for Rs.</p> <p>Signature of pawnbroker or servant or agent of pawnbroker.</p> |
|--|--|---|

[Section 20.]

Form E

DECLARATION WHERE THE FOIL OF THE PAWN TICKET IS SURRENDERED UNDER SECTION 20 WITHOUT THE SIGNATURE OF THE PAWNER ENDORSED THEREON

I, A. B.,....., of in pursuance of the Pawnbrokers Ordinance, do solemnly and sincerely declare that pledged at the shop of Pawnbroker, the article/s described below and received the foil of a pawn ticket for the same and that for the purpose of redeeming the pledge I am unable to surrender the foil of the pawn ticket to the pawnbroker with the signature of the said (pawner) duly endorsed thereon, because the said (pawner) is dead/under a legal disability, to wit (nature of legal disability).

The article/s above referred to is/are

I, C. D., in pursuance of the same Ordinance, do solemnly and sincerely declare that I know the person now making the foregoing declaration to be A. B..... of

Declared before me this , day of,

Signature of A. B.....

Signature of C. D.....

Justice of the Peace.

[Section 22.)

Form F

DECLARATION WHERE THE FOIL OF THE PAWN TICKET IS LOST, Ac.

Take notice, if this declaration is false the person making it is punishable.

I, A. B. of in pursuance of the Pawnbrokers Ordinance, do solemnly and sincerely declare that pledged at the shop of Pawnbroker, the article (or articles) described below, being property, and received the pawn ticket for the same, which has since been by and that the foil of the pawn ticket has not been sold or transferred to any person by or to ..' knowledge or belief.

The article (or articles) above referred to is (or are) the following:

And I, C. D., of in pursuance of the same Ordinance do solemnly and sincerely declare that I know the person now making the foregoing declaration to be A. B., of

Declared before me this . day of,

Justice of the Peace.

[Section 25.]
[§17, Law 23
of 1973.]

Form G

RECEIPT

Date :

Received on redemption of Pledge No.

Table with 3 columns: Description, Amount, and Unit. Rows include Amount of loan, Profit or interest, and Business Turnover Tax.

Rs. cts.

Total ...

THIRD SCHEDULE

[Sections 13
and 17.]
[§18, Law 23
of 1973]

A. Rate of Interest,

The rate of interest on every rupee or a fraction of a rupee lent shall be two cents for every month or part thereof.

B. Business Turnover Tax.

Where the business turnover tax under the Business Turnover Tax Act is payable by the pawnbroker on a loan on a pledge, such tax may be recovered from the pawner.

C.—Restriction on recovery of enhanced interest:.

Where a pawnbroker is entitled to enhanced interest as from any date, such enhanced interest shall not be recoverable if the pawner shows to the satisfaction of a civil court of competent jurisdiction that he failed to redeem the pledge before such date only because the pawnbroker's shop remained closed between 8 a.m. and 8 p.m. on the day preceding that date.

If the pawn to which this ticket relates is not redeemed within a period of twelve months from the day of pawning, it is liable to be sold by public auction.

If the surplus profits, if any, from the sale are not claimed by the pawner within one year from such sale, the said profits will be placed to his credit in the kachcheri for one year.

FOURTH SCHEDULE

[Section 26.]

REGULATIONS RELATING TO AUCTIONS OF PLEDGES

1. The auctioneer shall cause all pledges to be exposed to public view.
2. He shall publish catalogues of the pledges, stating—
 - (a) the pawnbroker's name and place of business ;
 - (b) the month in which each pledge was pawned ;
 - (c) the number of each pledge as entered at the time of pawning in the pledge book.
3. The pledges of each pawnbroker in the catalogue shall be separate from any pledges of any other pawnbroker.
4. The auctioneer shall give notice of the sale by advertisements inserted in at least one Sinhala, Tamil and English newspaper and by notices displayed in places resorted to by the public in the area where the sale is to be held, and such advertisements and notices shall state—
 - (a) the pawnbroker's name and place of business; and
 - (b) the months in which the pledges were pawned.
5. The advertisement shall be inserted on two several days in the same newspaper, and the second advertisement shall be inserted at least ten clear days before the first day of sale.
6. Where a pawnbroker bids at a sale, the auctioneer shall not take the bidding in any other form than that in which he takes the biddings of other persons at the same sale ; and the auctioneer on knocking down any article to a pawnbroker shall forthwith declare audibly the name of the pawnbroker as purchaser.
7. The auctioneer shall, within fourteen days after the sale, deliver to the pawnbroker a copy of the catalogue, or of so much thereof as relates to the pledges of that pawnbroker, filled up with the amount for which the several pledges of that pawnbroker were sold, and authenticated by the signature of the auctioneer.
8. The pawnbroker shall preserve every such catalogue for two years at least after the auction.

CHAPTER 584

PUBLIC BODIES (PREVENTION OF CORRUPTION)

Ordinances
Nos.49 of 1943,
53 of 1946,
Act
No. 13 of 1950.

AN ORDINANCE TO PROVIDE FOR THE PREVENTION AND PUNISHMENT OF BRIBERY AND CORRUPTION OF AND BY MEMBERS OF LOCAL AUTHORITIES.

[3rd December, 1943.]

Shon.title.

1. This Ordinance may be cited as the Public Bodies (Prevention of Corruption) Ordinance.

five thousand rupees or to imprisonment of either description for a term not exceeding two years, or to both such fine and imprisonment.

Offer or giving of gratification to member of public body or to influence a member.

2. (1) Any person who corruptly gives, promises or offers to any member of a public body, whether for the benefit of such member or of another person, any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for such member doing or forbearing to do any official act, shall be guilty of an offence.

(2) The Court which convicts any person of any offence under this Ordinance may, in addition to the penalties prescribed in subsection (1), order as a further penalty, that the whole or any part of the amount or value of any gift, loan, fee or reward received by that person shall be recovered from him in the same manner as a fine imposed by the court; and any sum so recovered shall be disposed of in such manner as the court may direct.

(2) Any person who corruptly gives, promises or offers to any other person, whether for the benefit of that person or of another person, any gift, loan, fee, reward or advantage whatsoever, as an inducement to or reward for influencing any member of a public body to do or forbear to do any official act, shall be guilty of an offence.

(3) Notwithstanding anything in the Code of Criminal Procedure Act, the High Court shall have jurisdiction to try, on indictment, any offence under this Ordinance and to impose any penalty prescribed in the preceding provisions of this section.

Taking of gratification by member of public body or to influence a member.

3. (1) Any member of a public body who corruptly solicits or receives or agrees to receive, for himself or for any other person, any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for such member doing or forbearing to do any official act, shall be guilty of an offence.

(4) No prosecution for any offence under this Ordinance shall be instituted except by or with the written sanction of the Attorney-General.

(2) Any person who corruptly solicits or receives or agrees to receive, for himself or for any other person, any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for influencing any member of a public body to do or forbear to do any official act, shall be guilty of an offence.

5. (1) Any member of a public body who is convicted of an offence under section 2 or section 3 shall vacate his seat or office with effect from the date of such conviction. Vacation of seat and disqualification.

Penalties for and trial of offences under this Ordinance.

4. (1) Any person who commits any offence under this Ordinance shall, on conviction, be liable to a fine not exceeding

(2) Any person who is convicted of an offence under section 2 or section 3 committed during his membership of a public body shall, for a period of five years reckoned from the date of such conviction, be disqualified from being registered as a voter or from voting at any election of

PUBLIC BODIES (PREVENTION OF CORRUPTION) [Cap.584

members of any public body or from being elected, nominated or appointed, or from sitting or voting, as a member of any public body.

(3) Where any person who is convicted of an offence under section 2 or section 3 appeals against such conviction, the following provisions shall have effect :—

(a) nothing in subsection (1) or subsection (2) shall apply unless such conviction is affirmed in appeal;

(b) where the conviction is so affirmed, the provisions of those subsections shall apply as though the references therein to the date of his conviction were references to the date of the affirmation of his conviction in appeal; and

(c) if such person is, between the date of his conviction and the date of the affirmation of the conviction in appeal, elected, nominated or appointed as a member of any public body, that person shall, with effect from the date of the affirmation of the conviction, vacate his seat or office as a member of that public body.

(4) Where any commission of inquiry appointed under the Commissions of Inquiry Act finds at the inquiry held by the commission and reports to the President that any person, while being a member of a public body, had—

(a) corruptly solicited, received or agreed to receive, for himself or for any other person, any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for such member doing or forbearing to do any official act, or

(b) corruptly given, promised or offered to any other member of a public body, whether for the benefit of such other member or of any other person, any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for such other member doing or forbearing to do any official act,

the President shall cause the finding to be published as soon as may be in the Gazette, and the person against whom the finding is made—

(i) shall, for a period of five years reckoned from the date of the publication of the finding in the Gazette, be disqualified from being registered as a voter, or from voting at any election of members of any public body, or from being elected, nominated or appointed, or from sitting or voting, as a member of any public body, and

(ii) shall, if he is a member of any public body at the date aforesaid, vacate his seat as such member with effect from that date.

(5) Every finding of a commission which is referred to in, and published as required by, subsection (4) shall have effect as provided in that subsection, notwithstanding anything in any other law, and shall not be called in question in any court.

(6) Where any person, by reason of the operation of any of the preceding provisions, vacates his seat or office as a member of any public body, the provisions of the enactment by or under which that public body is constituted shall apply for the purpose of filling the vacancy so occurring in like manner as they would have applied if such member had resigned his seat or office.

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

" advantage " includes—

(a) any office or dignity, and any forbearance to demand any money or money's worth or valuable thing, and

(b) any aid, vote, consent or influence, and

(c) any promise or procurement of or agreement or endeavour to procure, or the holding out of any expectation of, any gift, loan, fee, reward, or advantage as hereinbefore defined ;

Cap. 584] *PUBLIC BODIES (PREVENTION OF CORRUPTION)*

" official act", when used with reference to any member of a public body, includes any act which that member is, by or under the provisions of any law for the time being in force relating to that public body, empowered, authorized, entitled or required to do or forbear to do in respect of any matter or transaction

whatsoever, actual or proposed, in which the public body is concerned ;

" public body" means any Municipal Council, Urban Council, Town Council, or Village Council, and includes any standing or select or other committee of any such Council.

CHAPTER 25

PENAL CODE

Ordinances

Nos, 2 of 1883. AN ORDINANCE TO PROVIDE A GENERAL PENAL CODE FOR CEYLON.
11 of 1887.
13 of 1888.
13 of 1890.
3 of 1892.
11 of 1895.
15 of 1898.
16 of 1898.
5 of 1903.
10 of 1903.
12 of 1906.
10 of 1909.
10 of 1910.
26 of 1912.
7 of 1915.
16 of 1918.
21 of 1919.
25 of 1919.
5 of 1924.
19 of 1926.
23 of 1937.
29 of 1938.
50 of 1939.
54 of 1939.
62 of 1939.
19 of 1941.
6 of 1944.
12 of 1945.
40 of 1945.
37 of 1946.

Acts

Nos 6 of 1968.
50 of 1980.

[1st January. 1885.]

CHAPTER I

Short title.

1. This Ordinance may be cited as the Penal Code, and is generally referred to hereinafter as "this Code".

Liability for offences committed within Sri Lanka.

2. Every person shall be liable to punishment under this Code, and not otherwise, for every act or omission contrary to the provisions thereof, of which he shall be guilty within Sri Lanka.

Roman-Dutch Criminal Law abolished.

3. So much of the Criminal Law heretofore administered in Ceylon as is known as the "Criminal Law of the United Provinces" or as "the Roman-Dutch Law" is hereby abolished.

Certain laws not to be affected.

4. Nothing in this Code is intended to repeal, vary, suspend, or affect any of the provisions of any special or local law, or to affect the power heretofore possessed by the Supreme Court or any Judge thereof of summarily punishing persons guilty of

contempts of the said court, and attorneys-at-law guilty of misconduct in the exercise of their profession.

CHAPTER II

GENERAL EXPLANATIONS

5. Throughout this Code every definition of an offence, every penal provision, and every illustration of every such definition or penal provision shall be understood subject to the exceptions contained in Chapter IV, intitled "General Exceptions", though these exceptions are not repeated in such definition, penal provision or illustration.

Definitions to be understood subject to exceptions.

Illustrations

- (a) The sections in this Code which contain definitions of offences do not express that a "person" under eight years of age cannot commit such offence; but the definition of "person" is to be

understood subject to the general exception which provides that nothing shall be an offence which is done by a child under eight years of age.

(6) A, a police officer, without warrant, apprehends Z. who has committed murder. Here A is not guilty of the offence of wrongful confinement, for he was bound by law to apprehend Z. and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it".

Expression once explained is used in the same sense throughout the Code.

6. Every expression which is explained in any part of this Code is used in every part of this Code in conformity with the explanation.

Gender.

7. The pronoun "he" and its derivatives are used of any person, whether male or female.

Number.

8. Unless the contrary appear from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number,

"Man".
"Woman".

9. The word "man" denotes a male human being of any age; the word "woman" denotes a female human being of any age.

'Person

10. The word "person" includes any company or association or body of persons, whether incorporated or not.

Public'

11. The word "public" includes any class of the public or any community.

Republic'

12. The word "Republic" denotes the Democratic Socialist Republic of Sri Lanka.

"Government".

14.* The word "Government", where no other meaning is indicated by any descriptive or qualifying words or by the context, and the expression "the Sri Lanka Government" or "the Government of Sri Lanka" shall mean the Government constituted by the Constitution of the Democratic Socialist Republic of Sri Lanka, 1978.

"This Island"
"Sri Lanka",
"foreign country",
"foreign State".

15. The words "this Island" and "Sri Lanka" denote respectively, the Island of Sri Lanka, and the expression "foreign country" or "foreign State" shall mean any country or State other than Sri Lanka,

16. The word "President" shall mean 'President' the President of the Democratic Socialist Republic of Sri Lanka, and shall include any person duly appointed or designated to exercise, perform and discharge the powers, duties and functions of his office.

17. The word "Judge" not only denotes "Judge". every person who is officially designated as a judge, but also every person who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a Judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations

(a) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment is a judge.

(b) A District Registrar or Additional District Registrar exercising jurisdiction under section 33 of the Kandyan Marriage and Divorce Act, is a judge.

(c) A juror at a trial before the High Court is a judge.

(d) A Magistrate exercising Jurisdiction in respect of a charge on which he has power only to commit for trial to another court is not a judge; but a Magistrate when exercising jurisdiction in requiring persons to give security to keep the peace, or for good behaviour, is a judge.

18. The words "Court of Justice" denote a judge who is empowered by law to act Judicially alone, or a body of judges which is empowered by law to act judicially as a body, when such judge or body of judges is acting judicially. "Court of Justice".

18A. The word "election" denotes any election for any purpose whatsoever held under or by virtue of any enactment of the Legislature of Sri Lanka or under the Ceylon (Parliamentary Elections) Order-in-Council, 1946, or any rules or regulations made thereunder. "Election".

* Section 13. containing the definition of "servant of the Queen", is omitted.

" Public servant "

19. The words " public servant " denote a person falling under any of the descriptions hereinafter following, namely:—

Firstly—Every person holding any office in Sri Lanka by virtue of any commission or warrant or other act of appointment, granted or made by the President or under the President's authority.

Secondly—Every member of the Sri Lanka Administrative Service.

Thirdly—Every commissioned officer in the naval, military or air forces of the Republic of Sri Lanka.

Fourthly—Every judge.

Fifthly—Every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the court, and every person specially authorized by a Court of Justice to perform any of such duties.

Sixthly—Every juryman or assessor assisting a Court of Justice or a public servant.

Seventhly—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority.

Eighthly—Every person who holds an office by virtue of which he is empowered to place or keep any person in confinement.

Ninthly—Every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety, or convenience.

Tenthly—Every officer whose duty it is, as such officer, to take, receive, keep, or expend any property on behalf of Government or to make any survey,

assessment, or contract on behalf of Government, or to investigate or to report on any matter affecting the pecuniary interests of Government, or to make, authenticate, or keep any document, relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of Government or remunerated by fees or commission for the performance of any public duty.

Eleventhly—Every officer whose duty it is, as such officer, to take, receive-, keep, or expend any property, to make any survey or assessment, or to levy any rate or tax for any secular common purpose Of any village, town, or district, or to make, authenticate, or keep any document for the ascertaining of the rights of the people of any village, town, or district.

Twelfthly—Every person who is empowered to prepare, publish, maintain, or revise an electoral roll or to conduct an election or part of an election.

Illustrations

A Municipal Inspector is a public servant.

A Superintending Engineer under the Thoroughfares Ordinance, is a public servant.

A Fiscal is a public servant.

A grama seva niladari is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants whether appointed by the Government or not.

Explanation 2.—Wherever the words " public servant " occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

20. The words " movable property " are intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth. " Movable property "

21. (1) "Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally entitled. "Wrongful gain"

" Wrongful loss "

(2) " Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.

Explanation 1.—It is immaterial by what means, or upon what substance, the letters, figures, or marks are formed, or whether the evidence is intended for or may be used in a Court of Justice or not.

" Wrongful gain " includes wrongful retention of property.

(3) A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully.

Illustration

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

" Wrongful loss " includes the being wrongfully kept out of property.

(4) A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of properly.

A cheque upon a banker is a document.

A power of attorney is a document.

A map or plan which is intended to be used, or which may be used, as evidence is a document.

A writing containing directions or instructions is a document.

Explanation 2.—Whatever is expressed by means of letters, figures, or marks, as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures, or marks within the meaning of this section, although the same may not be actually expressed.

Dishonestly

22. Whoever does anything with the intention of causing wrongful gain to one person, or wrongful loss to another person, is said to do that thing " dishonestly ".

Illustration

A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words " pay to the holder ", or words to that effect, had been written over the signature.

" Fraudulently "

23. A person is said to do a thing fraudulently if he does that thing with intent to defraud, but not otherwise.

" Reason to believe "

24. A person is said to have " reason to believe " a thing if he has sufficient cause to believe that thing, but not otherwise.

Property in possession of wife, clerk, or servant.

25. When property is in the possession of a person's wife, clerk, or servant, on account of that person. It is in that person's possession within the meaning of this Code.

Explanation.—A person employed temporarily or on a particular occasion in (he capacity of a clerk or servant is a clerk or servant within (he meaning of this section.

28. The words " valuable security " denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished, or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

" Valuable security "

" Counterfeit "

26. A person is said to " counterfeit " who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

Explanation.—It is not essential to counterfeiting that the imitation should be exact.

Illustration

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a " valuable security ".

29. The words " a will " denote any "A will". testamentary document.

30. In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

Words referring to acts include illegal omission.

Document

27. The word " document " denotes any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

"Act"

31. (1) The word "act" denotes as well a series of acts as a single act.

'Omission'

(2) The word "omission" denotes as well a series of omissions as a single omission.

Liability for act done by several persons in furtherance of common intention.

32. When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

When such an act is criminal by reason of its being done with a criminal knowledge or intention.

33. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

Effect caused partly by act and partly by omission.

34. Whenever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

Co-operation by doing one of several acts constituting an offence.

35. When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Illustrations

(a) A and B agree to murder Z by severally, and at different times, giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder, and as each of them does an act by which the death is caused they are both guilty of the offence, though their acts are separate.

(b) A and B are joint jailors, and as such have the charge of Z, a prisoner, alternately for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

(r) A, a jailor, has the charge of Z, a prisoner. A intending to cause Z's death, illegally omits to supply Z with food in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder: but as A did not co-operate with B, A is guilty only of an attempt to commit murder.

36. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B, having ill-will towards Z, and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

Several persons engaged in the commission of a criminal act may be guilty of different offences.

37. A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

"Voluntarily".

Illustration

A sets fire, by night, to an inhabited house in a large town for the purpose of facilitating a robbery, and thus causes the death of a person. Here A may not have intended to cause death, and may even be sorry that death has been caused by his act, yet, if he knew that he was likely to cause death, he has caused death voluntarily.

38. (1) Except in the Chapter and sections mentioned in subsections (2) and (3), the word "offence" denotes a thing made punishable by this Code.

"Offence".

(2) In Chapter IV, and in the following sections, namely, sections 67, 100, 101, 101A, 102, 103, 105, 107, 108, 109, 110, 111, 112, 113, 113A, 113B, 184, 191, 192, 200, 208, 210, 211, 216, 217, 218, 219, 220, 318, 319, 320, 321, 322, 338, 339, 377, 378, and 431, the word "offence" denotes a thing punishable in Sri Lanka under this Code, or under any law other than this Code.

(3) And in sections 138, 174, 175, 198, 199, 209, 213, and 427, the word "offence" has the same meaning as in subsection (2)

when the thing punishable under any law other than this Code is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.

"Special law".

39. A "special law" is a law applicable to a particular subject.

"Local law".

40. A "local law" is a law applicable only to a particular part of Sri Lanka.

"Illegal".
"Illegally".

41. The words "illegal" and "illegally" are applicable to everything which is an offence, or which is prohibited by law, or which furnishes ground for a civil action.

"Legally bound to do".

42. A person is said to be "legally bound to do" whatever it is illegal in him to omit.

'Injury'

43. The word "injury" denotes any harm whatever illegally caused to any person in body, mind, reputation, or property.

"Life".

44. The word "life" denotes the life of a human being, unless the contrary appear from the context.

"Death".

45. The word "death" denotes the death of a human being unless the contrary appear from the context.

"Animal".

46. The word "animal" denotes any living creature other than a human being, unless the contrary appear from the context.

"Vessel"

47. The word "vessel" denotes anything made for the conveyance by water of human beings or of property.

"Year".
"Month"

48. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the calendar.

"Section".

49. The word "section" denotes one of those portions of *n* Chapter of this Code which are distinguished by prefixed numeral figures.

"Oath".

50. The word "oath" includes a solemn affirmation substituted by law for an oath, and any deJaiation required or authorized by law to be made before a public servant, or to be used for the purpose of proof, whether in a Court of Justice or not.

51. Nothing is said to be done or believed in good faith which is done or believed without due care and attention.

"Good faith".

CHAPTER III

OF PUNISHMENTS

52. The punishments to which offenders are liable under the provisions of this Code are—

Punishments.

Firstly—Death.

Secondly—Imprisonment, which is of two descriptions, namely—

(a) rigorous, that is, with hard labour;

(b) simple.

Thirdly—Whipping.

Fourthly—Forfeiture of property.

Fifthly—Fine.

53. Sentence of death shall not be pronounced on or recorded against any person who, in the opinion of the court, is under the age of eighteen years; but, in lieu of that punishment, the court shall sentence such person to be detained during the President's pleasure.

Punishment of detention in lieu of death for persons under eighteen years of age.

[§ 2,50 of 1980.]

54. Sentence of death shall not be pronounced on or recorded against any woman who is found in accordance with the provisions of section 282 of the Code of Criminal Procedure Act, to be pregnant at the time of her conviction; but, in lieu of that punishment, the court shall sentence her to imprisonment of either description for life or for any other term.

Punishment of imprisonment in lieu of death for pregnant women.

55.* In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent for the court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple.

* See also section 301 of the Code of Criminal Procedure Act and section 14 (3) of the Primary Courts' Procedure Act.

Sentence of forfeiture of property.

56. In every case in which a person is convicted of an offence for which he is liable to forfeiture of all his property, the offender shall be incapable of acquiring any property, except for the benefit of Government, until he shall have undergone the punishment awarded, or the punishment to which it shall have been commuted, or until he shall have been pardoned.

Illustration

A, being convicted of waging war against the Republic is liable to forfeiture of all his property. After sentence, and while the same is in force, A's father dies, leaving an estate which, but for the forfeiture, would become the property of A. The estate becomes the property of the Government.

No female or person sentenced to death or imprisonment for more than Five years to be punished with whipping.

57. No female shall in any case be punished with whipping. Nor shall any person who may be sentenced to death or to imprisonment for more than five years be punished with whipping,

Limit of punishment of offence which is made up of several offences.

67.*+ Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished; or

Where several acts of which one, or more than one, would by itself or themselves constitute an offence, constitute when combined a different offence;

the offender shall not be punished with a more severe punishment than the court which tries him could award for any one of such offences.

Illustrations

(a) A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also

by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(b) But if, while A is beating Z, Y interferes, and A intentionally strikes Y; here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z. A is liable to one punishment for voluntarily causing hurt to Z and to another for the blow given to Y.

67A. In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided, if the same punishment is not provided for all.

Punishment of a person found guilty of one of several offences, where it is doubtful of which of the offences he is guilty.

68. Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, shall be guilty of any offence punishable under either of those Chapters with imprisonment of either description for a term of three years or upwards, shall be liable for every such subsequent offence to double the amount of punishment to which he would otherwise have been liable for the same:

Punishment of persons, convicted, after a previous conviction of an offence punishable with three years' imprisonment.

Provided that he shall not in any case be liable to imprisonment for a term exceeding twenty years or to a whipping which shall exceed twenty-four lashes or twenty-four strokes.

CHAPTER IV

GENERAL EXCEPTIONS

69. Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.

Act done by a person bound or by mistake of fact believing himself bound by law to do it.

* Section 58 repealed by section 3 of Ordinance No. 50 of 1939.

Sections 59 to 66 repealed by section 2 of Ordinance No. 29 of 1938.

+ See also section 301 of the Code of Criminal Procedure Act and section 14 (3) of the Primary Courts* Procedure Act.

Illustrations

- (a) A, a soldier, fires on a mob by the order of his superior officer in conformity with the commands of the law. A has committed no offence,
- (b) A, an officer of a Court of Justice, being ordered by that court to arrest Y, and, after due inquiry, believing Z to be Y, arrests Z. A has committed no offence.

Act of Judge when acting judicially.

70. Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be given to him by law.

Act done pursuant to the Judgment or order of a Court of Justice.

71. Nothing which is done in pursuance of, or which is warranted by the Judgment or order of a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the court had such jurisdiction.

Act done by a person justified or by mistake of fact believing himself justified by law.

72. Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be justified by law in doing it.

Illustration

A sees 7 commit what appears to A to be a murder. A in the exercise, to the best of his judgment exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the act, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self defence.

Accident in the doing of a lawful act.

73. Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner, by lawful means and with proper care and caution,

Illustration

A is at work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

Act likely to cause harm but done without a criminal intent, and to prevent other harm.

74. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm if it be done without any criminal intention to cause harm and in good faith for the purpose of preventing or avoiding other harm to person or property.

Explanation— It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustrations

- (a) A, the captain of a steam vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat, B, with twenty or thirty passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat, C, with only two passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C, and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down the boat C.
- (b) A in a great fire pulls down houses in order to prevent the conflagration from spreading. He does this with the intention, in good faith, of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of an offence.

75. Nothing is an offence which is done by a child under eight years of age.

Act of a child under eight years of age.

76. Nothing is an offence which is done by a child above eight years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequence of his conduct on that occasion.

Act of a child above eight and under twelve years of age, who has not sufficient maturity of understanding.

77. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

Act of a person of unsound mind.

78. Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law:

Act of a person incapable of judgment by reason of intoxication caused against his will.

Provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

Offence requiring a particular intent or knowledge commuted by one who is intoxicated.

79. In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

Provided

Firstly —That this exception shall not extend to the intentional causing of death, or to the attempting to cause death ;

Secondly That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt or the curing of any grievous disease or infirmity ;

Thirdly—That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt or the curing of any grievous disease or infirmity;

Fourthly—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Act not intended and not known to be likely to cause death or grievous hurt done by consent.

80. Nothing, which is not intended to cause death or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt is an offence by reason of any harm which it may cause, or be intended by the doer to cause to any person above eighteen years of age, who has given consent, whether express or implied. to suffer that harm, or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which, in the course of such fencing, may be caused without foul play . and if A. while playing fairly hurts Z. A commits no offence.

Illustration

A, in good faith, for his child's benefit, without his child's consent has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child,

Act not intended to cause death done by consent in good faith for the benefit of a person.

81. Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Illustration

A. a surgeon, knowing that a particular operation is likely to cause the death of z, who suffers under a painful complaint, hul not intending to cause z.'s death, and intending, in good faith, Z's benefit, performs that operation on Z with Z's consent. A has committed no offence.

83. A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception, or

Consent known to be given under fear or misconception.

If the consent is given by a person, who, from unsoundness of mind or intoxication, is unable to understand the nature and consequence of that to which he gives his consent ; or unless the contrary appear from the context, if the consent is given by a person who is under twelve years of age.

Consent of a child or person of unsound mind.

Act done in good faith for the benefit of a child or person of unsound mind. by or by consent of guardian.

82. Nothing, which is done in good faith for the benefit of a person under twelve years of age. or, of unsound mind. by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause/or be intended by the doer to cause, or be known by the doer to be likely to cause, to that person:

84. The exceptions in sections 80. 81 and o2 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

Acts which are offences independently of harm caused to the person consenting are' not within the exceptions in sections 80, 81 and 82.

Illustration

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore it is not an offence " by reason of such harm ", and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

Act done in good faith for the benefit of a person without consent.

85. Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit:

Provided—

Firstly—That this exception shall not extend to the intentional causing of death or the attempting to cause death ;

Secondly—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death for any purpose other than the preventing of death or grievous hurt or the curing of any grievous disease or infirmity ;

Thirdly—That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt;

Fourthly—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend,

Illustrations

(a) Z is thrown from his horse, and is Insensible, A, a surgeon, finds that Z requires to be trepanned. A, not intending Z's death, but in good faith, for Z's benefit, performs the trepan before z recovers his power of judging for himself- A has committed no offence.

(b) Z is attacked by a bear. A fires at the bear knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball gives Z a mortal wound- A has committed no offence.

(c) A. a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is not time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.

(d) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the housetop, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

Explanation.—Mere pecuniary benefit is not benefit within the meaning of sections 81, 82 and 85.

86. No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Communication made in good faith.

Illustration

A, a surgeon, in good faith communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

87. Except murder and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence; provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Act to which a person is compelled by threats.

Explanation 1.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of housebreakers, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2.—A person seized by a gang of housebreakers, and forced by threat of instant death to do a thing which is an offence by law,—for example, a smith compelled to take his tools and to force the door of a house for the housebreakers to enter and plunder it,—is entitled to the benefit of this exception.

Act causing slight harm.

88. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm;

OF THE RIGHT OF PRIVATE DEFENCE

Nothing done in private defence is an offence.

89. Nothing is an offence which is done in the exercise of the right of private defence.

Right of private defence of the body and of property.

90. Every person has a right, subject to the restrictions contained in section 92, to defend—

Firstly—His own body, and the body of any other person, against any offence affecting the human body;

Secondly—The property, whether movable or immovable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief, or criminal trespass, or which is an attempt to commit theft, robbery, mischief, or criminal trespass.

Right of private defence against the act of a person of unsound mind, &c.

91. When an act, which would otherwise be a certain offence, is not that offence by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations

(a) Z, under the influence of madness, attempts to kill A; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(b) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a housebreaker, attacks A. Here Z, by attacking A under this misconception, commits no offence, but A has the same right of private defence against Z which he would have if Z were not acting under that misconception.

Acts against which there is no right of private defence.

92. (1) There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

(2) There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office, though that direction may not be strictly justifiable by law.

(3) There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

(4) The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Extent to which the right may be exercised.

Explanation 1.—A person is not deprived of the right of private defence against an act done, or attempted to be done by a public servant, as such, unless he knows, or has reason to believe, that the person doing the act is such public servant.

Explanation 2.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction ; or unless such person states the authority under which he acts, or, if he has authority in writing, unless he produces such authority, if demanded.

93. The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely—

When the right of private defence of the body extends to causing death.

Firstly—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault;

Secondly—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault;

Thirdly—An assault with the intention of committing rape;

Fourthly—An assault with the intention of gratifying unnatural lust;

Fifthly—An assault with the intention of kidnapping or abducting;

Sixthly— An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

enumerated in the last preceding section, that right does not extend to the voluntary causing of death, hut does extend, subject to the restrictions mentioned in section 92, to the voluntary causing to the wrong-doer of any harm other than death.

When such right extends to causing any harm other than death.

94. If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant. but does extend, under the restrictions mentioned in section 92, to the voluntary causing to the assailant of any harm other than death.

98. *Firstly*- The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

Commencement and continuance of the right of private defence of property.

Secondly—The right of private defence of property against theft continues till the offender has effected his retreat with the property or the assistance of the public authorities is obtained, or the property has been recovered.

Commencement and continuance of the right of private defence of the body.

95. The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence, though the offence may not have been committed . and it continues as long as such apprehension of danger to the body continues.

Thirdly--The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint; or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

When the right of private defence of property extends to causing death.

96. The right of private defence of property extends, under the restrictions mentioned in section 92, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely—

Fourthly—The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

Firstly—Robbery;

Secondly—House-breaking by night;

Thirdly—Mischief by fire, or explosives committed on any building, tent, or vessel, which building, tent, or vessel is used as a human dwelling, or as a place for the custody of property;

Fifthly—The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues.

Fourthly—Theft, mischief, or house-trespass under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence if such right of private defence is not exercised.

99. If, in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Right of private defence against deadly assault when there is risk of harm to an innocent person.

When such right extends to causing any harm other than death.

97. If the offence the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass not of any of the descriptions

Illustration

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence, if by so firing he harms any of the children.

CHAPTER V

OF ABETMENT

Abetment of the doing of a thing.

100. A person abets the doing of a thing who—

Firstly—Instigates any person to do that thing; or

Secondly—Engages in any conspiracy for the doing of that thing; or

Thirdly—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1. —A person who, by wilful misrepresentation or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—A conspiracy for the doing of a thing is when two or more persons agree to do that thing or cause or procure that thing to be done, A person within the jurisdiction of the court abets an offence by engaging with one or more other persons beyond the jurisdiction of the court in a conspiracy for the commission of an offence by them, or either of them, or by any other person.

Explanation 3. --Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Abettor.

101. A person abets an offence who abets either the commission of an offence or the commission of an act which would be an offence if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations

(a) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(b) A instigates B to murder D. B, in pursuance of the instigation, stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3. -It is not necessary that the person abetted should be capable by law of committing an offence, or [that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations

(a) A, with a guilty intention, abets a child or a person of unsound mind to commit an act which would be an offence if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b) A, with the intention of murdering Z, instigates B, a child under eight years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act, and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence and had committed murder and he is therefore subject to the punishment of death.

(c) A instigates B to set fire to a dwelling house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling house, and is liable to the punishment provided for that offence.

(d) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration

A instigates B to instigate C to murder Z, B accordingly instigates C to murder Z, and C commits that offence in consequence of B's

instigation. B is liable to be punished for his offence with the punishment for murder; and as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.— It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engage in the conspiracy in pursuance of which the offence is committed.

Illustration

A concert with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section, and is liable to the punishment for murder.

101A. A person abets an offence within the meaning of this Code who in Sri Lanka abets the commission of any act without and beyond Sri Lanka which would constitute an offence if committed in Sri Lanka.

102. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations

- (a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in section 158.
- (b) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence, A is guilty of abetting that offence, and is liable to the same punishment as B.
- (c) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B, in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death.

Here, B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

103. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

104. When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it;

Provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Illustrations

- (a) A instigates a child to put poison into the food of Z. and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here, if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner, and to the same extent, as if he had instigated the child to put the poison into the food of Y.
- (b) A instigates B to burn Z's house. B sets fire to the house and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.
- (c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if the murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

105. If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Punishment of abetment if the person abetted does the act with a different intention from that of the abettor.

Liability of abettor when one act is abetted and a different act is done.

Abettor when liable to cumulative punishment for act abetted and for act done.

Abetment in Sri Lanka of offences outside it.

Punishment of abetment if the act abetted is committed in consequence, and where no express provision is made for its punishment.

Illustration

A instigates B to resist by force a distress made by a public servant. B. in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress and the offence of voluntarily causing grievous hurt. B is liable to punishment for both these offences ; and if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress. A will also be liable to punishment for each of the offences.

and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

If an act which causes harm be done in consequence of the abetment.

Illustration

A instigates B to murder Z. The offence is not committed. If B had murdered Z he would have been subject to the punishment of death. Therefore A is liable to imprisonment for a term which may extend to seven years, and also to a fine ; and if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.

106. When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

109. Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence or with such fine as is provided for that offence, or with both;

Abetment of an offence punishable with imprisonment if the offence be not committed in consequence of the abetment.

Illustration

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies, in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both..

If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.

Abettor present when offence is committed.

107. Whenever any person who, if absent, would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

Illustration

A writes to B telling him that C is likely to pass along a certain road with treasure, and instigates B to lie in wait for and rob C. B on such instigation lies in wait for and robs C, A accompanying C along the journey. A is guilty under this section.

Illustrations

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this section.

(b) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.

(c) A, a police officer, whose duty it is to prevent robbery^ abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

Abetment of an offence punishable with death, if the offence be not committed in consequence of the abetment.

108. Whoever abets the commission of an offence punishable with death shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

(d) B abets the commission of a robbery by A. a police officer, whose duty it is to prevent that offence. Here, though the robbery be not committed. B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both; or, if the offence be punishable with death, with imprisonment of either description for a term which may extend to ten years; or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one-fourth part of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

If the offence be committed.

If the offence be punishable with death. If the offence be not committed.

Abetting the commission of an offence by the public, or by more than ten persons.

110. Whoever abets the commission of an offence by the public generally, or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or both.

Illustration

A fixes in a public place a placard, instigating a sect consisting of more than ten members to meet at a certain time and place for the purpose of attacking the members of an adverse sect, while engaged in a procession. A has committed the offence defined in this section.

Illustration

A, an officer of police, being legally bound to give information of all designs to commit murder which may come to his knowledge, and knowing that B designs to commit murder, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section.

Concealing a design to commit an offence punishable with death or imprisonment for twenty years.

111. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or imprisonment for twenty years voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years, or if the offence be not committed, with imprisonment of either description for a term which may extend to three years; and in either case shall also be liable to fine.

If the offence be committed.

If the offence be not committed.

113. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

Concealing a design to commit an offence punishable with imprisonment.

If the offence be committed.

If not committed.

Illustration

A, knowing that murder is about to be committed at B, falsely informs the Magistrate that a murder is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The murder is committed at R in pursuance of the design. A is punishable under this section.

A public servant concealing a design to commit an offence which it is his duty to prevent.

112. Whoever, being a public servant, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence, the commission of which it is his duty as such public servant to prevent, voluntarily conceals, by any act

CHAPTER VA

OF CONSPIRACY

113A. (1) If two or more persons agree to commit or abet or act together with a common purpose for or in committing or

Definition of conspiracy,

abetting an offence, whether with or without any previous concert or deliberation, each of them is guilty of the offence of conspiracy to commit or abet that offence, as the case may be.

(2) A person within Sri Lanka can be guilty of conspiracy by agreeing with another person who is beyond Sri Lanka for the commission or abetment of any offence to be committed by them or either of them, or by any other person, either within or beyond Sri Lanka ; and for the purposes of this subsection as to an offence to be committed beyond Sri Lanka. " offence" means any act which if done within Sri Lanka would be an offence under this Code or under any other law.

Exception -this section shall not extend to the case in which the conspiracy is between a husband and his wife.

Punishment for conspiracy.

113B. If two or more persons are guilty of the offence of conspiracy for the commission or abetment of any offence, each of them shall be punished in the same manner as if he had abetted such offence.

CHAPTER VI

OF OFFENCES AGAINST THE STATE

Waging or attempting to wage war. or abetting the waging of war. against the Republic.

114. Whoever wages war against the Republic, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or imprisonment of either description, which may be extended to twenty years, and shall forfeit all his property.

Illustration

A joins an insurrection against the Republic. A has committed the offence defined in this section.

Conspiracy to commit offence punishable by preceding section.

115.* Whoever conspires to commit any of the offences punishable by the next preceding section, or to deprive the People of the Republic of Sri Lanka of their Sovereignty in Sri Lanka or any part thereof, or conspires to overawe, by means of criminal force or the show of criminal force, any of the organs of Government,

shall be punished with imprisonment of either description which may extend to twenty years, and shall also be liable to fine-

Explanatum.—To constitute a conspiracy under this section it is not necessary that any act or illegal omission shall take place in pursuance thereof.

116. Whoever collects men, arms, or ammunition, or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the Republic, shall be punished with imprisonment of either description for a term not exceeding twenty years, and shall forfeit all his property.

Collecting arms. &c.. with the intention of waging war against the Republic.

117. Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the Republic intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Concealing with intent to facilitate a design to wage war.

118. Whoever, by means of any contumacious, insulting or disparaging words, whether spoken or intended to be read, or by signs or visible representations, shall attempt to bring the President into contempt, shall be punishable with simple imprisonment for a period which may extend to two years, and shall also be liable to fine.

Attempt by contumacious or insulting words or signs to bring the President into contempt.

119. Whoever, with the intention of inducing or compelling the President or a Member of Parliament, to exercise or refrain from exercising in any manner any of the lawful powers of such President or Member of Parliament, assaults or wrongfully restrains, or attempts wrongfully to restrain, or overawes, by means of criminal force or the show of criminal force, or attempts so to overawe such President or Member of Parliament, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Assaulting President, &c. with intent to compel or restrain the exercise of any lawful power.

* See Article 4 of the Constitution of Sri Lanka. 1978.

Exciting or attempting to excite disaffection.

120. Whoever by words, either spoken or intended to be read, or by signs; or by visible representations, or otherwise, excites or attempts to excite feelings of disaffection to the President or to the Government of the Republic, or excites or attempts to excite hatred to or contempt of the administration of justice, or excites or attempts to excite the People of Sri Lanka to procure, otherwise than by lawful means, the alteration of any matter by law established, or attempts to raise discontent or disaffection amongst the People of Sri Lanka, or to promote feelings of ill-will and hostility between different classes of such People, shall be punished with simple imprisonment for a term which may extend to two years.

Explanation.—It is not an offence under this section by intending to show that the President or the Government of the Republic have been misled or mistaken in measures, or to point out errors or defects in the Government or any part of it, or in the administration of justice, with a view to the reformation of such alleged errors or defects, or to excite the People of Sri Lanka to attempt to procure by lawful means the alteration of any matter by Law established, or to point out in order to their removal matters which are producing or have a tendency to produce feelings of hatred or ill-will between different classes of the People of Sri Lanka.

Waging war against any Power in alliance or at peace with the Republic.

121. Whoever wages war against the Government of any Power in alliance or at peace with the Republic or attempts to wage such war, or abets the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, to which fine may be added, or with fine.

Committing depredation on the territories of any Power in alliance or at peace with the Republic.

122. Whoever commits depredation, or makes preparations to commit depredation, on the territories of any Power in alliance or at peace with the Republic, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used, or intended to be used, in committing such depredation, or acquired by such depredation.

123. Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in sections 121 and 122 shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

Receiving property taken by war or depredation mentioned in sections 121 and 122.

124. Whoever, being a public servant, and having the custody of any State prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Public servant voluntarily allowing prisoner of State or war in his custody to escape.

125. Whoever, being a public servant, and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

Public servant negligently suffering prisoner of State or war in his custody to escape.

126. Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the recapture of such prisoner, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Aiding escape of, rescuing, or harbouring such prisoner.

Explanation.—A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in Sri Lanka is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

127. No prosecution shall be instituted under this Chapter except by, or with the written authority of, the Attorney-General.

Authority of Attorney-General required for prosecution under this Chapter.

CHAPTER VII

OF OFFENCES RELATING TO THE ARMY,
NAVY, AND AIR FORCE

Abetting mutiny or attempting to seduce a soldier, sailor, or airman, from his duty.

128. Whoever abets the committing of mutiny by an officer, soldier, sailor, or airman in the Army, Navy, or Air Force of the Republic or attempts to seduce any such officer, soldier, sailor, or airman from his allegiance or his duty, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Abetment of mutiny, if mutiny is committed in consequence thereof.

129. Whoever abets the committing of mutiny by an officer, soldier, sailor, or airman in the Army, Navy, or Air Force of the Republic shall, if mutiny be committed in consequence of that abetment, be punished with death or imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Abetment of an assault by a soldier, sailor, or airman on his superior officer, when in the execution of his office.

130. Whoever abets an assault by an officer, soldier, sailor, or airman in the Army, Navy, or Air Force of the Republic, on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Abetment of such assault, if the assault is committed.

131. Whoever abets an assault by an officer, soldier, sailor, or airman in the Army, Navy, or Air Force of the Republic, on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Abetment of the desertion of a soldier, sailor, or airman.

132. Whoever abets the desertion of any officer, soldier, sailor, or airman in the Army, Navy, or Air Force of the Republic shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring a deserter.

133. Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, sailor, or

airman in the Army, Navy, or Air Force of the Republic has deserted, harbours such officer, soldier, sailor, or airman shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

134. The master or person in charge of a merchant vessel on board of which any deserter from the Army, Navy, or Air Force of the Republic is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding five hundred rupees, if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

Deserter concealed on board merchant vessel through negligence of master.

135. Whoever abets what he knows to be an act of insubordination by an officer, soldier, sailor, or airman in the Army, Navy, or Air Force of the Republic shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Abetment of act of insubordination by a soldier, sailor or airman.

136. No person subject to the provisions of the Army Act, Navy Act or the Air Force Act or any similar law for the time being in force, or to any regulations made thereunder, is subject to punishment under this Code for any of the offences defined in this Chapter.

Persons subject to Army Act, Navy Act, or Air Force Act not punishable for offences in this Chapter.

137. Whoever, not being a soldier, sailor, or airman in the military, naval, or air service of the Republic wears any garb, or carries any token resembling any garb or token used by such a soldier, sailor, or airman, with the intention that it may be believed that he is such a soldier, sailor, or airman, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Wearing the dress of a soldier, sailor, or airman,

CHAPTER VIII

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

Unlawful assembly.

138. An assembly of five or more persons is designated an "unlawful assembly" if the common object of the persons composing that assembly is—

Firstly—To overawe by criminal force, or show of criminal force, the Government of the Republic or the Parliament or any public servant in the exercise of the lawful power of such public servant; or

Secondly— To resist the execution of any law or of any legal process ; or

Thirdly—To commit any mischief or criminal trespass or other offence; or

Fourthly—By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person or the public of the enjoyment of a right of way or of the use of water or other incorporeal right of which such person or public is in possession or enjoyment, or to enforce any right or supposed right; or

Fifthly—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do. or to omit to do what he is legally entitled to do ; or

Sixthly—That the persons assembled, or any of them, may train or drill themselves, or be trained or drilled to the use of arms, or practising military movements or evolutions, without the consent of the President of the Republic.

Explanation.—An assembly which was not unlawful when it assembled may subsequently become an unlawful assembly.

Being a member of an unlawful assembly.

139. Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it. is said to be a member of an unlawful assembly.

Punishment.

140. Whoever is a member of an unlawful assembly shall be punished with imprisonment of either description for a term which may extend to six months, or with fine. or with both.

141. Whoever, being armed with any deadly weapon, or with anything which used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Joining an unlawful assembly armed with any deadly weapon.

142. Whoever joins or continues in an unlawful assembly knowing that such unlawful assembly has been commanded by lawful authority to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Joining or continuing in an unlawful assembly knowing that it has been commanded to disperse.

143. Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

Force used by one member in prosecution of common object.

144. Whoever is guilty of rioting shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for rioting

145. Whoever is guilty of rioting, being armed with a deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Rioting, armed with a deadly weapon.

146. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly is guilty of that offence.

Every member of an unlawful assembly to be deemed guilty of any offence committed in prosecution of common object.

147. Whoever hires, or engages, or employs, or promotes or connives at the hiring, engagement, or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly, in pursuance of such hiring, engagement, or employment, in the same

Hiring or conniving at hiring of persons to join an unlawful assembly.

manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

power to prevent it, and in the event of its taking place do not use all lawful means in his power to disperse or suppress the riot or unlawful assembly.

Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.

148. Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

152. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such assembly or riot from taking place and for suppressing and dispersing the same.

Liability of person for whose benefit a riot is committed.

Explanation.—If (he assembly is an unlawful assembly within the meaning of section 138, the offender will be punishable under section 142.

Assaulting or obstructing public servant when suppressing riot &c.

149. Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

153. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot, or assembly from taking place and for suppressing and dispersing the same.

Liability of agent of owner or occupier for whose benefit a riot is committed

Wantonly giving provocation, with intent to cause riot.

150. Whoever maliciously or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

If rioting be committed.

If not committed.

154. Whoever harbours, receives, or assembles in any house or premises in his occupation or charge or under his control, any persons, knowing that such persons have been hired, engaged, or employed, or are about to be hired, engaged, or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Harbouring persons hired for an unlawful assembly.

Owner or occupier of land on which an unlawful assembly is held.

151. Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees, if he, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his power to the nearest police officer, and do not, in the case of his having reason to believe that it was about to be committed, use all lawful means in his

155. Whoever is engaged or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in section 138, shall be punished with imprisonment of either description for

Being hired to take part in an unlawful assembly or riot.

Or to go armed:

a term which may extend to six months, or with fine, or with both ; and whoever, being so engaged or hired as aforesaid, goes armed or engages or offers to go armed with any deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

'Affray'

156. When two or more persons, by fighting in a public place disturb the public peace, they are said to " commit an, affray " .

Punishment for committing affray.

157. Whoever commits an affray shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

CHAPTER IX

OF OFFENCES BY OR RELATING To PUBLIC SERVANTS

Public servant taking a gratification other than legal remuneration in respect of an official act.

158. Whoever, being or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act, or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person with the Government of the Republic, or with any public servant as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both-

Explanations.— " Expecting to be a public servant " : If a person not expecting to be in office, obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

"Gratification": The word "gratification" is not restricted to pecuniary gratifications or to gratifications estimable in money.

" Legal remuneration " : The words " legal remuneration " are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government which he serves to accept.

" A motive or reward for doing " : A person who receives a gratification as a motive for doing what he does not intend to do or as a reward for doing what he has not done, comes within these words.

Illustrations

(a) A, expecting to be called as a juryman, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for giving a verdict in favour of Z. A has committed the offence defined in this section.

(b) A, a public servant, induces Z erroneously to believe that A's influence with the Government has obtained a title for Z. and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this section.

159. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Parliament or the Executive Government of the Republic, or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Taking a gratification in order by corrupt or illegal means, to influence a public servant.

160. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Parliament or the Executive Government of the Republic, or with any public servant, as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Taking a gratification for the exercise of personal influence with a public servant.

Illustration

An attorney-at-law who receives a fee for arguing a case before a judge ; a person who receives pay for arranging and correcting a memorial addressed to

Government, setting forth the services and claims of the memorialist, a paid agent for a condemned criminal, who lays before the Government statements lending to show that the condemnation was unjust—are not within this section, inasmuch as they do not exercise or profess to exercise personal influence.

Punishment for abetment by public servant of the offences above defined.

161. Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person, A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Public servant disobeying a direction of the law with intent to cause injury to any person or the Government.

162. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause or knowing it to be likely that he will, by such disobedience, cause injury to any person or to the Government, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court of Justice knowingly disobeys that direction of law with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

Public servant framing an incorrect document with intent to cause injury.

163. Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

164. Whoever, being a public servant, employed in the Posts or Telecommunications Department of Government, fraudulently or maliciously secretes, makes away with, alters, or omits to transmit any message which may have been lawfully delivered to him for transmission, or fraudulently or maliciously discloses to any person not authorized to receive the same any message received by him in the course of his employment as aforesaid, shall be punished with imprisonment of either description, which may extend to a term of two years, or with fine, or with both.

Fraudulent or malicious infraction of duty by public servant in Posts or telecommunication Departments.

165. Whoever, being a public servant, employed in the Posts or Telecommunications Department of Government, by drunkenness, carelessness, or other misconduct, endangers or delays the transmission of any message, letter, or postal packet, shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to fifty rupees, or with both.

Misconduct by public servant in Posts or Telecommunications Departments.

166. Whoever, being a public servant, employed in the Posts or Telecommunications Department of Government, transmits by telegraph any message upon which the prescribed charge has not been paid, with intent thereby to defraud, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraud by public servant in Posts or Telecommunications Departments.

167. Whoever, being a public servant, employed in the Posts or Telecommunications Department of Government, does, contrary to his duty, secrete, destroy, mutilate, or break open any telegraph despatch or letter or postal packet, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Injury to messages, &c., committed by public servants in Posts or Telecommunications Departments.

168. Whoever pretends to hold any particular office, as a public servant, knowing that he does not hold such office, or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Personating a Public servant.

Wearing garb or carrying token used by public servants with fraudulent intent.

169. Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend, to one hundred rupees, or with both.

CHAPTER IXA

OF OFFENCES RELATING TO ELECTIONS

"Candidate" and "electoral right".

169A. For the purposes of this Chapter—

(a) "candidate" means a person who has been nominated as a candidate at any election and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate thereat:

Provided that he is subsequently nominated as a candidate at such election;

(b) "electoral right" means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate, or to vote or refrain from voting at an election.

Bribery in connection with an election.

169B. (1) Whoever—

(a) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or

(b) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right;

commits the offence of bribery :

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains, or agrees to accept, or attempts to obtain, a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

169C. (1) Whoever voluntarily interferes, or attempts to interfere, with the free exercise of any electoral right commits the offence of undue influence at an election.

Undue Influence at elections

(2) Without prejudice to the generality of the provisions of subsection (1), whoever—

(a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind; or

(b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure;

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of subsection (1).

(3) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

169D. (1) Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures, or attempts to procure, the voting by any person in any such way commits the offence of personation at an election.

Personation at elections.

(2) For the purposes of this section, the word "election" includes any proceeding in which a poll or ballot is taken for the purpose of ascertaining the opinion of the majority of any specified set of persons on any question held under or by virtue of any enactment or any rules or regulations made thereunder.

Punishment for bribery.

169E. Whoever commits the offence of bribery shall be liable on summary conviction to a fine not exceeding five hundred rupees:

Provided that bribery by treating shall be punished with a fine not exceeding two hundred rupees.

Explanation.—"Treating" means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

Punishment for undue influence or personation at an election.

169F. Whoever commits the offence of undue influence at an election shall be liable on summary conviction to a fine not exceeding five hundred rupees, and

whoever commits the offence of personation at an election shall be liable on summary conviction to a fine not exceeding three hundred rupees.

False statement in connection with an election.

169G. Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, shall be guilty of an offence and shall be punished with fine.

Failure to keep election accounts.

169H. Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election, fails to keep such accounts, shall on conviction be punished with fine which may extend to three hundred rupees.

CHAPTER X

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

Absconding to avoid service of summons, notice or order proceeding from a public servant.

170. Whoever absconds in order to avoid being served with a summons, notice, or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice, or order, shall

be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both; or, if the summons, notice, or order is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

171. Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice, or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice, or order,

Preventing service of summons, notice or order proceeding from a public servant or preventing publication thereof.

or intentionally prevents the lawful affixing to any place of any such summons, notice, or order,

or intentionally removes any such summons, notice, or order from any place to which it is lawfully affixed,

or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both;

or, if the summons, notice, or order, or proclamation is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

172. Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order, or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same,

Non-attendance in obedience to an order from a public servant.

intentionally omits to attend at that place or time,

or departs from the place where he is bound to attend before the time at which it is lawful for him to depart,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both;

or, if the summons, notice, order, or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Illustrations

- (a) A, being legally bound to appear before the Supreme Court or the High Court at Colombo, in obedience to a summons, intentionally omits to appear. A has committed the offence defined in this section.
- (b) A, being legally bound to appear before a District Judge or a Magistrate as a witness in obedience to a summons issued by that District Judge or Magistrate, intentionally omits to appear. A has committed the offence defined in this section.

Omission to produce a document to a public servant by a person legally bound to produce such document,

173. Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both;

or, if the document is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Illustration

A, being legally bound to produce a document before a District Court or a Magistrate's Court, intentionally omits to produce the same. A has committed the offence defined in this section.

174. Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both;

Omission to give notice or information to a public servant by a person legally bound to give notice or information.

or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

175. Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both;

Furnishing false information.

or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustration

A, a landowner, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the division that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this section.

176. Whoever refuses to bind himself by an oath or an affirmation to state the truth, when required so to bind himself by a public servant legally competent to require that he

Refusing oath when duly required to take oath by a public servant.

shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Illustrations

- (a) A informs the Inspector-General of Police that Z, a police officer, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Inspector-General to dismiss Z. A has committed the offence defined in this section.
- (b) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.

Refusing to answer a public servant authorized to question.

177. Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant, in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Refusing to sign statement.

178. Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

181. Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Resistance to taking of property by the lawful authority of a public servant.

False statement on oath to public servant or person authorized to administer an oath.

179. Whoever, being legally bound by an oath or an affirmation to state the truth on any subject to any public servant or other person authorized by law to administer such oath or affirmation, makes to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to a fine.

182. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Obstructing sale of property offered for sale by authority of a public servant.

183. Whoever voluntarily obstructs any public servant or any person acting under the lawful orders of such public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Obstructing public servant in discharge of his public functions.

False information with intent to cause a public servant to use his lawful power to the injury of another person.

180. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant to use the lawful power of such public servant to the injury or annoyance of any person, or to do or omit anything which such public servant ought not to do or omit, if the true state of facts respecting which such information is given were known by him, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

184. Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both ;

Omission to assist public servant when bound by law to give assistance.

and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or of suppressing a riot, unlawful

assembly, or affray, or of apprehending a person charged with or guilty of an offence or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Disobedience to an order duly promulgated by a public servant.

185. Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,

shall, if such disobedience causes or tends to cause obstruction, annoyance, or injury, or risk of obstruction, annoyance, or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both ;

and if such disobedience causes or tends to cause danger to human life, health, or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

Threat of injury to a public servant.

186. Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise Of the public functions of such public servant, shall be

punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

187. Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application, for protection against any injury, to any public servant legally empowered as such to give such protection or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Threat of injury to induce any person to refrain from applying for protection to a public servant.

CHAPTER XI

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

188. Whoever, being legally bound by an oath or affirmation, or by any express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false, or does not believe to be true, is said to give " false evidence ".

Giving " false evidence ".

Wherever in any enactment the word " perjury " occurs, such enactment shall be read as if the words " giving false evidence " were therein used instead of the word " perjury ".

Explanation 1.—A statement is within the meaning of this section whether it is made verbally or otherwise.

Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations

- (a) A, in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the Justice of B's claim. A has given false evidence.
- (b) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.
- (c) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z, A in

good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.

(d) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing anything upon the subject. A gives false evidence, whether Z was at that place on the day named or not.

(e) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document, which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.

" Fabricating false evidence ".

189. Whoever causes any circumstance to exist, or makes any false entry in any book or record, or makes any document containing a false statement, intending that such circumstance, false entry, or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry, or false statement, so appearing in evidence, may cause any person, who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said " to fabricate false evidence ".

Illustrations

(a) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

(b) A makes a false entry in his shop book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.

(c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. A has fabricated false evidence.

Punishment for giving or fabricating false evidence.

190. Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

and whoever intentionally gives or fabricates false evidence in any other case shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1.—A trial before a court-martial or before a military court of requests is a judicial proceeding.

Explanation 2.—An investigation directed by law, preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration

A, in an inquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this inquiry is a stage of a judicial proceeding, A has given false evidence.

Explanation 3.—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration

A, in an inquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath or affirmation a statement which he knows to be false. As this inquiry is a stage of a Judicial proceeding, A has given false evidence.

191. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is punishable with death by this Code, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine ;

Giving or fabricating false evidence with intent to procure conviction of a capital offence.

and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished with death.

If innocent person be thereby convicted and executed.

192. Whoever gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which by this Code is not capital, but punishable with imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment for seven years or upwards.

Illustration

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a robbery. The punishment of robbery is rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to such imprisonment, with or without fine.

Using evidence known to be false.

193. Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated shall be punished in the same manner as if he gave or fabricated false evidence.

Issuing or signing a false certificate.

194. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as a true certificate one known to be false in a material point.

195. Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

False statement made in any declaration which is by law receivable as evidence.

196. Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorized by law to receive, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

Using as true any such declaration known to be false.

197. Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Explanation.—A declaration which is inadmissible merely upon the ground of some informality is a declaration within the meaning of sections 196 and 197.

Causing disappearance of evidence of an offence committed, or giving false information touching it, to screen the offender.

198. Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false,

shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

If a capital offence.

and if the offence is punishable with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

If punishable with ten years' imprisonment.

and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

If punishable with less than ten years' imprisonment.

Illustration

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

199. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Intentional omission to give information of an offence by a person bound to inform.

200. Whoever knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Giving false information respecting an offence committed.

201. Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant as such, or obliterates or renders illegible the whole or any part of such document with the

Destruction of document to prevent its production as evidence.

intention of preventing the same from being produced or used as evidence before such court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

False personation for the purpose of any act or proceeding in a suit.

202. Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses Judgment, or causes any process to be issued, or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Fraudulent removal or concealment of property to prevent its seizure as a forfeiture or in execution of a decree.

203. Whoever fraudulently removes, conceals, transfers, or delivers to any person any property or any interest therein intending thereby to prevent that property or interest therein from being taken as a forfeiture, or in satisfaction of a fine under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulent claim to property to prevent its seizure as a forfeiture or in execution of a decree.

204. Whoever fraudulently accepts, receives, or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any' property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

205. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person, or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently suffering a decree for a sum not due.

Illustration

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount al the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.

206. Whoever fraudulently or dishonestly or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Fraudulently or dishonestly making a false claim in a Court of Justice.

207. Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied, or for anything in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently obtaining a decree for a sum not due.

208. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both:

False charge of offence made with intent to injure.

and if such criminal proceeding be instituted on a false charge of an offence punishable with death.-or imprisonment for seven years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

Harbouring an offender.

209. Whenever an offence has been committed, whoever harbours, conceals, assists, or maintains a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment,

and if the offence is punishable with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

If a capital offence.

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both .

If punishable with ten years' imprisonment.

and if the offence is punishable with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with fine. shall be punished with fine-

If punishable with less than ten years' imprisonment.

and if the offence is punishable with imprisonment which may extend to one year and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

211. Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

Exception.—Tim provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration

A, knowing that B has committed robbery, knowingly conceals B in order to screen him from legal punishment. Here. as B is liable to imprisonment which may extend to ten years, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

and if the offence is punishable with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine;

Taking gratification, &c., to screen an offender from punishment.

210. Whoever accepts, or attempts to obtain, or agrees to accept any gratification for himself or any other person, or any restitution of property to himself or any other person in consideration of his concealing an

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with

imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both ;

imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence, or with fine, or with both.

If punishable with fine. and if the offence is punishable with fine, shall be punished with fine.

Exception.—This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

Exception.—The provisions of sections 210 and 211 do not extend to any case in which the offence may lawfully be compounded.

Taking gratification to help to recover stolen property,&c.

212. Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any movable property of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

214. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Public servant disobeying a direction of law with intent to save person from punishment or property from forfeiture.

Harbouring an offender who has escaped from custody or whose apprehension has been ordered.

213. Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody, or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say,

215. Whoever, being a public servant, and being, as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save or knowing that he is likely thereby to save any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant framing an incorrect record or writing with intent to save person from punishment or property from forfeiture.

If a capital offence.

if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

If punishable with ten years' imprisonment.

if the offence is punishable with imprisonment for a term which may extend to ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine;

216. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape, from such confinement, shall be punished as follows, that is to say ;—

Intentional omission to apprehend on the part of a public servant bound by law to apprehend.

If punishable with less than ten years' imprisonment.

and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with

Punishment.

- (a) with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with death ; or
- (b) with imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with imprisonment for a term which may extend to ten years; or
- (c) with imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with imprisonment for a term less than ten years.

Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence or lawfully committed,

217. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence, or if the person was lawfully committed to custody, intentionally omits to apprehend such person, or intentionally suffers such person to escape or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say;—

Punishment.

- (a) with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement or who ought to have been apprehended is under sentence of death; or
- (b) with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement or who ought to have been apprehended is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to imprisonment for a term of ten years or upwards; or

- (c) with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, to imprisonment for a term not extending to ten years, or if the person was lawfully committed to custody.

218. Whoever, being a public servant, legally bound as such public servant to keep in confinement any person charged with or convicted of any offence or lawfully committed to custody, negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Escape from confinement or custody negligently suffered by a public servant,

219. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or for which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Resistance or obstruction by a person to his lawful apprehension.

Explanation.—The punishment in this section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

219A. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person on any civil process issued by any competent Court of Justice, or who escapes or attempts to escape from any custody in which he is lawfully detained on such process, or who rescues or attempts to rescue any other person from any custody in which that person is lawfully detained on such process, shall be guilty of an offence, and shall on conviction be liable to a fine not exceeding one hundred rupees, or to simple or rigorous imprisonment for any term not exceeding six months, or to both.

Resistance or obstruction to lawful apprehension under a civil process.

Punishment.

Resistance or obstruction to the lawful apprehension of another person.

Punishment.

220. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both; or

if the person to be apprehended, or the person rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; or

if the person to be apprehended or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ; or

if the person to be apprehended or rescued, or attempted to be rescued, is liable, under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to imprisonment for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ; or

if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Resistance, obstruction, escape, or rescue in cases not otherwise provided for.

220A. Whoever, in any case not provided for in sections 219, 219A, 220 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any

other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

221. Whoever escapes or attempts to escape from any custody in which he is lawfully detained for failing to furnish good security for the peace or good behaviour, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Escape from lawful custody.

222. Whoever, having accepted any conditional pardon or remission of punishment, knowingly violates any condition on which such remission was granted, shall, if his original sentence is one of death, be punished with imprisonment of either description which may extend to twenty years, and if his original sentence be not one of death, be punished with the punishment to which he was originally sentenced if he has already suffered no part of that punishment, and if he has suffered any part of the punishment, then with so much of that punishment as he has not already suffered.

Violation of condition of remission of punishment

223. Whoever intentionally offers any insult or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Intentional insult or interruption of a public servant sitting in any stage of a judicial proceeding.

224. Whoever, by personation or otherwise, shall intentionally cause or knowingly suffer himself to be returned, empanelled, or sworn as juror or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled, or sworn, or knowing himself to have been so returned, empanelled, or sworn contrary to law, shall voluntarily

Personation of a juror or assessor

serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

CHAPTER XII

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS

Meaning of " coin " and " current coin " [§2,6 of 1968]

225. " Coin " is a metal used as money stamped and issued by the authority of the Government of Ceylon or under the Currency Ordinance, No. 21 of 1941, or under the Monetary Law Act, or under any enactment in operation for the time being relating to the issue of coins in Sri Lanka or by the authority of the Government of any foreign country in order to be so used.

" Current coin " means coin which is lawfully current in Sri Lanka or in any foreign country.

Illustrations

- (a) Cowries are not coin.
- (b) Lumps or bars of unstamped metal, though used as money, are not coin.
- (c) Medals are not coin, inasmuch as they are not intended to be used as money.

Counterfeiting coin.

226. Whoever counterfeits or knowingly performs any part of the process of counterfeiting coin shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A person commits this offence who, intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

Counterfeiting current coin.

227. Whoever counterfeits or knowingly performs any part of the process of counterfeiting current coin shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Making or selling instrument for counterfeiting coin.

228. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of any die or instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the

229. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of any die or instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting current coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or selling instrument for counterfeiting current coin.

230. Whoever is in possession of any instrument or material for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine •

Possession of instrument or material for the purpose of using the same for counterfeiting coin

and if the coin to be counterfeited is current coin, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

231. Whoever, being within Sri Lanka, abets the counterfeiting of coin out of Sri Lanka, shall be punished in the same manner as if he abetted the counterfeiting of such coin within Sri Lanka.

Abetting in Sri Lanka the counterfeiting of coin out of Sri Lanka

232. Whoever imports into Sri Lanka, or exports therefrom, any counterfeit coin, knowing or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Import or export of counterfeit coin

233. Whoever imports into Sri Lanka, or exports therefrom, any counterfeit current coin, knowing or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Import or export of counterfeits of current coin

Delivery to another of counterfeit coin possessed with the knowledge that it is counterfeit.

234. Whoever, having any counterfeit coin, which at the time he became possessed of it he knew to be counterfeit, fraudulently, or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Explanation A person who scoops out part of the coin and puts anything else into the cavity alters the composition of that coin.

240. Whoever fraudulently or dishonestly performs on any current coin any operation which diminishes the weight or alters the composition of that coin. shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing the weight! or altering the composition of current coin.

Delivery of current coin possessed with the knowledge that it is counterfeit.

235. Whoever, having any counterfeit current coin, which at the time he became possessed of it he knew to be counterfeit, fraudulently, or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

241. Whoever performs on any coin any operation which alters the appear-' ce of that coin with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Altering appearance of any coin with intent that it shall pass as a coin of a different description.

Delivery to another of coin as genuine which when first possessed the deliverer did not know to be counterfeit.

236. Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

242. Whoever performs on any current coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Altering appearance of current coin with intent that it shd! pass as a coin of a different description,

Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.

237. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

243. Whoever, having coin in his possession with respect to which the offence defined in sections 239 or 241 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently, or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery to another of coin possessed with the knowledge that it is altered.

Possession of counterfeit current coin by a person who knew it to be counterfeit when he became possessed thereof.

238. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit current coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

244. Whoever, having coin in his possession with respect to which the offence defined in sections 240 or 242 has been committed, and having known at the time when he became possessed of such coin that such offence has been committed with respect to it, fraudulently, or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery of coin with the knowledge that it is altered.

Fraudulently or dishonestly diminishing the weight or altering the composition of any coin.

239. Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of altered coin by a person who knew it to be altered when he became possessed thereof.

245. Whoever, fraudulently, or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the sections 239 or 241 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

249.* Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.

Possession of current coin by a person who knew it to be altered when he became possessed thereof.

246. Whoever, fraudulently, or with intent that fraud may be committed, is in possession of current coin, with respect to which the offence defined in either of the sections 240 or 242 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such current coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

250.* Whoever makes, or performs any part of the process of making, or buys, or sells, or disposes of any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or selling instrument for the purpose of counterfeiting a Government stamp.

Delivery to another of coin as genuine which when first possessed the deliverer did not know to be altered.

247. Whoever delivers to any other person as genuine, or as a coin of a different description from which it is, or attempts to induce any person to receive as genuine or as a different coin from which it is, any coin in respect of which he knows that any such operation as that mentioned in sections 239, 240, 241, or 242 has been performed, but in respect of which he did not at the time when he took it into his possession know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed or attempted to be passed.

251.* Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Sale of counterfeit Government stamp.

252.* Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, -and shall also be liable to fine.

Having possession of a counterfeit Government stamp.

Counterfeiting a Government stamp.

248.* Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to fifteen years, and shall also be liable to fine.

Explanation. A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

253.* Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both

Using as genuine a Government stamp known to be counterfeit.

* Sections 24H to 256 apply to Savings Stamps in like manner as those provisions apply to stamps issued by the Government for purposes of revenue.— Section 74(3) of the National Savings Bank Act-

Effacing any Writing from a substance bearing a Government stamp or removing from a document a stamp used for it with intent to cause loss to Government.

254.* Whoever, fraudulently or with intent to cause loss to the Government, removes or effaces from any substance bearing any stamp issued by Government for the purpose of revenue any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Using a Government stamp known to have been before used.

255.* Whoever, fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Erasure of mark denoting that stamp has been used.

256.* Whoever, fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue any mark put or impressed upon such stamp for the purpose of denoting that the same has been used, or fraudulently or with such intent alters any such mark, or knowingly has in his possession, or sells, or disposes of, any such stamp from which such mark has been erased or removed, or on which such mark has been altered, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Scope of the expression "Government" in sections 248 to 256.

256A. In sections 248 to 256, both inclusive, the word "Government" when used in connexion with, or in reference to, any stamp issued for the purpose of denoting a rate of postage shall, notwithstanding anything in section 14, be deemed to include the Government of any foreign country.

Explanation. -The word " stamp " where used in this Chapter includes postage stamps,

* Sections 248 to 256 apply to Savings Stamps in like manner as those provisions apply to stamps issued by the Government for purposes of revenue.—Section 74 (3) of the National Saving Bank Act.

CHAPTER XIII

OF OFFENCES RELATING TO WEIGHTS AND MEASURES

257. Whoever fraudulently uses any weighing or measuring instrument, which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. Fraudulent use of false weighing or measuring instrument.

258. Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. Fraudulent use of false weight or measure.

259. Whoever is in possession of any false weighing or measuring instrument, or of any false weight, or of any false measure of length or capacity, intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. Being in possession of false weights or measures.

260. Whoever makes, sells, or disposes of any weighing or measuring instrument, or any weight, or any measure of length or capacity which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Making or selling false weights or measures.

CHAPTER XIV

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS

261. A person is guilty of a public nuisance who does any act, or is guilty of an illegal omission, which causes any common injury, danger, or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger, or annoyance to persons who may have occasion to use any public right. Public nuisance.

A public nuisance is not excused on the ground that it causes some convenience or advantage.

Negligent act likely to spread injection of any disease dangerous to life.

262. Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Malicious act likely to spread infection of any disease dangerous to life.

263. Whoever maliciously does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Disobedience to a quarantine rule.

264. Whoever knowingly disobeys any rule made and promulgated by Government for putting any vessel into a state of quarantine or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Adulteration of food or drink which is intended for sale.

265. Whoever adulterates any article of food or drink so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Sale of noxious food or drink.

266. Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, which may extend to one hundred rupees, or with both.

267. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Adulteration of drugs.

268. Whoever knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Sale of adulterated drugs.

269. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Sale of any drug as a different drug or preparation.

270. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to fifty rupees, or with both.

Fouling the water of a public spring or reservoir.

271. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to one hundred rupees.

Making atmosphere noxious to health.

Rash driving or riding on a public way.

272. Whoever drives any vehicle, or rides, on any public way, in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Rash navigation of a vessel.

273. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

278. Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

Negligent conduct with respect to any fire or combustible matter.

or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life or hurt or injury to any other person from such fire or combustible matter,

Exhibition of a false light, mark, or buoy.

274. Whoever exhibits any false light, mark, or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Conveying person by water for hire in a vessel overloaded or unsafe.

275. Whoever knowingly or negligently conveys or causes to be conveyed for hire any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

279. Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

Negligent conduct with respect to any explosive substance.

or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance,

Danger or obstruction in a public way or line of navigation.

276. Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction, or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to one hundred rupees.

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Negligent conduct with respect to any poisonous substance.

277. Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person,

280. Whoever does, with any machinery, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

Negligent conduct with respect to any machinery in the possession or under the charge of the offender.

or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against any probable danger to human life from such poisonous substance,

or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

286. Whoever has in his possession any such obscene book or other thing as is mentioned in the last preceding section for the purpose of sale, distribution, or public exhibition, shall be punished with imprisonment of either description for a term which may extend to three months. Or with fine, or with both.

Having in possession obscene books, &c for sale or public exhibition.

Negligence with respect to pulling down or repairing buildings.

281. Whoever, in pulling down or repairing any building knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both,

287. Whoever sings, recites, or utters in or near any public place, any obscene song, ballad, or words to the annoyance of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Obscene songs.

Negligence With respect to any animal

282. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

289.* Whoever wilfully neglects or omits to perform any duty imposed upon him by, or wilfully disobeys or infringes any provision of, any enactment or statute heretofore or hereafter to be enacted, for which neglect, omission, disobedience, or infringement no punishment is or shall be by this Code or any other enactment or statute otherwise specially provided, shall be punished with a fine.

wilful omission of statutory duty.

Punishment for public nuisance in cases not otherwise provided for.

283. Whoever commits a public nuisance in any case not otherwise punishable by this Code shall be punished with fine which may extend to fifty rupees, or with imprisonment of either description which may extend to three months, or with both.

CHAPTER XV

OF OFFENCES RELATING TO RELIGION

Continuance or nuisance after injunction to discontinue.

284. Whoever repeats or continues a public nuisance having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

290. Whoever destroys, damages, or defiles any place of worship, or any object held sacred by any class of persons, with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage, or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Injuring or defiling a place of worship with intent to insult the religion of any class.

Sale.&c.. of obscene books-&c.

285. Whoever sells or distributes, imports, or prints for sale or hire, or wilfully exhibits to public view, any obscene book, pamphlet, paper, drawing, painting, photograph, representation, or figure, or attempts or offers so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

290A. Whoever does any act, in or upon, or in the vicinity of, any place of worship or any object which is held sacred or in veneration by any class of persons, with the intention of wounding the religious feelings of any class of persons or with the knowledge that any class of persons is likely to consider such act as an insult to their

Acts in relation to places of worship, &c., with intent to insult the religion of any class.

* Section 288 is repealed by section 10 of Ordinance No. 6 of 1944.

religion, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Disturbing a religious assembly.

291. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Uttering words, &c., with deliberate intent to wound religious feelings.

291A. Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Deliberate and malicious acts intended to outrage religious feelings of any class, by insulting its religion or religious beliefs.

291B. Whoever, with the deliberate and malicious intention of outraging the religious feelings of any class of persons, by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Trespassing on burial places. &c.

292. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby,

commits any trespass in any place of worship or on any place of sepulture or any place set apart for the performance of funeral rites, or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies,

CHAPTER XVI

OF OFFENCES AFFECTING THE HUMAN BODY

OF OFFENCES AFFECTING LIFE

293. Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Illustrations

- (a) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in, and is killed. A has committed the offence of culpable homicide.
- (b) A knows Z to be behind a bush. B does not know it. A intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.
- (c) A by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush, A not knowing that he was there. Here although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B or to cause death by doing an act that he knew was likely to cause death.

Explanation 1.—A person who causes bodily injury to another who is labouring under a disorder, disease, or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2.—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3.—The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

Murder.

294. Except in the cases hereinafter excepted, culpable homicide is murder—

Firstly—if the act by which the death is caused is done with the intention of causing death; or

Secondly—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused ; or

Thirdly—If it is done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death; or

Fourthly—If the person committing the act knows that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations

- (a) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.
- (b) A knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound slate of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.
- (c) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause Z's death.
- (d) A, without any excuse, Fires a loaded gun into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

Exception 1—Culpable homicide is not murder if the offender whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation, or causes the death of any other person by mistake or accident,

When culpable homicide is not murder.

The above exception is subject to the following provisos:—

Firstly—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly—That the provocation is not given by anything done in obedience to the law. or by a public servant, in the lawful exercise of the powers of such public servant-

Thirdly—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation.—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Illustrations

- (a) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation-
- (b) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.
- (c) A is lawfully arrested by Z, a Fiscal's officer. A is excited to sudden and violent passion by the arrest and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his powers.
- (d) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words and kills Z. This is murder.
- (e) A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence

and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(f) Z strikes B. B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed culpable homicide, but A is guilty of murder,

Exception 2.—Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law, and causes the death of the person against whom he is exercising such right of defence without premeditation and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration

Z attempts to horse-whip A. not in such a manner as to cause grievous hurt to A. A draws out a pistol, Z persists in the assault. A, believing in good faith that he can by no other means prevent himself from being horse-whipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3.—Culpable homicide is not murder if the offender, being a public servant, or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

Exception 4.—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel, and without the offender having taken undue advantage or acted in a cruel or unusual manner.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5.—Culpable homicide is not murder if the offender, being the mother of a child under the age of twelve months, causes its death whilst the balance of her mind is disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child.

Culpable homicide by causing the death of a person other than the person whose death was intended.

295. If a person; by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

296. Whoever commits murder shall be punished with death. Punishment for murder.

297. Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death; Punishment for culpable homicide not amounting to murder.

or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

298. Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. Causing death by negligence.

299. If any person commits suicide. whoever abets the commission of such suicide shall be punished with death. Abetment of suicide.

300. Whoever does any act with such intention or knowledge and under such circumstances that if he by that act caused death he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable to imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine. Attempt to murder.

Illustrations

- (a) A shoots at Z with intention to kill him under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this section.
- (b) A, with the intention of causing the death of a child of tender years, exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue.
- (c) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section; and if by such firing he wounds Z, he is liable to the punishment provided by the latter part of this section.

(d) A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping. A has not yet committed the offence defined in this section. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this section.

Attempt to commit culpable homicide.

301. Whoever does any act with such intention or knowledge and under such circumstances, that if he by that act caused death he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years or with fine, or with both; and if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Illustration

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section.

Attempt to commit suicide.

302. Whoever attempts to commit suicide, and does any act towards the commission of such offence, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

OF THE CAUSING OF MISCARRIAGE, OR INJURIES TO UNBORN CHILDREN. OF THE EXPOSURE OF INFANTS, AND OF THE CONCEALMENT OF BIRTHS

Causing miscarriage.

303. Whoever voluntarily causes a woman with child to miscarry shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A woman who causes herself to miscarry is within the meaning of this section.

Causing miscarriage without woman's consent.

304. Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be

punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

305. Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Death caused by an act done with intent to cause miscarriage.

Explanation.—It is not essential to this offence that the offender should know that the act is likely to cause death.

306. Whoever, before the birth of any child, does any act with the intention of thereby preventing that child from being born alive, or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

Act done with intent to prevent a child being born alive or to cause it to die after birth.

307. Whoever does any act under such circumstances that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Causing death of a quick unborn child by an act amounting to culpable homicide.

Illustration

A, knowing that he is likely to cause (the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured, but does not die; but the death of an unborn quick child with which she is pregnant is thereby caused, A is guilty of the offence defined in this section.

308. Whoever, being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Exposure and abandonment of a child under twelve years by parent or person having care of it.

Explanation.—This section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure.

Concealment of birth by secret disposal of dead body.

309. Whoever, by secretly burying or otherwise disposing of the dead body of a child, whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if, intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

OF HURT

" Cause hurt".

310. Whoever causes bodily pain, disease, or infirmity to any person is said to "cause hurt".

" Grievous hurt".

311. The following kinds of hurt only are designated as "grievous " :—

Firstly—Emasculation.

Secondly—Permanent privation of the sight of either eye.

Thirdly—Permanent privation of the hearing of either ear.

Fourthly—Privation of any member or joint.

Fifthly—Destruction or permanent impairing of the powers of any member or joint.

Sixthly—Permanent disfiguration of the head or face.

Seventhly—Fracture or dislocation of a bone or tooth.

Eighthly—Any hurt which endangers life, or which causes the sufferer to be, during the space of twenty days, in severe bodily pain or unable to follow his ordinary pursuits.

" Voluntarily causing hurt".

312. Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said " voluntarily to cause hurt ".

" Voluntarily causing grievous hurt

313. Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said " voluntarily to cause grievous hurt ".

Illustration

A. intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

314. Whoever, except in the case provided for by section 325, voluntarily causes hurt shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Punishment for voluntarily causing hurt.

315. Whoever, except in the case provided for by section 325, voluntarily causes hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Voluntarily causing hurt by dangerous weapons or means.

316. Whoever, except in the case provided for by section 326, voluntarily causes grievous hurt shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the person to whom the grievous hurt is caused shall be a woman or a child, may in addition be punished with whipping.

Punishment for voluntarily causing grievous hurt.

317. Whoever, except in the case provided for by section 326, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument which, used as a weapon of offence, is likely to cause death,

Voluntarily causing grievous hurt by dangerous weapons or means.

or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if the person to whom the grievous hurt is caused shall be a woman or a child, may in addition be punished with whipping.

Voluntarily causing hurt to extort properly, or to constrain to an illegal act.

318. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Causing hurt by means of poison, &c., with intent to commit an offence.

319. Whoever administers to, or causes to be taken by any person any poison or any stupefying, intoxicating, or unwholesome drug or other thing, with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence, or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt to extort properly or to constrain to an illegal act.

320. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal, or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine or to whipping.

Voluntarily causing hurt to extort confession or to compel restoration of property.

321. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer

or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Illustrations

- (a) A, a police officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this section.
- (b) A, a police officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this section.
- (c) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this section.
- (d) A, a landowner, tortures his tenant in order to compel him to pay his rent. A is guilty of an offence under this section.

322. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer, or any person interested in the sufferer, to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.

323. Whoever voluntarily causes hurt to any person, being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Voluntarily causing hurt to deter public servant from his duty.

Voluntarily causing grievous hurt to deter public servant from his duty.

324. Whoever voluntarily causes grievous hurt to any person, being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt on provocation.

325. Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Voluntarily causing grievous hurt on provocation.

326. Whoever voluntarily causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to two thousand rupees, or with both.

Explanation.—Sections 325 and 326 are subject to the same provisos as exception 1, section 294.

Punishment for act which endangers life or the personal safety of others.

327. Whoever does any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Causing hurt by an act which endangers life or the personal safety of others.

328. Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

329. Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Causing grievous hurt by an act which endangers life or the personal safety of others.

OF WRONGFUL RESTRAINT AND WRONGFUL CONFINEMENT

330. Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said "wrongfully to restrain" that person.

"Wrongful restraint".

Exception.—The obstruction of a private way over land or water, which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section.

Illustration

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

331. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits is said "wrongfully to confine" that person.

"Wrongful confinement".

Illustrations

(a) A causes I to go within a walled space and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(b) A places men with firearms at the outlets of a building and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

332. Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Punishment for wrongful restraint.

333. Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Punishment for wrongful confinement.

wrongful confinement for 334. Whoever wrongfully confines any person for three days or more shall be therepunishedwith imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Wrongful confinement for ten or more days 335. Whoever wrongfully confines any person for ten days or more shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement of person for whose liberation a writ has been issued 336. Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any term of imprisonment to which he may be liable under any other section of this Code.

Wrongful confinement secret 337. Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any other punishment to which he may be liable for such wrongful confinement.

Wrongful confinement for the purpose of extorting property or constraining to an illegal act 338. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or property or valuable security, or property or valuable security, or constraining the person confined, or any person interested in such person, to do anything illegal or to give any information which may facilitate the commission of an offence shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement for the purpose of extorting confession, or of completing the resoration of property 339. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or any person interested in the person confined, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined, or any person interested in the

person confined, to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

OF CRIMINAL FORCE AND ASSAULT

340. A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion or change of motion or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling:

Provided that the person causing the motion or change of motion or cessation of motion causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described—

Firstly—By his own bodily power.

Secondly—By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part or on the part of any other person.

Thirdly—By inducing any animal to move, to change its motion, or to cease to move.

341. Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending illegally by the use of such force to cause, or knowing it to be likely that by the use of such force he will illegally cause injury, fear, or annoyance to the person to whom the force is used, is said to use "criminal force" to that other.

Illustrations

(a) *t is* sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes

motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear or annoyance to Z, A has used criminal force to Z.

- (b) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, A has committed criminal force to Z.
- (c) Z is riding in a palanquin. A intending to rob Z seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has there used force to Z; and as A has acted thus intentionally without Z's consent, in order to the commission of an offence, A has used criminal force to Z.
- (d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his person so as to bring it into contact with Z. He has therefore intentionally used force to Z, and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, he has used criminal force to Z.
- (e) A throws a stone, intending or knowing it to be likely that the stone will thus be brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten, or annoy Z, he has used criminal force to Z.
- (f) A intentionally pulls up a woman's veil. Here A intentionally uses force to her; and if he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy her, he has used criminal force to her.
- (f) Z is bathing. A pours into the bath water which he knows to be boiling. Here A intentionally, by his own bodily power, causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling. A has therefore intentionally used force to Z, and if he has done this

without Z's consent, intending or knowing it to be likely that he may thereby cause injury, fear, or annoyance to Z, A has used criminal force to Z.

- (h) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear, or annoyance to Z, he uses criminal force to Z.
- (i) A, a schoolmaster, in the reasonable exercise of his discretion as master, flogs B, one of his scholars. A does not use criminal force to B, because, although A intends to cause fear and annoyance to B, he does not use force illegally.

342. Whoever makes any gesture or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit " an assault " .

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

Illustrations

- (a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.
- (b) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.
- (c) A takes up a stick, saying to Z, " I will give you a beating ". Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to assault.

343. Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to fifty rupees, or with both,

Punishment for using criminal force otherwise than on grave and sudden provocation.

Explanation.—Grave and sudden provocation will not mitigate the punishment for an offence under this section,

if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence; or

if the provocation is given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant; or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

Using criminal force to deter a public servant from discharge of his duty.

344. Whoever assaults or uses criminal force to any person, being a public servant in the execution of his duty, as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or use of criminal force to a woman with intent to outrage her modesty.

345. Whoever assaults or uses criminal force to any woman, intending to outrage, or knowing it to be likely that he will thereby outrage, her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both, and may in addition be punished with whipping.

Assault or criminal force with intent to dishonour a person otherwise than on grave and sudden provocation.

346. Whoever assaults or uses criminal force to any person intending thereby to dishonour that person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt to commit theft of property carried by a person.

347. Whoever assaults or uses criminal force to any person in attempting to commit theft of any property which that person is then wearing or carrying, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt wrongfully to confine person.

348. Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

349. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Explanation.—Section 349 is subject to the same explanation as section 343.

OF KIDNAPPING, ABDUCTION, AND SLAVERY

350. Kidnapping is of two kinds—
Kidnapping.
kidnapping from Sri Lanka, and
kidnapping from lawful guardianship.

351. Whoever conveys any person beyond the limits of Sri Lanka without the consent of that person or of some person legally authorized to consent on behalf of that person, is said to " kidnap that person from Sri Lanka ".
" Kidnapping from sri" Lanka .

352. Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to " kidnap such minor or person from lawful guardianship ".
" Kidnapping from lawful guardianship *

Explanation.—The words " lawful guardian " in this section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception.—This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child," or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

353. Whoever by force compels, or by any deceitful means, or by abuse of authority or any other means of compulsion, induces any person to go from any place, is said to " abduct " that person.
Abduction

354. Whoever kidnaps any person from Sri Lanka or from lawful guardianship shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.
Punishment for kidnapping.

Kidnapping or abducting in order to murder.

355. Whoever kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, shall be punished with rigorous imprisonment for a term which may extend to twenty years, and shall also be liable to fine.

Illustrations

(a) A kidnaps Z from Sri Lanka, intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this section.

(fr) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this section.

Kidnapping or abducting with intent secretly and wrongfully to confine a person.

356. Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting a woman to compel her marriage, &c

357. Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.

358. Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected, to grievous hurt or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Wrongfully concealing or keeping in confinement a kidnapped person.

359. Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or keeps such person in confinement, shall be punished in the same manner as if he kidnapped or abducted such person with the same intention or

knowledge or for the same purpose as that with or for which he conceals or detains such person in confinement.

360. Whoever kidnaps or abducts any child under the age of ten years, with the intention of taking dishonestly any movable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting a child under ten years with intent to steal movable property from the person of such child.

360A. Any person who—

Procuration.

(1) procures or attempts to procure any girl or woman under twenty-one years of age to leave Sri Lanka (whether with or without her consent) with a view to illicit sexual intercourse with any person outside Sri Lanka, or removes or attempts to remove from Sri Lanka any such girl or woman (whether with or without her consent) for the said purpose;

(2) procures or attempts to procure any girl or woman to leave Sri Lanka (whether with or without her consent) with intent that she may become the inmate of, or frequent, a brothel elsewhere, or removes or attempts to remove from Sri Lanka any girl or woman (whether with or without her consent) for the said purpose;

(3) brings or attempts to bring into Sri Lanka any girl or woman under twenty-one years of age (whether with or without her consent) with a view to illicit sexual intercourse with any person, whether within or without Sri Lanka;

(4) procures or attempts to procure any girl or woman (whether with or without her consent) to become, within or without Sri Lanka, a common prostitute ;

(5) procures or attempts to procure any girl or woman (whether with or without her consent) to leave her usual place of abode in Sri Lanka ^ (such place not being a brothel),

with intent that she may for the purposes of prostitution become the inmate of, or frequent, a brothel within or without Sri Lanka,

such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years and shall not have been heard of by such person as being alive within that time:

shall be guilty of an offence, and shall be liable on conviction to imprisonment of either description for any period not exceeding two years, and if a male, in addition to any such imprisonment, to be whipped;

Provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts, as far as the same are within his or her knowledge.

Provided that no person shall be convicted of any offence under this section upon the evidence of one witness, unless such evidence be corroborated in some material particular by evidence implicating the accused.

362C. Whoever commits the offence defined in the last preceding section, having concealed from the person with whom the subsequent marriage is contracted the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.

Buying or disposing of any person as a slave.

361. Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives, or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

362D. Whoever dishonestly or with a fraudulent intention goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Marriage ceremony gone through with fraudulent intent without lawful marriage.

Habitual dealing in slaves.

362. Whoever habitually imports, exports, removes, buys, sells, traffics, or deals in slaves shall be punished with imprisonment of either description for a term which may extend to fifteen years, and shall also be liable to fine.

OF RAPE

363. A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions:—

Rape'

Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.

362A. Every man, who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him, and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Firstly—Against her will.

Secondly—Without her consent.

Thirdly—With her consent when her consent has been obtained by putting her in fear of death or of hurt.

Fourthly—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believed herself to be lawfully married.

Fifthly—With or without her consent, when she is under twelve years of age.

Marrying again during the lifetime of husband or wife.

362B. Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine,

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.—Sexual intercourse by a man with his own wife, the wife not being under twelve years of age, is not rape.

Exception. This section does not extend to any person whose marriage with such husband or wife has been declared void by a court of competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if

Punishment for rape

364. Whoever commits rape shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

OF CARNAL INTERCOURSE WITH YOUNG GIRLS

Defilement of girls between twelve and fourteen.

364A. (1) Whoever has carnal intercourse or attempts to have carnal intercourse with any girl of or above the age of twelve years and under the age of fourteen years shall be guilty of an offence, and shall be punished with imprisonment of either description for a term not exceeding two years, and may in addition be punished with whipping.

(2) It shall be a sufficient defence to any charge under this section if it should be made to appear to the court or jury before whom the charge shall be brought that the person so charged had reasonable cause to believe that the girl was of or above the age of fourteen years.

(3) Sexual intercourse by a man with his own wife, or between a man and girl who are living together as husband and wife with the consent of the parents or guardians of the girl, shall not be an offence under this section if the girl is of or above the age of twelve years.

(4) No prosecution shall be commenced for an offence under this section more than three months after the commission of the offence.

OF UNNATURAL OFFENCES

Unnatural offence.

365. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

Acts of gross indecency between male persons.

365A. Any male person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be guilty of an offence, and shall be punished with imprisonment of either description for a term which may

extend to two years or with fine, or with both, and shall also be liable to be punished with whipping.

CHAPTER XVII

OF OFFENCES AGAINST PROPERTY

OF THEFT

366. Whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit " theft".

Theft"

Explanation 1.—A thing so long as it is attached to the earth, not being movable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2.—A moving effected by the same act which effects the severance may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person who by any means causes an animal to move is said to move that animal, and to move everything which in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be expressed or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

Illustrations

(a) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here, as soon as A has severed the tree, in order to such taking, he has committed theft.

(b) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(c) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move A has committed theft of the treasure.

(d) A, being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate without Z's consent. A has committed theft.

- (e) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.
- (f) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.
- (g) A finds a ring lying on the high road, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property,
- (h) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten- Here A, at the time of first moving the ring, commits theft.
- (i) A delivers his watch to Z, a jeweller, to be regulated, Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.
- (j) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.
- (k) Again, if A having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.
- (l) A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly ; A has therefore committed theft.
- (m) A, being on friendly terms with Z, goes in to Z's library in Z's absence, and takes away a book without Z's express consent, for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.
- (n) A asks charity from Z's wife. She gives A money, food, and clothes, which A knows to belong to Z, her husband. Here, it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.
- (o) A is the paramour of Z's wife. She gives A valuable property which A knows to belong to her husband Z and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.
- (p) A in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.
- 367.** Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Punishment for theft.
- 368.** Whoever commits theft—
- (a) of any bull, cow, steer, buffalo, heifer, or calf; or Theft of cattle.
- (b) of any fruit, vegetable, or other cultivated root or plant used or capable of being used for the food of man or beast, or for medicine, distilling, or dyeing, or in the course of any manufacture, Of praedial products.
- may, in addition to any other punishment for theft, be punished with whipping.
- 369.** Whoever commits theft in any building, tent, or vessel, which building, tent, or vessel is used as a human dwelling, or for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Theft in dwelling house, &c.
- 370.** Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Theft by clerk or servant of property in possession of master.
- 371.** Whoever commits theft, having made preparation for causing death or hurt or restraint, or fear of death or of hurt or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing Theft after preparation made for causing death or hurt, in order to the committing of the theft.

of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations

- (a) A commits theft of property in Z's possession; and while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hunning Z, in case Z should resist. A has committed the offence defined in this section.
- (6) A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist or should attempt to apprehend A. A has committed the offence defined in this section.

OF EXTORTION

372. Whoever intentionally puts any person in fear of any injury to that person or to any other and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security or anything signed or sealed which may be converted into a valuable security, commits " extortion "

Illustrations

- (a) A threatens to publish a defamatory libel concerning Z, unless Z gives him money. He thus induces Z to give him money. A has committed extortion.
- (b) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain moneys to A, Z signs and delivers the note. A has committed extortion.
- (c) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

373. Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for extortion,

374. Whoever, in order to the committing of extortion, puts any person in fear or attempts to put any person in fear of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Pulling person in fear of injury in order to commit extortion.

375. Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Extortion by putting a person in fear of death or grievous hurt.

376. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Putting person in fear of death or of grievous hurt in order to commit extortion.

377. Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed or attempted to commit any offence punishable with death, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine ; and if the offence be one punishable under section 365, may be punished with rigorous imprisonment for a term which may extend to twenty years, and shall also be liable to fine.

Extortion by threat of accusation of an offence punishable with death or imprisonment for ten years, &c.

378. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of any accusation against that person or any other of having committed or attempted to commit an offence punishable with death, or with imprisonment for a term which may extend to ten years or more, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, and if the offence be punishable under section 365 may be punished with rigorous imprisonment which may extend to twenty years, and shall also be liable to fine.

Putting person in fear of accusation of offence in order to commit extortion.

OF ROBBERY

robbery **379.** In all robbery there is either theft or extortion.

when theft is robbery Theft is " robbery ", if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt or of instant wrongful restraint.

when extortion is robbery Extortion is " robbery ", if the offender, at the time of committing the extortion, is in the presence of the person put in fear and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation.—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations

- (a) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.
- (b) A meets Z on the high road. shows a pistoi, and demands Z's purse. Z, in consequence surrenders his purse- Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence, A has therefore committed robbery.
- c) A meets Z and Z's child on the high road. A takes the child and threatens to fling it down a precipice unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z by causing Z to be in fear of instant hurt lo the child who is there present. A has therefore committed robbery on Z.
- (d) A obtains property from Z by saying: " Your child is in the hands of my gang, and wilt be put to death unless you send us ten thousand rupees ". This is extortion, and punishable as such ; but it is not robbery, unless Z is put in fear of the instant death of his child.

380. Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine, and if the robbery be committed on the highway between sunset and sunrise the imprisonment may be extended to fourteen years. Punishment for robbery

381. Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may exte"ç to seven years, and shall also be liable to fine. Attempt to commit robbery.

382. If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with rigorous imprisonment for a term which may extend to twenty years, and shall also be liable to fine or to whipping. Voluntarily causing hurt in committing robbery.

383. If, at the time of committing robbery, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished may be extended to twenty years. Robbery with attempt to cause death or grievous hurt.

384. If, at the time of attempting to commit a robbery, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished may be extended to twenty years. Attempt to commit robbery when armed with deadly weapon.

385. Whoever shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine. Punishment for belonging to a wandering gang of thieves.

OF CRIMINAL MISAPPROPRIATION OF PROPERTY

386. Whoever dishonestly misappropriates or converts to his own use any movable property shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Dishonest misappropriation of property.

Illustrations

- (a) A takes property belonging to Z out of Z's possession, in good faith believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section.
- (b) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it. A has not committed theft. But if A afterwards sells the book for his own benefit, he is guilty of an offence under this section.
- (c) A and B being joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here as A has a right to use the horse, he does not dishonestly misappropriate it. But if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this section.

Explanation 1.—A dishonest misappropriation for a time only is misappropriation within the meaning of this section.

Illustration

A finds a promissory note belonging to Z, payable to bearer. A, knowing that the note belongs to Z, pledges it with a banker as security for a loan, intending at a future time to restore it to Z. A has committed an offence under this section.

Explanation 2.—(i) A person who finds property not in the possession of any other person and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner, and has kept the property a reasonable time to enable the owner to claim it.

- (ii) What are reasonable means, or what is a reasonable time in such a case, is a question of fact.
- (iii) It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it; it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believes that the real owner cannot be found.

Illustrations

- (a) A finds a rupee on the high road, not knowing to whom the rupee belongs. A picks up the rupee. Here A has not committed the offence defined in this section.
- (b) A finds a letter on the road containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this section.
- (c) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person who has drawn the cheque appears. A knows that this person can direct him to the person in whose favour the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this section.
- (d) A sees Z drop a purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this section.
- (e) A finds a purse with money not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this section.
- (f) A finds a valuable ring, not knowing to whom it belongs. A sells it immediately, without attempting to discover the owner. A is guilty of an offence under this section.

387. Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

dishonest misappropriation of property possessed by a deceased person at the time of his death

Illustration

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this section.

OF CRIMINAL BREACH OF TRUST

" Criminal breach of trust".

388. Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits " criminal breach of trust".

Illustrations

- (a) A, being executor to the will of a deceased person, dishonestly disobeys the law, which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.
- (b) A is a warehouse-keeper. Z, going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse room. A dishonestly sells the goods. A has committed criminal breach of trust.
- (c) A, residing in Colombo, is agent for Z, residing in England, There is an express or implied contract between A and Z that all sums remitted by Z to A shall be Invested by A according to Z's direction, Z remits ten thousand rupees to A, with directions to A to invest the same on mortgage of coffee estates, A dishonestly disobeys the directions, and employs the money in his own business. A has committed criminal breach of trust.
- (d) But if A, in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in a company, disobeys Z's directions and buys shares in a company in Z's name instead of investing the money on mortgage, here, though Z should suffer loss, and should be entitled to bring a civil action against A on account of that loss, yet A not having acted dishonestly has not committed criminal breach of trust.
- (e) A, a revenue officer, is entrusted with public money, and is either directed by law or bound by a contract, express or implied, with the Government, to pay into a certain Kachcheri all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.
- (f) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

389. Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for criminal breach of trust.

390. Whoever, being entrusted with property as a carrier, wharfinger, or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by carrier, &c.

391. Whoever, being a clerk or servant or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by a clerk or servant.

392. Whoever, being in any manner entrusted with property, or with any dominion over property, in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney, or agent, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Criminal breach of trust by public servant, or by banker, merchant, or agent.

392A. Whoever, being entrusted with or having the dominion of any money in his capacity as a public servant, fails forthwith to pay over or produce, when required to do so by the head of his department or by the Secretary or Deputy Secretary to the Treasury, Auditor-General, Assistant Auditor-General, or any officer specially appointed by the Secretary to the Treasury to examine the accounts of his department, any money or balance of any money shown in the books or accounts or statements kept or signed by him to be held by or to be due from him as such public servant, or to duly account therefor, shall be guilty of the offence of criminal breach of trust, and shall on conviction be subject to the penalty provided by section 392.

Criminal breach of trust by public servant in respect of money or balance of money.

Criminal breach of trust by agent in respect of postal articles.

392B. Any person who, acting or purporting to act as the agent of any other person, receives from a postal officer any postal article for delivery to such other person and—

- (o) wilfully throws away, destroys, keeps, or secretes ; or
- (b) without reasonable excuse (the burden of proving which shall lie upon him) fails duly to account for such article, or unduly delays such delivery,

shall be deemed guilty of criminal breach of trust, and shall be liable to the punishment prescribed therefor.

OF THE RECEIVING OF STOLEN PROPERTY

" Stolen property

393. Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, or by forgery, or by cheating, and property which has been criminally misappropriated or in respect of which criminal breach of trust has been committed, is designated as " stolen property", whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without Sri Lanka. But if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

Dishonestly receiving stolen property.

394. Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Habitually dealing in stolen property.

395. Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Assisting in concealment of stolen property.

396. Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

397. If the stolen property referred to in the three preceding sections shall be of any of the descriptions mentioned in section 368, the offender may, in addition to the punishments by the three preceding sections imposed, be punished with whipping.

Receiving stolen cattle or praedial products.

OF CHEATING

398. Whoever, by deceiving any person, "Cheating" fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation, or property, or damage or loss to the Government, is said to " cheat ".

Explanation.—A dishonest concealment of facts is a deception within the meaning of this section.

Illustrations

- (a) A, by falsely pretending to be in the Administrative Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.
- (b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.
- (c) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.
- (d) A, by tendering in payment for an article a cheque on a bank with which A keeps no money, and by which A expects that the cheque will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.
- (e) A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.
- (f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him, and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

- (g) A intentionally deceives Z into a belief that A means to deliver 10 Z a certain quantity of copra, which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the copra, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.
- (h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.
- (o) A sells and conveys an estate to B. A. knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

"Cheating by personation".

399. A person is said to "cheat by personation" if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation.—The offence is committed whether the individual personated is a real or imaginary person.

Illustrations

- (a) A cheats by pretending to be a certain rich merchant of the same name. A cheats by personation.
- (b) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

Punishment for cheating,

400. Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Cheating with knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect.

401. Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person, whose interest in the transaction to which the cheating relates he was bound either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

402. Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for cheating by personation.

403. Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter, or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Cheating and dishonestly inducing a delivery of property.

OF FRAUDULENT DEEDS AND DISPOSITIONS OF PROPERTY

404. Whoever dishonestly or fraudulently removes, conceals, or delivers to any person or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.

405. Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonestly or fraudulently preventing from being made available for his creditors a debt or demand due to the offender.

406. Whoever dishonestly or fraudulently signs, executes, or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration.

Dishonest or fraudulent removal or concealment of property or release of claim.

407. Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

- (f) A causes a ship to be cast away intending thereby to cause damage to Z, who has lent money on bottomry on the ship. A has committed mischief.
- (g) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.
- (h) A causes cattle to enter upon a field belonging to Z, intending to cause, and knowing that he is likely to cause, damage to Z's crop. A has committed mischief.

OF MISCHIEF AND ILLEGAL REMOVAL OF WRECKS

Mischief

408. Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility or affects it injuriously, commits " mischief ".

409. Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Punishment for committing mischief.

410. Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Committing mischief and thereby causing damage to the amount of fifty rupees.

Explanation 1.—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

411. Whoever commits mischief by killing, poisoning, maiming, or rendering useless any animal or animals of the value of ten rupees or upwards shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming any animal of the value of ten rupees.

Explanation 2.—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

412. Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any elephant, camel, horse, ass, mule, buffalo, bull, cow, or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by killing or maiming cattle, Ac., or any animal of the value of fifty rupees.

Illustrations

- (a) A voluntarily burns a valuable security belonging to Z, intending to cause wrongful loss to Z. A has committed mischief.
- (b) A introduces water into an ice house belonging to Z, and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.
- (c) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.
- (d) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief-
- (e) A, having insured a ship voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.

413. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings, or for animals which are property, or for cleanliness, or for carrying, on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to works of irrigation or by wrongfully diverting water.

414. Whoever commits mischief by doing any act which renders, or which he knows to be likely to render, any public road, bridge, navigable river, or navigable

Mischief by injury to public road, bridge,

channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by causing inundation or obstruction to public drainage attended with damage.

415. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by destroying or moving or rendering less useful a lighthouse or seamark.

416. Whoever commits mischief by destroying or moving any lighthouse or other light used as a seamark, or any seamark or buoy or other thing placed as a guide for navigators, or by any act which renders any such lighthouse, seamark, buoy, or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Mischief by destroying or moving, &c., a landmark fixed by authority of a public servant.

417. Whoever commits mischief by destroying or moving any landmark fixed by the authority of a public servant, or by any act which renders such landmark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Mischief by fire or explosive substance with intent to cause damage to the amount of one hundred rupees.

418. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Mischief by fire or explosive substance with intent to destroy a house, &c.

419. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with imprisonment of either description for a term which may extend to fifteen years, and shall also be liable to fine.

420. Whoever commits mischief to any decked vessel or any vessel of a burden of ten tons or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe, that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief with intent to destroy or make unsafe a decked vessel or a vessel of a burden of ten tons or upwards.

421. Whoever commits or attempts to commit by fire or any explosive substance such mischief as is described in the last preceding section shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Punishment for the mischief described in the last section when committed by fire or any explosive substance.

422. Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein, or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for intentionally running vessel aground or ashore with intent to commit theft, &c.

423. Whoever, without lawful excuse, endeavours in any way to prevent or impede the saving of any vessel stranded or in danger of being stranded or otherwise in distress on or near the shore of any sea or tidal water, or any part of the cargo or apparel of such vessel or any wreck, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Punishment for impeding the saving of a vessel.

424. Whoever illegally carries away or removes any part of any vessel stranded or in danger or being stranded or otherwise in distress on or near the shore of any sea or tidal water, or any part of the cargo or apparel thereof or any wreck, and whoever illegally secretes any wreck or obliterates or defaces any marks thereon, shall be punished with imprisonment of either description which may extend to one year, or with fine, or with both.

Punishment for removing or secreting wreck.

425. Whoever illegally takes into any foreign port or place any vessel stranded or derelict or otherwise in distress on or near port

Taking wreck into foreign port

the seashore or the shore of any tidal water of Sri Lanka, or any part of the cargo or apparel thereof, or anything belonging thereto or any wreck found on or near such seashore or shore aforesaid, and there sells the same, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Explanation.—The word wreck used in sections 423, 424, and 425 includes jetsam, flotsam, lagan, and derelict.

Mischief committed after preparation made for causing death or hurt.

426. Whoever commits mischief, having made preparation for causing to any person death or hurt or wrongful restraint, or fear of death or of hurt or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

OF CRIMINAL TRESPASS

" Criminal trespass "

427. Whoever enters into or upon property in the occupation of another with intent to commit an offence, or to intimidate, insult, or annoy any person in occupation of such property,

or having lawfully entered into or upon such property unlawfully remains there with intent thereby to intimidate, insult, or annoy any such person, or with intent to commit an offence,

is said to commit " criminal trespass "

"House-trespass "

428. Whoever commits criminal trespass by entering- into or remaining in any building, tent, or vessel used as a human dwelling, or any building used as a place for worship or as a place for the custody of property, is said to commit " house-trespass ".

Explanation.—The introduction of any part of the criminal trespasser's body in -entering is sufficient to constitute house-trespass.

" Lurking house-trespass "

429. Whoever commits house-trespass, having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent, or vessel which is the subject of the trespass, is said to commit " lurking house-trespass".

430. Whoever commits lurking house-trespass after sunset and before sunrise is said to commit " lurking house-trespass by night "

"Lurking house-trespass by night "

431. A person is said to commit" house-breaking " who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described ; or if, being in the house or any part of it for the purpose of committing an offence, or having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say—

Firstly—if he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass ;

Secondly—if he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building ;

Thirdly—if he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass, by any means by which that passage was not intended by the occupier of the house to be opened ;

Fourthly—if he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass ;

Fifthly—if he effects his entrance or departure by using criminal force or committing an assault or by threatening any person with assault ;

Sixthly—if he enters or quits by any passage which he knows to have been fastened against such entrance or departure and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation.—Any outhouse or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

Illustrations

- (a) A commits house-trespass by making a hole through the wali of Z's house and putting his hand through the aperture. This is house-breaking.
- (b) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.
- (c) A commits house-trespass by entering Z's house through a window. This is house-breaking.
- (d) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.
- (e) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.
- (f) A finds the key of Z's house-door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.
- (g) Z is standing in his doorway. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.
- (h) Z, the door-keeper of Y, is standing in Y's doorway, A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

436. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment for ten years or more shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with imprisonment for ten years or more.

437. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment for less than ten years shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine ; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

House-trespass in order to the commission of an offence punishable with imprisonment for less than ten years.

438. Whoever commits house-trespass having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

House-trespass after preparation made for causing hurt to any person.

439. Whoever commits lurking house-trespass or house-breaking shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Punishment for lurking house-trespass or house* breaking.

440. Whoever commits lurking house-trespass or house-breaking in order to the committing of any offence punishable with imprisonment shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.

441. Whoever commits lurking house-trespass or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Lurking house-trespass or house-breaking after preparation made for causing hurt to any person.

432. Whoever commits house-breaking after sunset and before sunrise is said to commit " house-breaking by night ".

" House-breaking by night".

433. Whoever commits criminal trespass shall be punished with imprisonment of eitner description for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Punishment for criminal trespass.

434. Whoever commits, house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Punishment for house-trespass.

435. Whoever commits house-trespass in order to the committing of any offence punishable with death shall be punished with rigorous imprisonment for a term not exceeding twenty years, and shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with death.

Punishment for lurking house-trespass by night or house-breaking by night

442. Whoever commits lurking house-trespass by night or house-breaking by night shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Punishment for same offence when committed by person entrusted with custody.

Lurking house-trespass by night or house-breaking by night, in order to the commission of an offence punishable with imprisonment

443. Whoever commits lurking house-trespass by night or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of imprisonment may be extended to fourteen years.

Lurking house-trespass by night or house-breaking by night after preparation made for causing hurt to any person

444. Whoever commits lurking house-trespass by night or house-breaking by night, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Unlawful possession of house-breaking instrument or being armed with offensive weapon.

Grievous hurt caused whilst committing lurking house-trespass or house-breaking.

445. Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person or attempts to cause death or grievous hurt to any person, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine, or to whipping.

Being found in a building, &c., for unlawful purpose.

All persons jointly concerned trespass by night or house-breaking by night, to be punishable for death or grievous hurt caused by one of their number

446. If, at the time of the committing of lurking house-trespass by night or house-breaking by night any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking by night shall be punished with imprisonment of either description for a term which may extend to twenty years and shall also be liable to fine.

Loitering about by reputed thief.

Dishonestly breaking open any closed receptacle containing or supposed to contain property

447. Whoever dishonestly, or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

448. Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

449. Whoever is found having in his custody or possession without lawful excuse, the proof of which lies on him, any instrument of house-breaking, or being armed with any dangerous or offensive weapon with intent to commit any unlawful act, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both, and such instrument or weapon shall be forfeited to the State.

450. Whoever is found in or upon any building or enclosure for any unlawful purpose, and whoever is found in or upon any building or enclosure and fails to give a satisfactory account of himself, shall be punished with imprisonment of either description for a term which may extend to three months, or with a fine not exceeding fifty rupees, or with both.

451. Whoever, being a reputed thief, loiters or lurks about any public place or any wharf or warehouse or any vessel in any harbour or other water with intent to commit theft or any other unlawful act shall be punished with imprisonment of either description for a term which may extend to three months, or with a fine not exceeding fifty rupees, or with both.

CHAPTER XVIII

OF OFFENCES RELATING TO DOCUMENTS. PROPERTY-MARKS, CURRENCY NOTES AND BANK NOTES

452. Whoever makes any false document or part of a document with intent to cause damage or injury to the public or to any person, or to the Government, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud, or that fraud may be committed, commits forgery.

Making a false document,

453. A person is said to make a false document—

Firstly—who dishonestly or fraudulently makes, signs, seals, or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed, or executed, by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, or executed, or at a time at which he knows that it was not made, signed, sealed, or executed ; or

Secondly—who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly—who dishonestly or fraudulently causes any person to sign, seal, execute, or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him he does not, know the contents of the document or the nature of the alteration.

Illustrations

- (a) A has a letter of credit upon B for rupees 10,000, written by Z. A, in order to defraud B, adds a cipher to the 10,000 and makes the sum 100,000, intending that it may be believed by B that Z so wrote the letter. A has committed forgery.
- (b) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B, and thereby of obtaining from B the purchase money. A has committed forgery.
- (c) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery.
- (d) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable, and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand

rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.

- (e) A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker, and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill, A is guilty of forgery.
- (f) Z's will contains these words: " I direct that all my remaining property be equally divided between A, B, and C". A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.
- (g) A endorses a promissory note and makes it payable to Z or his order, by writing on the note the words " Pay to Z or his order ", and signing the endorsement. B dishonestly erases the words "Pay to Z or his order", and thereby converts the special endorsement into a blank endorsement. B commits forgery.
- (h) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.
- (i) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and, by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.
- (j) A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property, A has committed forgery.
- (k) A without B's authority writes a letter and signs it in B's name, certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery, inasmuch as he intended to deceive Z by the forged certificate and thereby to induce Z to enter into an expressed or implied contract for service.

Explanation 1.—A man's signature of his own name may amount to forgery.

Illustrations

- (a) A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.

- (b) A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiate the bill as though it had been accepted by Z. A is guilty of forgery; and if B knowing the fact draws the bill upon the paper pursuant to A's intention, B is also guilty of forgery.
- (c) A picks up a bill of exchange payable to the order of a different person of the same name. A endorses the bill in his own name intending to cause it to be believed that it was endorsed by the person to whose order it was payable; here A has committed forgery.
- (d) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, executes a lease of the estate to Z at a nominal rent and for a long period, and dates the lease six months prior to the seizure, with intent to defraud A and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by ante-dating it.
- (e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors, and in order to give a colour to the transaction writes a promissory note binding himself to pay to B a sum for value received, and ante-dates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess Judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

456. Whoever forges a document which purports to be a valuable security or a will, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest, or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Forgery of a valuable security or will.

457. Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery for the purpose of cheating

Explanation 2.—The making of a false document in the name of a fictitious person, Intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

458. A false document made wholly or in part by forgery is designated "a forged document".

A forged document"

Illustration

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

459. Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document shall be punished in the same manner as if he had forged such document.

Using as genuine a forged document.

Punishment for forgery,

454. Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Forgery of a record of a Court of Justice or of a public register of births, &c.

455. Whoever forges a document purporting to be a record or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage, or burial, or a register kept by a public servant as such, or a certificate or document purporting to be

460. Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 456, or with such intent has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Making or possessing a counterfeit seal, plate, &c. with intent to commit a forgery punishable under section 456.

Making or possessing a counterfeit seal, plate, Ac. with intent to commit a forgery punishable otherwise.

461. Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this Chapter other than section 456, or with such intent has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of a forged record or valuable security or will known to be forged, with intent to use it as genuine.

462. Whoever has in his possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in section 455, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ; and if the document is one of the description mentioned in section 456, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

465. Whoever knowingly causes to be transmitted by telegraph or tenders to any public officer employed in the Posts or Telecommunications Department for transmission any false message with intent to defraud, injure, or annoy any person, or to spread any false rumour, which may be detrimental to the Government or the interests of the public shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Sending false message by telegraph.

Counterfeiting a device or mark used for authenticating documents described in section 456, or possessing counterfeit marked material.

463. Whoever counterfeits upon or in the substance of any material any device or mark used for the purpose of authenticating any document described in section 456, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

466. Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys, injures, or defaces, or attempts to cancel, destroy, injure, or deface, or secretes or attempts to secrete any document which is or purports to be a will, or any valuable security, or any record, register, book, or document kept by any public servant in his capacity as such or by any person in pursuance of any enactment, or commits mischief in respect to such record, register, book, or document, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulent cancellation, destruction, &c., of a will.

Counterfeiting a device or mark used for authenticating documents other than those described in section 456, or possessing counterfeit marked material.

464. Whoever counterfeits upon or in the substance of any material any device or mark used for the purpose of authenticating any document other than the documents described in section 456, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material, upon or in the substance of which

467. Whoever, being a clerk, officer, or servant, or being employed or acting in the capacity of a clerk, officer, or servant, wilfully and with intent to defraud destroys, alters, mutilates, or falsifies any book, paper, writing, valuable security, or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully and with intent to defraud makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in any such book, paper, writing, valuable security, or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or *with* both.

Falsification of accounts-

Explanation.—It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded, or specifying any particular sum of money intended to be the subject of the fraud or any particular day on which the offence was committed.

Possession of any imitation of any currency note, bank note or coin.

468. (1) Whoever without lawful authority or excuse, the proof whereof shall lie on the person accused, shall have in his possession any imitation of any currency note, bank note or coin which is lawfully current in Sri Lanka or in any foreign country shall be guilty of an offence, and shall be liable to imprisonment of either description for any period not exceeding two years, or to fine, or to both.

(2) For the purposes of this section the expression "imitation" includes cotton, silk, or other woven goods impressed with designs in imitation of any currency note, bank note or coin lawfully current in Sri Lanka or in any foreign country.

OF PROPERTY-MARKS

Property-mark.

469. A mark used for denoting that movable property belongs to a particular person is called a property-mark.

" Using a false property-mark"

470. Whoever marks any movable property or goods, or any case, package, or other receptacle containing movable property or goods, or uses any case, package, or other receptacle having any mark thereon, with the intention of causing it to be believed that the property or goods so marked, or any property or goods contained in any case, package, or other receptacle so marked, belong to a person to whom they do not belong, is said to " use a false property-mark ".

Punishment for using a false property-mark with intent to deceive or injure any person.

471. Whoever uses any false property-mark with intent to deceive or injure any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Counterfeiting a property-mark used by another with intent to cause damage or injury.

472. Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any property-mark used by any other person shall be punished with imprisonment of

either description for a term which may extend to two years, or with fine, or with both.

473. Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any property-mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the same is of a particular quality, or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Counterfeiting property-mark used by a public servant, or any mark used by him to denote the manufacture, quality. *Sic.*, of any property.

474. Whoever makes or has in his possession any die, plate, or other instrument for the purpose of making or counterfeiting any public or private property-mark with intent to use the same for the purpose of counterfeiting such mark or has in his possession any such property-mark with intent that the same shall be used for the purpose of denoting that any goods or merchandise were made or manufactured by any particular person or firm by whom they were not made, or at a time or place at which they were not made, or that they are of a particular quality of which they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Fraudulent making or having possession of any die, plate, or other instrument for counterfeiting any public or private property-mark.

475. Whoever sells any goods with a counterfeit property-mark, whether public or private, affixed to or impressed upon the same or upon any case, wrapper, or receptacle in which such goods are packed or contained, knowing that such mark is forged or counterfeit, or that the same has been affixed to or impressed upon any goods or merchandise not manufactured or made by the person or at the time or place indicated by such mark, or that they are not of the quality indicated by such mark, with intent to deceive, injure, or damage any person, shall be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both.

Knowingly selling goods marked with a counterfeit property-mark.

Fraudulently making a false mark upon any package or receptacle containing goods.

476. Whoever fraudulently makes any false marks upon any package or receptacle containing goods, with intent to cause any public servant or any other person to believe that such package or receptacle contains goods which it does not contain, or that it does not contain goods which it does contain, or that the goods contained in such package or receptacle are of a nature or quality different from the real nature or quality thereof, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for making use of any such false mark.

477. Whoever fraudulently makes use of any such false mark with intent last aforesaid, knowing such mark to be false, shall be punished in the manner mentioned in the last preceding section.

Defacing any property-mark with intent to cause injury.

478. Whoever removes, destroys, or defaces any property-mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

OF CURRENCY NOTES AND BANK NOTES

Counterfeiting currency notes or bank notes.

478A. (1) Whoever forges or counterfeits, or knowingly performs any part of the process of forging or counterfeiting, any currency note or bank note shall be punished with imprisonment of either description for a term which may extend to twenty years and shall also be liable to fine.

(2) For the purposes of this section and of sections 478B, 478c, and 478D—

- (a) "bank note" means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any state, or sovereign power and intended to be used as equivalent to, or as a substitute for, money;
- (b) "currency note" means a currency note issued under the Currency Ordinance, No. 21 of 1941, or

under the Monetary Law Act, or any enactment in operation for the time being relating to the issue of paper currency in Sri Lanka and includes any note of a similar character, by whatever name called, issued by or on behalf of the Government of any foreign State.

478B. Whoever sells to, or buys or receives from any other person or otherwise traffics in or uses as genuine, any forged or counterfeit currency note or bank note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with imprisonment of either description for a term which may extend to twenty years and shall also be liable to fine.

Using as genuine forged or counterfeit currency notes or bank notes.

478C. Whoever has in his possession any forged or counterfeit currency note or bank note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine, or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to twenty years or with fine or with both.

Possession of forged or counterfeit currency notes or bank notes.

478D. Whoever makes, or performs any part of the process of making, or buys or sells, or disposes of, or has in his possession, any machinery, instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency note or bank note, shall be punished with imprisonment of either description for a term which may extend to twenty years and shall also be liable to fine.

Making or possessing instrument or materials for forging or counterfeiting currency notes or bank notes.

CHAPTER XIX

OF DEFAMATION

479. Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person, intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Defamation.

Explanation 1.—It may amount to defamation to impute anything to a deceased person if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative, or expressed ironically, may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation unless that imputation, directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustrations

- (a) A says—" Z is an honest man; he never stole B's watch"; intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it falls within one of the exceptions.
(b) A is asked who stole B's watch- A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it falls within one of the exceptions.
(c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it falls within one of the exceptions.

Imputation of any truth which the public good requires to be made or published.

First exception.—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Conduct of a public servant in the discharge of his public functions.

Second exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Conduct of any person touching any public question.

Third exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

Illustration:

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Fourth exception.—It is not defamation to publish a substantially true report of the proceedings of a Court of Justice or of the result of any such proceedings.

Publication of reports of proceedings of Courts of Justice.

Explanation.—A Magistrate or other officer holding an inquiry in open court preliminary to a trial in a Court of Justice is a court within the meaning of the above exception.

Fifth exception.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness, or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

Merits of a case decided in a Court of Justice or conduct of witnesses and others concerned therein.

Illustrations

- (a) A says—" I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest". A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no further.
(b) But if A says—" I do not believe what Z asserted at that trial, because I know him to be a man without veracity ", A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's conduct as a witness.

Sixth exception.—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.

Merits of a public performance.

Explanation.—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations

- (a) A person who publishes a book submits that book to the judgment of the public,
(b) A person who makes a speech in public submits that speech to the judgment of the public.
(c) An actor or singer who appears on a public stage submits his acting or singing to the judgment of the public.
(d) A says of a book published by Z—" Z's book is foolish, Z must be a weak man. Z's book is indecent, Z must be a man of impure mind ". A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no further.
(e) But if A says—" I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine", A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

Censure passed in good faith by person having lawful authority over another.

Seventh exception.—It is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Illustration

A Judge censuring in good faith the conduct of a witness, or of an officer of the court; a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier— are within this exception. •

Accusation against a person preferred in good faith to a person having lawful authority over that person.

Eighth exception.—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Illustration •

If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, a child, to Z's father—A is within this exception.

Imputation made in good faith by a person for the protection of his interests.

Ninth exception.—It is not defamation to make an imputation on the character, of another, provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

Illustrations

- (a) A, a shopkeeper, says to B, who manages his business " Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty ". A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.
- (6) A, a public servant, in making a report to his superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good, A is within the exception.

Caution intended for the good of the person to whom it is conveyed or for the public good..

Tenth exception.—It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

480. Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both. Punishment for defamation.

481. Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both. Printing or engraving matter known to be defamatory.

482. Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both. Sale of printed or engraved substance containing defamatory matter.

482A. Whoever, having been sentenced to a term of twelve months' imprisonment or upwards for an offence punishable under this Chapter shall again be convicted of any offence punishable under this Chapter, shall be liable for every such subsequent conviction, at the discretion of the court, to imprisonment of either description, which may extend to two years, or to fine, or to both such punishments. Punishment of persons reconvicted under this Chapter.

CHAPTER XX

OF CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE

483. Whoever threatens another with any injury to his person, reputation, or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation. Criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested is within this section.

Illustration

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

Intentional insult with intent to provoke a breach of the peace.

484. Whoever intentionally insults and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Circulating false report with intent to cause mutiny or an offence against the Republic.

485. Whoever circulates or publishes any statement, rumour, or report which he knows to be false, with intent to cause any officer, soldier, sailor, or airman in the Army, Navy, or Air Force of the Republic to mutiny, or with intent to cause fear or alarm to the public, and thereby to induce any person to commit an offence against the Republic or against the public tranquillity, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for criminal intimidation.

486. Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, &c.

and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Criminal intimidation by an anonymous communication.

487. Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding section.

Illustration

A writes an anonymous letter threatening B, and sends it to C, living with B, expecting and believing C would show the letter to B; A is guilty under this section.

488. Whoever, in a state of intoxication, appears in any public place or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Misconduct in public by a drunken person.

CHAPTER XXI

OF UNLAWFUL OATHS

489. Whoever administers or causes to be administered, or abets the administering or taking of any oath, engagement, or obligation in the nature of an oath, purporting or intending to bind the person taking the same to commit or abet the commission of any offence, or takes any such oath, engagement, or obligation, if the offence to which the oath, engagement, or obligation relates be punishable with death or imprisonment for twenty years, shall be punished with imprisonment of either description which may extend to twenty years, or with fine, or both, and if the offence is punishable with imprisonment for less than twenty years shall be punished with such punishment as may be awarded for the offence to which such oath, engagement, or obligation relates.

Administering or taking or abetting the administering or taking of an oath to commit an offence.

CHAPTER XXII

OF ATTEMPTS TO COMMIT OFFENCES

490. Whoever attempts to commit an offence punishable by this Code with imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with imprisonment of either description provided for the offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both

Punishment for attempting to commit offences punishable with imprisonment.

Illustrations

(a) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box that there is no Jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section,

(b) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z having nothing in his pocket. A is guilty under this section.

CHAPTER 58

PRIZE COMPETITIONS

-Acts
Nos. 37 of 1957,
51 of 1968.

AN ACT TO CONTROL THE PROMOTION OR CONDUCT OF PRIZE COMPETITIONS IN SRI LANKA AND TO PROHIBIT PERSONS IN SRI LANKA FROM PARTICIPATING IN PRIZE COMPETITIONS PROMOTED OR CONDUCTED OUTSIDE SRI LANKA.

[4th October, 1957.]

Short title.

1. This Act may be cited as the Prize Competitions Act.

4. (1) Every school magazine competition shall be subject to the following conditions :—

School magazine competition to be subject to certain conditions.

Tax on prize competitions.

2. (1) Parliament may, by resolution, impose a tax on the proceeds of every prize competition other than a school magazine competition. Such tax may be at different rates in respect of prize competitions of different descriptions.

(a) entries in the competition shall be made only by means of entry forms printed or published in the school magazine in or through which the competition is promoted or conducted;

[\$2.51 of 1968.]

(2) A tax at the rate of twenty per centum of the total value of the prizes offered in kind, cash or services shall be paid in respect of every commercial prize competition promoted or conducted by a trading company.

(b) the following amounts may be deducted from the proceeds of the competition;—

(i) as expenses of the competition an amount equal to the actual cost of printing and publishing such magazine;

(3) Any sum payable under this Act as tax in respect of any prize competition shall be paid by the promoter of such competition to a kachcheri within a period of thirty days reckoned from the date of the closure of entries in such competition.

(ii) an amount equal to the total value of such money prizes in the competition as are provided out of the proceeds of the competition; and

(4) If the promoter of any prize competition makes default in the payment of any sum which he is liable to pay as tax under this Act in respect of such competition, such sum may be recovered in like manner as though it were a debt due from him to the State,

(iii) an amount equal to the total actual cost or value of such other prizes in the competition as have not been donated by any person for the purposes of the competition.

Licence required for prize competition other than a school magazine competition.

3. Except under the authority of a licence, no person shall promote or conduct any prize competition in Sri Lanka other than a school magazine competition.

(2) The total value of the prizes awarded in each or all of the school magazine competitions promoted or conducted in any school in each of the three school terms of any year shall not exceed two hundred and fifty rupees.

(3) The proceeds of every school magazine competition, less the deductions

permitted by paragraph (b) of subsection (1), shall be applied for the benefit of the school.

Minister to issue licences

5. (1) Licences to promote or conduct prize competitions in Sri Lanka may, in accordance with the provisions of this Act, be issued by the Minister in his discretion after consultation with the Inspector-General of Police.

(2) The decision of the Minister to issue or to refuse to issue a licence to any applicant shall be final and conclusive and shall not be called in question in any court.

Power of Secretary applicants to furnish information documents,

6. The Secretary may direct the applicant for a licence to furnish all such information and documents as the Secretary may deem necessary for the purpose of enabling the Minister to dispose of the application, and if the applicant fails to comply with such direction, the Minister may refuse to issue a licence to the applicant,

Fees for licences,

7. (1) No licence shall be issued to any person except upon payment of such one of the prescribed fees as may be appropriate to the case. The fee for a licence shall be paid to a kachcheri and the receipt issued in respect of the payment shall be transmitted to the Secretary by the applicant for the licence.

(2) In subsection (1) the expression "prescribed" means prescribed by the Minister by Notification published in the Gazette.

Description of licences,

8. (1) A licence shall be of one of the following descriptions ;—

- (a) a society prize competition licence;
- (b) a newspaper prize competition licence; or
- (c) a commercial prize competition licence.

(2) A society prize competition licence—

- (a) may be issued only to a society, and

(b) shall authorize the society to which the licence is issued to promote or conduct in the manner specified in the licence the prize competition or each of the prize competitions so specified.

(3) A newspaper prize competition licence—

(a) may be issued only to a newspaper publisher, and

(b) shall authorize : the newspaper publisher to whom the licence is issued to promote or conduct in or through the newspaper or newspapers specified in the licence the prize competition or each of the prize competitions so specified.

(4) A commercial prize competition licence—

(a) may be issued only to a trading company, and

(b) shall authorize the trading company to which it is issued to promote or conduct, in connexion with any commercial purpose specified in the licence, the prize competition or each of the prize competitions so specified.

(5) Every licence shall specify the entrance fee for each entry in the prize competition or each of the prize competitions authorized by the licence to be promoted or conducted.

9. Every application for a licence—

Applications for licences.

(1) shall be made in writing to the Minister;

(2) shall state the name and address of the society, newspaper publisher, or trading company making the application, specify the governing body thereof, and state the name and address of each member of such body;

(3) shall specify the number of prize competitions that are proposed to

be promoted or conducted and the period of duration of each such competition;

(4) shall, if the application is for a newspaper prize competition licence, state the newspaper or newspapers in or through which the proposed competition or each of the proposed competitions is to be promoted or conducted;

(5) shall, if the application is for a commercial prize competition licence, state the commercial purpose in connexion with which the proposed competition of each of the proposed competitions is to be promoted or conducted ;

(6) shall give full particulars relating to the proposed competition or each of the proposed competitions and in particular—

(a) shall state the entrance fee for each entry in the proposed competition or each of the proposed competitions;

(b) shall, if the applicant is a society, state whether or not entries in the proposed competition or each of the proposed competitions are to be restricted to members of the society;

(c) shall, if the applicant is a society or trading company, state whether entries in the proposed competition or each of the proposed competitions are to be made by means of entry forms printed by or under the authority of, and issued by, such society or company, or prepared by the entrants, and if such forms are to be printed by or under the authority of, and issued by, such society or company, the name and address of the printer by whom such forms are to be printed;

(d) shall state the number of prizes which are to be offered in the proposed competition or in each

of the proposed competitions, and as respects each such prize—

(i) shall state whether the prize will be donated by any person for the purposes of the competition in which the prize is to be offered and, if the prize will not be so donated, whether or not the cost of providing or purchasing the prize is to be a charge on the proceeds of the competition;

(ii) shall, if the prize is a money prize, state its value by specifying either the sum of money constituting the prize or such proportion of the proceeds of the competition as will represent such value ; or

(iii) shall, if the prize is not a money prize, state the nature and value of the prize ;

(e) shall state whether or not the expenses (other than the cost of providing or purchasing prizes) incurred in the promotion or conduct of the proposed competition or each of the proposed competitions are to be a charge on the proceeds thereof;

(f) shall state the purpose or purposes to which the proceeds of the proposed competition or each of the proposed competitions are to be applied after deducting such costs and expenses as are stated in the application to be a charge on those proceeds; and

(g) shall state the name and address of the accountant who has consented to audit and certify the statement of accounts relating to the proposed competition or each of the proposed competitions.

10. Every licence shall be subject to the following conditions :—

Conditions to which all licences are subject.

- (1) no notice or advertisement of the competition promoted or conducted under the authority of the licence shall in any material particular be inconsistent with or repugnant to any provision of the licence or any statement in the entry forms issued in respect of the competition;
- (2) entries in the competition shall be made only by means of entry forms;
- (3) entries in the competition from persons outside Sri Lanka shall not be accepted;
- (4) the entrance fee for each entry in the competition shall not exceed the entrance fee specified in the licence;
- (5) no entry form in the competition shall be sold or offered for sale outside Sri Lanka;
- (6) entries in the competition shall be closed on such date as may be specified in the licence;
- (7) the competition shall be concluded on such date as may be specified in the licence or on any other date to which it may be postponed by the Secretary for good reasons upon application made in that behalf by the licensee;
- (8) a notice stating the number of each winning entry form in the competition and the name and address of the winner thereof shall, forthwith after the result of the competition is known, be published by the licensee in a Sinhala daily newspaper, a Tamil daily newspaper and an English daily newspaper circulating in Sri Lanka, and copies of such notice shall be sent by the licensee to the Secretary and the Inspector-General of Police:

Provided that—
 - (a) where the licensee is a society and entries in the prize competition are restricted by the licence to members of that society, the notice aforesaid shall, instead of being published as provided in the preceding provisions of this paragraph, be exhibited by the licensee on the premises of that society and copies of such notice shall be sent by the licensee to the Secretary and to the Inspector-General of Police; and
 - (b) where the licensee is a newspaper publisher, the notice aforesaid shall, instead of being published as provided in the preceding provisions of this paragraph, be published in the newspaper in or through which the competition was promoted or conducted and copies of such notice shall be sent by the licensee to the Secretary and to the Inspector-General of Police;
- (9) the following amounts may be deducted from the proceeds of the competition:—
 - (a) as expenses of the competition an amount not exceeding such sum or such proportion of the proceeds of the competition as may be specified in the licence;
 - (b) an amount equal to the total value of such money prizes in the competition as are provided out of the proceeds of the competition;
 - (c) an amount equal to the total actual cost or value of such other prizes in the competition as have not been donated by any person for the purposes of the competition; and
 - (d) any tax payable under this Act;
- (10) proper books of account relating to the competition shall be kept by the licensee;
- (11) such books and all other books and documents relating to the competition shall be made available

PRIZE COMPETITIONS

by the licensee at all reasonable times for the inspection of any officer authorized in that behalf by the Secretary or the Inspector-General of Police throughout the period of the promotion or conduct of the competition and for a further period of twelve months reckoned from the date of the conclusion of the competition ;

- (12) a statement of accounts relating to the competition duly audited and certified by an accountant shall, within a period of six months reckoned from the date of the conclusion of the competition, be furnished by the licensee to the Secretary and to the Inspector-General of Police ; and
- (13) such other conditions as the Minister may deem fit to insert in the licence, including in any case where the licensee is a society, a condition restricting entries in the competition or each of the competitions specified in the licence to members of the society.

Special conditions to which society and commercial prize competition licences are subject.

11. A society prize competition licence or a commercial prize competition licence shall be subject to the following conditions in addition to the conditions specified in section 10 :—

- (1) no entry form in any prize competition promoted or conducted under the authority of the licence shall be printed or published in any newspaper ;
- (2) every entry form in the competition shall be printed by a printer whose name and address are specified in the licence, unless the licence authorizes entries in the competition to be made by means of entry forms prepared by the entrants;
- (3) the entry forms in the competition shall, unless such forms are prepared by the entrants in the competition, be serially numbered ;
- (4) every entry form in the competition shall, unless it is prepared by an entrant in the competition, bear on its face—

- (a) the name and address of the licensee,
 - (b) the name and address of the printer by whom it was printed,
 - (c) the entrance fee for each entry in the competition, and
 - (d) a serial number;
- (5) where entries in the competitions are made by means of entry forms prepared by the entrants—
- (a) the entrance fee shall be paid only by cheque, money order or postal order drawn in the name of the licensee and no entry shall be allowed unless such fee is so paid; and
 - (b) a register shall be kept by the licensee containing—
 - (i) the name and address of every entrant, and
 - (ii) particulars of the cheque, money order or postal order by means of which the entrance fee is paid by each entrant; and
 - (c) the entrance fee paid for each entry in the competition shall be paid into the account of the licensee in such bank as is specified in the licence.

12. A newspaper prize competition licence shall be subject to the following conditions in addition to the conditions specified in section 10 :—

- (1) every entry form in any prize competition promoted or conducted under the authority of the licence shall be printed or published in the newspaper in or through which the competition is authorized by the licence to be promoted or conducted;
- (2) every entry form in the competition shall bear on its face—

Special conditions to which newspaper prize competition licences are subject.

(a) the name and address of the licensee, and

(b) the entrance fee for each entry in the competition;

(3) any advertisement of the competition and any list (whether complete or not) of prize winners in the competition shall not be printed or published except in the newspaper in or through which the competition is authorized by the licence to be promoted or conducted; and

(4) the competition shall be promoted or conducted in or through the newspaper in or through which the competition is authorized by the licence to be promoted or conducted.

Provided further that nothing in the preceding provisions of this subsection shall apply in any case where any action or proceeding arising out of any claim made in respect of a prize is pending before any court at the expiration of the period aforesaid until such time as that action or proceeding is finally determined and unless the effect of that determination is that the claimant is not entitled to the prize.

(2) No act done in compliance with the provisions of subsection (1) in relation to any prize in any prize competition shall subject any promoter or conductor of the competition or the Deputy Secretary to the Treasury to any action, claim, demand or liability whatsoever.

14. (1) Every member of the governing body of any such society, newspaper publisher or trading company as holds a licence under this Act shall be deemed for the purposes of this Act to promote or conduct every local prize competition under that licence.

Persons who are deemed to promote or conduct prize competitions.

(2) The head for the time being of any school in or through whose magazine a prize competition is promoted or conducted shall be deemed for the purposes of this Act to promote or conduct the competition.

15. Any act which is authorized or required to be done by or under this Act by a licensee may be done on behalf of the licensee by any person authorized in that behalf in writing by the licensee.-

Authorized representative may act on behalf of licensee.

16. No person shall take part in any foreign prize competition,

Prohibition of participation in foreign prize competition.

17. (1) Every person who contravenes— Offences.

(a) the provisions of subsection (3) of [§3 51 of 1968.] section 2, or

(b) the provisions of section 3, or

(c) the provisions of section 16,

shall be guilty of an offence.

13. (1) After the expiration of a period of six months reckoned from the date of the conclusion of any prize competition promoted or conducted under the authority of a licence, any money prize or other prize in the competition which has not been paid or delivered to the person entitled thereto by reason of the fact that he is not known shall be disposed of in the following manner:—

(a) if the prize is a money prize, the amount of the prize shall be forthwith paid by the licensee to the Government Agent of the administrative district in which such licensee resides to be credited to the Consolidated Fund of Sri Lanka;

(b) if the prize is not a money prize, it shall forthwith be sold by public auction by the licensee and the proceeds thereof shall be paid by the licensee to such Government Agent to be credited to the Consolidated Fund of Sri Lanka:

Provided that where the licensee is a society and entries in the competition are restricted by the licence to members of that society, the amount referred to in paragraph (a) of this subsection or the proceeds referred to in paragraph (b) of this subsection shall be paid to the funds of that society;

Disposal of unclaimed prizes in licensed prize competitions.

- (2) Where—
 - (a) any provision of this Act relating to any prize competition authorized by a licence is contravened, or
 - (b) any condition of a licence is not complied with in regard to any prize competition authorized by the licence, or
 - (c) any provision of this Act relating to any school magazine competition is contravened,

found in such place or premises and to seize and detain any document, money, instrument or thing found therein which he has reasonable ground to suppose is directly or indirectly connected with the commission of any offence under this Act and, if he thinks fit, to arrest any person found in such place or premises whom he has reason to suspect is guilty of any such offence.

(2) Where a police officer has reason to suspect that any offence under this Act is being or has been committed in any place or premises or that there is any document or thing directly or indirectly connected with any such offence in any place or premises and that a search warrant cannot be obtained under subsection (1) without giving the offender an opportunity of escaping or concealing evidence of the offence, he may, after recording the grounds of his suspicion, exercise all or any of the powers which could have been conferred upon him by a search warrant under subsection (1).

every person who is deemed for the purposes of this Act to have promoted or conducted such competition shall be guilty of an offence.

Punishment for offences under this Act.

18. Every person who commits an offence under this Act shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Forfeiture of money and disposal of productions before court.

19. The court before which a person is convicted of an offence under this Act in relation to any prize competition may order to be forfeited to the State any money produced before the court which is shown to the satisfaction of the court to represent the proceeds of such competition or prize money in such competition and shall order to be destroyed all documents (other than any document which is money within the meaning of this Act) produced before the court which are shown to the satisfaction of the court to relate to the promotion or conduct of such competition.

Search warrants.

20. (1) Where a Magistrate is satisfied by information on oath that there is reason to suspect that any offence under this Act is being or has been committed in any place or premises or that there is any document or thing, directly or indirectly connected with any such offence in any place or premises, he may issue a search warrant authorizing any person named therein to enter and search such place or premises at any time with such assistance and using such force as may be necessary, and to search any person

21. A copy of a licence purporting to be certified to be a true copy by the Secretary or by any officer on behalf of the Secretary may be produced in proof of the contents of that licence in any proceedings under this Act.

Proof of licence by production of certified copy.

22. A licence may, instead of being signed by the Minister, bear a facsimile of his signature affixed to the licence in the presence of the Secretary or any officer on behalf of the Secretary. The Secretary or such officer, as the case may be, shall sign the licence in token of his presence.

Affixing of facsimile of Minister's signature to licence.

23. All offences under this Act shall be cognizable offences within the meaning and for the purposes of the Code of Criminal Procedure Act.

Offences to be cognizable offences.

24. In this Act, unless the context otherwise requires—

"accountant" means any person who is registered as an auditor under the Companies Ordinance ;

"commercial purpose" means any purpose connected with or incidental to any trade or business ;

- " date of the conclusion ", in relation to any prize competition, means the date on which the result of such competition is known;
- " entrance fee ", in relation to any prize competition, means any sum payable as a fee in respect of any entry in such competition;
- " entry", in relation to any prize competition, means participation as a competitor in such competition;
- " entry form ", in relation to any prize competition, means any form or document, by whatever name called, by means of which an entry is made in such competition;
- " entrant", in relation to any prize competition, means a competitor in such competition;
- " foreign prize competition" means a prize competition promoted or conducted outside Sri Lanka;
- " governing body", in relation to any society, newspaper publisher or trading company, means the person or body of persons for the time being charged with the management or administration of that society's affairs or of the business of that newspaper publisher or trading company, as the case may be ;
- " licence " means a licence issued under this Act;
- " licensee" means a person to whom a licence is issued;
- " money" includes a currency note, cheque, postal order, money order or any security for money ;
- " newspaper" includes any journal, magazine or other periodical publication by whatever name called;
- " newspaper publisher " means any person carrying on the business of publishing one or more newspapers;
- " prize competition" means any [§4,5]of competition in which prizes in kind, ¹⁹⁶⁸⁻! cash or services are awarded but does not include a lottery;
- " proceeds", in relation to any prize competition, means the total amount paid as entrance fees in respect of entries in such competition;
- " school magazine " means any magazine, journal or other periodical publication, by whatever name called, published by or under the authority of the head of a school;
- " school magazine competition " means a prize competition promoted or conducted in or through a school magazine;
- " Secretary " means the Secretary to the Ministry charged with the subject of Home Affairs;
- " society " means—
- (a) any school, or
 - (b) any society, association or body of persons, corporate or unincorporate (other than a racing club within the meaning of the Betting on Horse-racing Ordinance or a newspaper publisher or a trading company) established or maintained—
 - (i) for the promotion or encouragement of any public, religious, philanthropic, educational or charitable purpose, or
 - (ii) for the promotion or encouragement of any game or any sporting or athletic activity; and
- " trading company " means any company registered under the Companies Ordinance* and carrying on any trade or business other than the business of publishing any newspaper.

• Repealed and replaced by the Companies Act, No. 17 of 1982.

CHAPTER 434

PRESBYTERIAN CHURCH (KANDY)

Ordinances AN ORDINANCE TO REGULATE THE TEMPORAL AFFAIRS OF THE PRESBYTERIAN
Nos.13of1845, CHURCH IN KANDY, IN SRI LANKA.
1 of 1933.

[12th December. 1845.]

Preamble. Whereas by the Ordinance No. 1 of the present year 1845,* entitled " An Ordinance to promote the building of places of Christian worship, and to provide for the maintenance of ministers of the Christian religion", it is amongst other things provided that before any sum of money shall be issued from the Colonial Treasury for the erection of any place of worship, trustees shall be elected or appointed in such manner as shall be by any future Ordinance provided, \n whom the real estate in the site of such place of worship or minister's dwelling, or both, as the case may be, and of any lands and hereditaments thereunto belonging, shall be vested upon such trusts as shall in such future Ordinance be declared: And whereas it is proposed to erect a Presbyterian place of worship in the town of Kandy, and a dwelling house for the minister of such proposed place of worship has already been erected, and it is expedient that provision should be made, as well for the original nomination of trustees as for maintaining from time to time a proper number of duly qualified trustees, in manner hereinafter mentioned, and for defining the manner in which the trusts hereby created shall be fulfilled, and otherwise for regulating the temporal affairs of the said Presbyterian church and minister's dwelling with lands and hereditaments as aforesaid:

said place of worship and minister's dwelling, or any three or more of them, shall and may at any time after the passing of this Ordinance convene a meeting of the subscribers (of the time and place of holding which fourteen days' notice shall have been previously published in the Gazette) at which meeting three persons shall be elected by majority of votes to act as trustees until Monday in the last week in December next ensuing after the said place of worship shall have been opened for Divine worship.

3. On the completion of the said place of worship, and before or so soon as shall be practicable after the same shall have been opened for Divine service, the trustees then in office shall, except as hereinafter excepted, rent out the sittings therein according to such general scale, and agreeably to such regulations for fixing the rates of seat rents, and other matters connected therewith, as shall have been agreed upon by the majority of subscribers present at the meeting held for the election of such trustees, or of any other meeting of subscribers to be especially convened by the said trustees for that purpose.

Trustees to rent out sittings in church.

4. Upon Sunday in the first week of every month of December after the said place of worship shall have been opened for Divine service, there shall be appointed for the year commencing on the first day of January then next ensuing three new trustees, of whom one shall be appointed by the minister of such place of worship for the time being, and two by a majority of the seatholders present at a meeting to be convened for that purpose by the trustees for the time being, and to be holden at such hour and place as shall be specified in a notice to be posted for that purpose in some

Annual meeting in December.

Short title. 1. This Ordinance may be cited as the Presbyterian Church (Kandy) Ordinance.

Original trustees how appointed. 2. The first or original trustees of the Presbyterian Church aforesaid shall be elected and appointed in the manner following, that is to say, the persons who have subscribed towards the erection of the

* Repealed.

conspicuous place in such place of worship for at least fourteen days previously to the day fixed for the holding of such meeting :

Provided always that nothing in this clause contained shall be construed to prevent the reappointment at any such meeting of all or any of the trustees who shall at the time of such meeting be actually in office; and

Provided further, that in case the minister shall fail to make such appointment, or the trustees shall fail to call such meeting, or in case at any time there shall not be any duly appointed trustee, it shall be lawful for the Governor to nominate so many persons as are required for completing the number of trustees to be trustees until the next ensuing annual meeting.

Vacancies in the office of trustee how filled up.

5. In case of the death, incapacity, resignation, or departure from Sri Lanka of any trustee appointed or elected under the provisions of this Ordinance before the expiration of the period for which he shall have been so appointed or elected, or in case any such trustee shall be absent from Sri Lanka, or be in a part thereof remote from the said place of worship for more than six months in succession, or shall be a confirmed person of unsound mind, or shall be or become disqualified to act in such capacity, it shall be lawful for the remaining trustees to convene a special meeting of seatholders for the election of a new trustee or new trustees, as the case may be, to supply the vacancy or vacancies so created during the remainder of that period :

Provided that no trustee shall be permitted to resign his office until he shall have duly accounted to the satisfaction of his co-trustees for all sums of money at any time received by him in his said trust; and

Provided also, that where any such vacancy shall in any year arise after the month of June, no such new appointment shall be necessary, but the powers which by this Ordinance are given to the trustees may, until the next annual meeting, continue to be exercised by the remaining trustees or trustee; and provided always that if any such vacancy shall occur among the first or original trustees before the said place of

worship shall have been opened for Divine service, it shall be lawful for the remaining trustees (subject to the approval of the Governor) to fill up the same.

6. The minister of the said church for the time being shall ex officio be entitled to be present at and to be the chairman of all meetings of the trustees, or other meetings concerning the affairs of the said church, and shall at all such meetings be privileged to vote upon any question concerning the affairs of the said church or concerning the minister's dwelling thereof; and in case there should at any such meeting be an equality of votes, the chairman, whether the minister or other person, shall have a casting vote; and the chairman of every meeting for the election of any trustees or trustee under any of the provisions of this Ordinance shall, after signing the minutes thereof, transmit the names of the persons or person so elected for the approval of the Governor.

Minister to be chairman at meetings of trustees.

7. Every person who shall be elected or appointed as trustee for the said Presbyterian church as aforesaid shall be a member of the congregation of the said church, either as a seatholder or a communicant, and above the age of twenty-one years, and any trustee ceasing to be either a seatholder or a communicant, as the case may be, shall be held *ipso facto* to have resigned his office, and thereupon a new trustee shall be elected in the manner provided by section 5 of this Ordinance.

Who may be a trustee-

8. The said first or original trustees, and all others who shall from time to time be hereafter elected as trustees under any of the provisions of this Ordinance, shall during the time of their continuance in office stand and be possessed of all the real estate in the site of such place of worship and minister's dwelling, and of the buildings constructed or to be constructed thereon, and of the lands and hereditaments thereunto belonging or appertaining, and of all sums of money already given or subscribed towards the erection of the said place of worship or minister's dwelling, and of all such sums of money as shall at any time hereafter be granted to them from the Treasury, and of all such donations and subscriptions as shall at any time hereafter

Objects of the trust-

be given or subscribed for the purpose aforesaid, or in aid of the funds of such said church, and of all rents and revenues arising from the letting of pews or sittings, and of all fees and payments for vaults, monuments, tombstones, and the like, and of all rents and revenues arising out of any of the lands or hereditaments belonging or appertaining to the said place of worship or minister's dwelling or otherwise, upon trust in the first place, and until the said place of worship shall be erected and completed, to cause the same to be erected and completed according to such plan and specification thereof as shall be approved by the Governor, and after the completion of the said place of worship to inclose the ground surrounding the same, and the minister's dwelling which has been already erected, and to do other necessary works connected therewith; and also upon trust thereafter to pay and apply the said sums of moneys, donations, subscriptions, rents, fees, and revenues for repairing, keeping up, and maintaining the said place of worship and minister's dwelling, and the said inclosure; and lastly upon trust to provide such articles as may be necessary for the proper celebration of Divine service in the said place of worship, and to pay the salaries of the clerk, servants, and officers employed in and about the same.

employed in or about such place of worship (the minister's clerk or precentor excepted, who shall in each case be appointed and removed by the minister only), and generally to manage the temporalities of such place of worship, and to fix the salaries or other remuneration of all such officers and servants (including such clerk as aforesaid): And it is also hereby declared that the said trustees shall have no power or authority to appoint or dismiss the minister of such place of worship.

11. The trustees for the time being shall upon all matters before them have each one vote, and any two of them shall form a quorum, and in the event of a difference of opinion between such trustees on any occasion, the votes of any two of them (where three are present) shall be binding upon all; or in case of an equality of votes when the trustees and the minister are all present, the minister shall possess a casting vote; and the trustees for the time being shall have power from time to time to make by-laws (such laws not being inconsistent with or repugnant to this Ordinance) for their general guidance, which laws shall be equally binding on and shall be observed by their successors until abrogated or altered by such successors.

12. At every meeting held in the first week of December as aforesaid for the appointment of trustees after the said place of worship has been opened for Divine service, two indifferent persons shall be elected by and out of the seatholders to be auditors of the accounts of the trustees then about to quit office, and in the month of January following the trustees who have so quitted office shall cause a true and particular account of their receipts and expenditure during the period they have held office, duly audited and signed by the auditors, to be transmitted to the Governor, in order that, should it be deemed expedient by him, the same may be published in the Gazette for general information.

13. It shall and may be lawful for the minister of the said church for the time being to have free access and admission to the said church, and the burial ground belonging thereto and every part thereof, at all times as he shall think fit, and freely to exercise his spiritual functions therein, without any hindrance or disturbance of the

Place of worship to be for ever holden for the purposes for which originally erected.

9. The said place of worship and minister's dwelling shall, with their respective appurtenances, be and continue to be for ever dedicated to the purposes and holden solely for the uses and be appropriated to the service of the religious denominations of Presbyterians adhering to the Westminster Confession of Faith, for which the same are or shall be originally erected.

Trustees to let pews and seats, and manage the temporalities.

10. It shall be lawful for the trustees for the time being, subject to such general rules as shall be from time to time established by the seatholders at any such annual meeting in December, to fix the amount which shall be payable for the rent of pews and seats in such place of worship, and the amount of fees which shall be payable for vaults, monuments, and tombstones, and to let such pews and seats (subject to all existing rights therein, if any) in such manner and to such persons as they the said trustees shall think fit; and to appoint, suspend, and remove all church officers and servants

trustees of the same or any person whatever; and such officiating minister shall or may, during such time as aforesaid, freely use, have, possess, and enjoy the minister's dwelling house and appurtenances belonging to the said church, and shall or may, with the consent of the trustees for the time being, but not otherwise, let the said dwelling house and appurtenances to any other person:

accrue to any person whatsoever from or by reason of any contract or agreement or any other matter or thing made or entered into, done, or performed by the said trustees in the execution of the said trust, shall be brought by such person against the trustees under the name and title aforesaid, nor shall any trustee, by reason of his being a plaintiff or defendant in any such suit, be prevented from being a witness therein.

Such possession not to confer right of property.

Provided that no such liberty of access and admission to such house of residence as aforesaid, nor occupation of the same, for any length of time whatever, shall be construed to confer any right of property in the same upon the said minister or other parties by whom such dwelling house and the appurtenances may have been so occupied, nor any right or title to retain possession of the same after such minister shall have been removed from his office, or after his resignation thereof, or during his absence from Sri Lanka or suspension from his office, nor shall the same be pleaded in bar of any ejection which may be brought by or on behalf of the trustees of the church as aforesaid for recovering possession of such house of residence and the appurtenances thereof.

15. The right of voting at every meeting convened in respect of such place of worship shall, until the said place of worship shall be opened for Divine service as aforesaid, be vested in subscribers who have paid up their subscriptions previous to the date of the notice to convene such meeting; and from and after such time as the said place of worship shall have been so opened the right of voting at every annual meeting shall be vested in renters of sittings in the said place of worship who shall have duly paid up their rent: Right of voting at meetings.

Provided always that no such subscriber or renter of sittings shall on any occasion be allowed to give more than one vote, or to give any vote except in person; and

Trustees may sue and be sued.

14. It shall be lawful for the trustees for the time being to call in and compel the payment of all sums of money which are or at any time hereafter shall be due and payable to them under and by virtue of any of the provisions of this Ordinance, and in their own names to make and enter into, perform, and execute, and compel the performance and execution of all such contracts and agreements, matters and things, and to commence and maintain all such suits and actions as they shall deem necessary to the performance of the trust reposed in them ; and all such contracts and agreements shall and may be entered into and enforced, and all such suits and actions be brought by them, in the name of " the trustees of the Presbyterian Church at Kandy " (describing the place of worship by its name after it shall have been named), without specifying the Christian or surnames of the trustees ; and no action shall abate by reason of the death or removal or going out of office of any trustee; and all suits or actions the cause of which shall arise or

Provided that no person shall be entitled to vote who shall not be at least twenty-one years of age.

16. It shall be lawful for any trustees appointed or elected under the provisions of this Ordinance to accept or take from persons willing to give the same, or from the State, subject to the provisions of any law now or hereafter to be in force relative to such gifts, any lands or premises adapted for the site of the place of worship to be erected under the provisions of this Ordinance, or of a minister's dwelling, with a garden and other appurtenances thereunto or any lands or premises adapted for the purposes of a burial ground, or any lands or premises for the maintenance of such place of worship or of the ministers thereof, and such land or premises so given shall be deemed and taken to be for ever vested in the trustees of such place of worship for the time being in trust for the purposes thereof. Trustees to take grants of lands.

PRESBYTERIAN CHURCH (KANDY)

[Cap.434]

Free sittings reserved.

17. On the completion of the said church one-sixth part of the whole number of sittings therein shall be appropriated to the use of the poor as free sittings ; and if at any future period the number of sittings in the said church shall be increased, there shall be appropriated to the use of the poor so many additional free sittings, as that the number of free sittings shall always bear the same proportion to the whole number of sittings as is hereinbefore provided.

whereas in the case of the Presbyterian church in Kandy it has been made evident that the subscribers have completed the erection of a minister's dwelling, and have expended therein the sum of six hundred and ten pounds: It is hereby enacted that the said conditions, so far as relates to the minister's dwelling, shall be regarded as having been fulfilled, and the said sum of six hundred and ten pounds shall be and is hereby held to have been paid into the Treasury.

Certain conditions of former Ordinance declared to be fulfilled.

18. And whereas in the afore-cited Ordinance it is provided that no sum of money shall be issued from the Treasury until the whole amount required to be furnished by subscription shall have been deposited in the Treasury, nor until a specification and plan of the intended place of worship or minister's dwelling, or both, as the case may be, shall have been submitted to the Governor and Executive Council and approved of by them: And

19. Any power or function vested in or assigned to the Governor by any of the preceding provisions of this Ordinance, and continuing to be exercisable by him immediately before the 4th day of February, 1948, shall, on and after that day, be exercisable by the Governor-General, and on and after the 22nd day of May, 1972, be exercisable by the President.

Powers, &c., of Governor to be exercisable by President.

CHAPTER 182

PUBLIC CORPORATIONS (FINANCIAL CONTROL)

Act
No. 38 of 1971.
(Part II)

AN ACT TO PROVIDE FOR THE FINANCIAL CONTROL OF PUBLIC CORPORATIONS AND FOR OTHER MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[19th October. 1971.]

Short title. **1.** This Act may be cited as the Public Corporations (Financial Control) Act*.

Application of provisions of this Act **2.** (1) The provisions of this Act shall apply to every public corporation notwithstanding anything to the contrary in the provisions of any other written law :

Provided, however, that the Minister in charge of the subject of Finance may from time to time, by Order published in the Gazette, exempt any public corporation from all the provisions of this Act, or from any such provisions as shall be specified in the Order.

(2) Any Order published in the Gazette by the Minister in charge of the subject of Finance under subsection (1) may be amended, revoked or replaced by a like Order.

(3) Any Order published in the Gazette by the Minister in charge of the subject of Finance under the preceding provisions of this section shall come into operation on the date of such publication, or on such later date as may be specified therein.

Effective date for implementation of this &ct. **3.** A public corporation shall give effect to the provisions of this Act from the date of commencement of the financial year 1973 or, if possible, earlier.

Financial obligations of a public corporation. **4.** (1) It shall be the duty of the governing body of a public corporation to conduct the business of the corporation so that the ultimate surpluses on revenue account shall at least be sufficient to cover the ultimate deficits on such account over a period of five years or such other period as may be determined by the Minister in

charge of the subject of Finance. In determining the ultimate surplus or ultimate deficit for each year under this section, there shall be charged against the revenue account the charges specified in section 6 and the appropriations specified in section 7.

(2) Subsidies which may be received by a public corporation from the Government in terms of section 14 shall be included in the revenue of the corporation in arriving at the surplus or deficit in any year.

5. (1) Every public corporation shall prepare a budget in respect of every financial year and such budget shall be approved by the governing body of such corporation not later than three months prior to the commencement of the financial year to which the budget relates.

Preparation of budgets of public corporations.

(2) Notwithstanding the approval of the budget by the governing body of a public corporation, no commitments of capital expenditure provided in such budget in excess of five hundred thousand rupees shall be incurred by such corporation except,—

(a) in any case where the appropriate Minister is the Minister in charge of the subject of Planning, with the prior approval of the appropriate Minister given with the concurrence of the Minister in charge of the subject of Finance ; or

(b) in any case where the appropriate Minister is not the Minister in charge of the subject of Planning, with the prior approval of the

*Sections 5 to 22 of the Finance Act, No. 38 of 1971, are reproduced, renumbered as sections 2 to 19 of this Act.

appropriate Minister given with the concurrence of both the Minister in charge of the subject of Planning and the Minister in charge of the subject of Finance,.

(3) The budget of a public corporation shall give projections of revenue and expenditure both recurrent and capital, financial resources, investments of funds, cash resources and other relevant information. Such budget shall show a budgeted profit and loss account or income and expenditure account for each financial year and a projected balance sheet showing the position at the end of that year. The form and manner in which the budget shall be prepared, and the minimum information that the budget shall contain, shall be as determined in any case where—

- (a) the appropriate Minister is the Minister in charge of the subject of Finance, by the appropriate Minister; or
- (b) the appropriate Minister is not the Minister in charge of the subject of Finance, by the appropriate Minister with the concurrence of the Minister in charge of the subject of Finance.

(4) A public corporation shall forward copies of its budget to the Ministry of the appropriate Minister, the Ministry charged with the subject of Finance and the Ministry charged with the subject of Planning immediately after the budget has been approved by the governing body of the corporation.

Revenue and determination of net surplus and net deficit.

6. (1) The revenue of a public corporation in any year shall consist of moneys received and accrued in the exercise, performance or discharge of its powers, duties or functions in respect of—

- (a) the sale of its products and services;
- (b) any subsidies received in terms of section 14; and
- (c) other sundry income including profit from the sale of capital assets.

(2) For the purpose of determining the net surplus or net deficit in any year of a public corporation, the following charges shall be set off against its revenue:—

- (a) the working, establishment and other expenses of the corporation whether paid or accrued in connexion with the exercise, performance and discharge of its powers, duties and functions, properly chargeable to revenue account;
- (b) allocations to cover the depreciation of the movable and immovable property of the corporation, based on historical cost;
- (c) the interest on any loans obtained by the corporation;
- (d) any losses incurred in the sale of capital assets;
- (e) income tax or any other tax which the corporation is required to pay under any written law; and
- (f) payment to the Consolidated Fund of a return on the capital grants of the Government at such rate, or payment to the Consolidated Fund of such amount, as may be determined, from time to time, by the Minister in charge of the subject of Finance.

7. (1) Subject to the provisions of subsection (3), the net surplus for any year, if any, out of the revenue of a public corporation after defraying the charges mentioned in section 6 may be appropriated by the corporation for all or any of the purposes to which the provisions of this subsection apply-

Appropriation of net surplus revenue of a public corporation.

(2) The provisions of subsection (1) shall apply to the following purposes:—

- (a) writing off the whole or any part of any accumulated losses brought forward,
- (b) writing off the whole or any part of the preliminary expenses incurred

in the formation of the corporation;

- (c) writing off the whole or any part of any unproductive expenditure or loss not properly chargeable to revenue account;
- (d) transfers to a loan redemption reserve which the corporation is hereby authorized to establish and maintain, and
- (e) transfers to other reserves.

(3) No appropriation shall be made by a public corporation under the preceding provisions of this section except, —

- (a) in any case where the appropriate Minister is the Minister in charge of the subject of Finance, with the approval of the appropriate Minister so, however, that, if the purpose for which such appropriation is to be made is the purpose mentioned in paragraph (e) of subsection (2), no such approval shall be given without the concurrence of the Minister in charge of the subject of Planning; or
- (b) in any case where the appropriate Minister is not the Minister in charge of the subject of Finance, with the approval of the appropriate Minister given with the concurrence of the Minister in charge of the subject of Finance so, however, that, if the purpose for which the appropriation is to be made is the purpose mentioned in paragraph (e) of subsection (2), no such approval shall be given without the concurrence also of the Minister in charge of the subject of Planning.

(4) No debits against or transfers out of any of the reserves mentioned in paragraphs (d) and (e) of subsection (2) shall be made by a public corporation except, —

- (a) in any case where the appropriate Minister is the Minister in charge of

the subject of Finance, with the approval of the appropriate Minister given with the concurrence of the Minister in charge of the subject of Planning; or

- (b) in any case where the appropriate Minister is not the Minister in charge of the subject of Finance, with the approval of the appropriate Minister given with the concurrence of both the Minister in charge of the subject of Finance and the Minister in charge of the subject of Planning.

(5) All sums remaining out of the net surplus revenue of a public corporation in any year after the appropriations mentioned in subsection (1) have been made shall be paid to the Consolidated Fund.

8. No moneys of a public corporation shall be invested except, —

Investment of moneys of a public corporation.

- (a) in any case where the appropriate Minister is the Minister in charge of the subject of Finance, with the approval of the appropriate Minister; or
- (b) in any case where the appropriate Minister is not the Minister in charge of the subject of Finance, with the approval of the appropriate Minister given with the concurrence of the Minister in charge of the subject of Finance :

Provided, however, that any temporary surpluses of cash of a public corporation shall be deposited by the corporation in the General Treasury, and shall be refundable on demand made by the corporation.

9. A public corporation shall cause proper accounts of the income and expenditure, assets and liabilities and of all other transactions of the corporation to be kept. A public corporation shall prepare an annual statement of accounts and statistics relating to the activities of the corporation in such form and containing such particulars as,—

Accounts of a public corporation.

- (a) in any case where the appropriate Minister is the Minister in charge of

the subject of Finance, the appropriate Minister may from time to time specify; or

- (b) in any case where the appropriate Minister is not -the Minister in charge of the subject of Finance, the appropriate Minister may from time to time specify with the concurrence of the Minister in charge of the subject of Finance,

10. (1) The Auditor-General shall be the auditor for every public corporation. For the purpose of assisting him in the audit, the Auditor-General may, if he thinks it necessary to do so, employ the services of any qualified auditor or auditors who shall act under his direction and control.

(2) For the purpose of meeting the expenses incurred by him in the audit of the accounts of a public corporation, the Auditor-General shall be paid by the corporation such remuneration as the appropriate Minister may, with the concurrence of the Minister in charge of the subject of Finance, determine. Any remuneration received from the corporation by the Auditor-General shall, after deduction of any sums paid by him to any qualified auditor or auditors employed by him for the purposes of such audit, be credited to the Consolidated Fund.

(3) The Auditor-General shall inspect the accounts, the finances, the management of the finances and the property of a public corporation. The Auditor-General shall as far as possible, and as far as necessary, examine—

- (a) whether the organization, systems, procedures, books, records and other documents have been properly and adequately designed from the point of view of financial control purposes and from the point of view of the presentation of information to enable a continuous evaluation of the activities of the corporation, and whether such systems, procedures, books, records and other documents are in effective operation;

- (b) whether the conduct of the corporation has been in accordance with the law, rules and regulations relevant to the corporation and whether there has been fairness in the administration of the corporation;

- (c) whether there has been economy and efficiency in the commitment of funds and utilization of such funds ;

- (d) whether systems of keeping moneys and the safeguarding of property are satisfactory;

- (e) whether the accounts audited have been so designed as to present a true and fair view of the affairs of the corporation in respect of the period under consideration due regard being had to principles of accountancy, financing and valuation; and

- (f) any such other matters as he may deem necessary.

(4) The Auditor-General shall at his discretion determine the nature and extent of the audit that shall be carried out in any particular period in respect of any particular public corporation, and may at his discretion dispense with the audit of any particular aspect or aspects relevant to a particular public corporation in the period under review.

(5) The Auditor-General shall have—

- (a) the right of access to any books, records, documents and any type of information which is directly or indirectly related to the activities of a public corporation under audit as he deems necessary;

- (b) the right -to call for such information, documents, explanations, reports or other material at any time as in his opinion are necessary for the purposes of the audit;

- (c) the right to summon any person for examination, and for the

Rendering of accounts and audit.

production of any documents where such examination or production is considered necessary for the purposes of the audit;

- (d) the right to require the corporation to settle its minimum internal audit programmes by agreement with the Auditor-General, and the right to give any directions to the corporation with regard to the conduct of the minimum internal audit programmes and the manner of reporting by the internal audit.

The corporation or any person shall comply with any request made by the Auditor-General in the exercise of his above-mentioned rights.

(6) The accounts of a public corporation for each financial year shall be submitted to the Auditor-General for audit within four months after the close of that year along with any report on the accounts which the Auditor-General may require to be submitted in the manner specified by him. Any such corporation which contravenes or fails to comply with the preceding provisions of this subsection shall be guilty of an offence under this Act and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees.

(7) (a) The Auditor-General shall submit a report to the Chairman of each public corporation within eight months after the close of the financial year to which the report relates dealing with the results of the audit including a report on the accounts examined in the year. Copies of such report shall be forwarded by him where—

- (i) the appropriate Minister is the Minister in charge of the subject of Finance, to the appropriate Minister; or
- (ii) the appropriate Minister is not the Minister in charge of the subject of Finance, to both the appropriate Minister and the Minister in charge of the subject of Finance.

(b) The Auditor-General may, if he thinks it necessary to do so, also submit to

the Chairman of each public corporation interim reports at any time dealing with matters arising from the audit.

(c) The Auditor-General shall, within ten months after the close of the financial year, submit a report to Parliament on the results of the audit carried out in respect of each public corporation drawing attention to matters which in his opinion would be of interest to Parliament.

(8) The reports referred to in paragraphs (a) and (b) of subsection (7) shall be considered by the governing body of a public corporation and after such consideration that body shall inform the Auditor-General of the steps that they propose to take with regard to the matters pointed out in the audit reports within three months of the submission of the reports to the corporation.

(9) For the purposes of this section, the expression " qualified auditor " means—

- (a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute; or
- (b) a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise, as an Accountant issued by the Council of such Institute;

and includes—

- (i) a person, not being an employee of the public corporation under audit or directly or indirectly associated with the direction and management of the affairs of such corporation, who may be engaged by the Auditor-General to assist him in the examination of any technical, professional or scientific problem relevant to the audit, or

- (ii) any technical or professional or scientific institution, not being an institution which has any interest in the management and affairs of such corporation, whose services the Auditor-General may obtain to assist him in the examination of any technical, professional or scientific problem relevant to the audit.
- (c) any comments or observations made by the Auditor-General which the Auditor-General considers should be published with the annual report of the corporation;
- (d) the statement of accounts and statistics prepared under section 9; and

(10) Where a public corporation is guilty of an offence under this Act by reason of a contravention of the provisions of subsection (6), every member of the governing body of that corporation shall be deemed to be guilty of that offence:

- (e) the annual report of the corporation referred to in subsection (1) in its final form.

Provided, however, that a member of the governing body of such corporation shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence,

(3) The appropriate Minister shall lay copies of the documents transmitted to him under subsection (2) before Parliament before the end of ten months following the year to which such report and accounts relate.

(4) A public corporation shall cause copies of the documents referred to in subsection (2) to be printed at the expense of the corporation and to be made available for purchase by the public at such price as shall be determined by the corporation.

Accounts and reports to be laid before Parliament.

11. (1) A public corporation shall, immediately after the end of each financial year of the corporation, prepare a draft annual report on the exercise, discharge and performance by the corporation of its powers, functions and duties during that year and of its policy and programme. Such report shall set out any directions given by the appropriate Minister to the corporation during the year. Copies of such report shall, within four months after the end of that year, be submitted to the appropriate Minister and to the Minister in charge of the subject of Finance (if he is not the appropriate Minister), the Minister in charge of the subject of Planning and the Auditor-General.

12. The appropriate Minister may direct the governing body of a public corporation to give effect to such recommendations made by the Public Accounts Committee in its reports to Parliament relating to the corporation as may be determined by the Minister.

Recommendations of the Public Accounts Committee.

13. (1) The governing body of a public corporation may, subject to the provisions of subsections (2), (3) and (4), borrow by way of overdraft or otherwise or negotiate and obtain on credit terms in Sri Lanka or abroad, such sums as that body may require for meeting the obligations of the corporation or carrying out its objects.

Borrowing powers of a corporation.

(2) A public corporation shall, on receipt of the audited accounts in respect of any year, cause a copy of each of the following documents relating to that year to be transmitted to the appropriate Minister:—

(2) .The governing body of a public corporation shall not exercise the borrowing powers conferred un it by subsection (1), except,—

- (a) the audited balance sheet,.
- (b) the audited operating and profit and loss accounts,
- (a) in any case where the appropriate Minister is the Minister in charge of the subject of Finance, with the concurrence of the- appropriate Minister, or in accordance with the

terms of any general authority given with the concurrence of the appropriate Minister; or

(b) in any case where the appropriate Minister is not the Minister in charge of the subject of Finance, with the concurrence of both the appropriate Minister and the Minister in charge of the subject of Finance, or in terms of a general authority given with like concurrence.

(3) The aggregate of the amounts outstanding in respect of any borrowings by the governing body of a public corporation under the preceding provisions of this section shall not at any time exceed,—

(a) in any case where the appropriate Minister is the Minister in charge of the subject of Finance, such sum as may be determined by him ; or

(b) in any case where the appropriate Minister is not the Minister in charge of the subject of Finance, such sum as may be determined by the appropriate Minister with the concurrence of the Minister in charge of the subject of Finance.

(4) Where any liability in respect of foreign exchange will be incurred if the governing body of a public corporation exercises the borrowing powers conferred on it by subsection (1), then, such body shall not exercise such powers without the prior concurrence of the Minister in charge of the subject of Planning.

14. (t) A public corporation may be entitled to claim a subsidy from the Government for any year if as a result of any decision of the Government or of any directions issued by the appropriate Minister the governing body of the corporation is prevented from determining during any particular period a pricing policy for the corporation to meet the financial obligations referred to in section 4. Such subsidy shall not in any case exceed an amount which, when added to the revenue for that year, shall enable the corporation to meet the said financial obligations.

Subsidies from the Government.

(2) Every claim for a subsidy by a public corporation in terms of the preceding provisions of this section shall, not later than a period of three months after the end of the year to which the subsidy relates, be referred,—

(a) in any case where the appropriate Minister is the Minister in charge of the subject of Finance, for decision to the appropriate Minister; or

(b) in any case where the appropriate Minister is not the Minister in charge of the subject of Finance, for decision to the Minister in charge of the subject of Finance through the appropriate Minister who shall make his recommendations on such claim.

(3) The Minister in charge of the subject of Finance shall decide on the subsidy to be paid to a public corporation and the manner of such payment.

15. The capital contributed to a public corporation by the Government by way of grants shall not be reduced except on the authority of a resolution introduced in Parliament by the appropriate Minister and passed by Parliament.

Reduction of capital of a public corporation.

16. Where the appropriate Minister considers that the "activities of a public corporation should be terminated, the Minister may, under the authority of a resolution passed by Parliament—

Dissolution of a public corporation

(a) dissolve the corporation ; and

(b) appoint one or more persons to be the liquidator or liquidators of the corporation.

17. The liquidator of a public corporation appointed under section 16 shall, subject to the directions of the appropriate Minister, have power to—

Liquidator's powers

(a) decide any questions of priority which arise between the creditors ;

(b) compromise any claim by or against the corporation with the sanction of the Minister previously obtained ;

- (c) take possession of the books, documents and assets of the corporation;
- (d) sell the property of the corporation with the previous sanction of the Minister; and
- (e) arrange for the distribution of the assets of the corporation in a manner set out in a scheme of distribution approved by the Minister.

Closure of liquidation,

18. (1) In the liquidation of a public corporation, the funds of the corporation shall be applied first to the cost of liquidation and then to the discharge of the liabilities of the corporation.

(2) When the liquidation of a public corporation has been closed, a notice of liquidation shall be published in the Gazette and no action in respect of any claim against the corporation shall be maintainable, unless it is commenced within two years from the date of the publication of such notice in the Gazette.

(3) Any surplus remaining after the application of funds to the purposes specified in subsection (1) and the payment of any claim for which an action has been instituted under subsection (2) shall be vested in the Secretary to the Treasury-

19. In this Act, unless the context otherwise requires—

"appropriate Minister", in any context relating to a public corporation or any object or function of the corporation, means the Minister to whom the subject of the corporation, or of that object or function, as the case may be, has been assigned by the President;

"Auditor-General" means the Auditor-General, and includes any member of his staff acting under his authority;

"governing body ", in relation to a public corporation, means the board of directors, or other body of persons by whatsoever name or designation called, charged with the management or administration of the affairs of the corporation;

"public corporation" means any corporation, board or other body which was or is established by or under an written law, other than the Companies Ordinance*, with capital wholly or partly provided by the Government by way of grant, loan or other form.

* Later repealed and replaced by the Companies Act, No. 17 of 1982 — See the 1985 Supplement to the Revised Edition.

CHAPTER 18

PRIMARY COURTS' PROCEDURE

AN ACT TO REGULATE THE PROCEDURE IN PRIMARY COURTS AND TO MAKE PROVISION FOR CONNECTED MATTERS.

Acts Nos. 44 of 1979

[2nd July, 1979.]

Short title.

1. This Act may be cited as the Primary Courts* Procedure Act.

5. Where it is made to appear to the Court of Appeal on an application by one of the parties or otherwise that any civil action or proceeding instituted in a Primary Court may owing to the circumstances or questions involved be more appropriately tried before the District Court having local jurisdiction, it shall be lawful for the Court of Appeal to call for and inspect the record or journal of such action or proceeding and to stay the proceedings in the Primary Court and to make order transferring such case to such District Court for hearing and determination. Upon such order being communicated to the Judge of the Primary Court in whose court the action or proceeding is pending he shall stop the further progress of the action or proceeding and transmit the record of that action or proceeding and all connected papers to the District Court specified in the order. Thereupon such District Court shall proceed to hear, try and determine such action or proceeding as if it were an action or proceeding instituted in that District Court and shall have and be vested with full power and jurisdiction so to do.

Power of Court of Appeal to transfer case to District Court.

PART I GENERAL

The civil and criminal jurisdiction of Primary Courts to be exclusive.

2. The civil and criminal jurisdiction of Primary Courts shall, subject to the provisions of this and any other written law, be exclusive.

Duty of courts in cases within exclusive jurisdiction of Primary Courts.

3. Where in any case, whether civil or criminal instituted before a District Court or a Magistrate's Court, it appears to such court at any stage of the proceedings that the case is one within the exclusive jurisdiction of a Primary Court, the court may stop the further progress of the case and refer the parties to such Primary Court, and where such case is a civil case, may also make such order as to costs as may seem just.

Right of Court of Appeal or Attorney-General to direct transfer of criminal case to Magistrate's Court.

4. (1) Where a criminal prosecution or proceeding for an offence within the exclusive jurisdiction of a Primary Court is pending in such court it shall be lawful, where it is deemed to be appropriate in the circumstances, for the Court of Appeal on an application by any party interested or for the Attorney-General, to direct the transfer of such prosecution or proceeding to a Magistrate's Court specified in such direction.

(2) Where a direction made under subsection (1) is communicated to the Judge of the Primary Court in whose court such case is pending, he shall stop the further progress of the case and transmit the case record and all connected papers to the Magistrate's Court specified in such direction.

(3) The Magistrate's Court referred to in subsection (2) shall proceed to hear, try and determine such case transferred to it as if it were a prosecution or proceeding instituted in that Magistrate's Court and shall have and be vested with full power and jurisdiction so todo.

6. Where it is made to appear to any Primary Court- (a) in regard to any prosecution for any offence pending before it that in the circumstances of the case the offence cannot adequately be punished by any penalty which the Primary Court is authorized by law to impose; or (b) in regard to any civil action or proceeding pending before it that the action or proceeding may more appropriately be tried before a District Court,

Judge of the Primary Court to report cue more appropriately triable elsewhere to Court of Appeal for order.

it shall be the duty of the Judge of such Primary Court to suspend the further hearing of the prosecution or civil action or proceeding, as the case may be, and to report it to the Court of Appeal with a view to obtaining an order under section 4 or section 5.

Where case is beyond jurisdiction duty to refer party to competent court.

7. (1) Where it appears in the course of any prosecution, civil action or proceeding before a Primary Court that such prosecution, action or proceeding is not within its jurisdiction, it shall be the duty of such Primary Court to stop the proceedings and to refer the party by whom the prosecution, action or proceeding was instituted to the competent court.

(2) Where a Primary Court stops the proceedings in any prosecution, civil action or proceeding and refers the party by whom the prosecution, civil action or proceeding was instituted to the competent court under subsection (1), that prosecution, civil action or proceeding shall not operate as a bar to the institution of a prosecution, civil action or proceeding in the competent court in respect of the same offence or matter.

PART II

POWERS OF PUNISHMENT

Sentences which a Primary Court may pass.

8. (1) A Primary Court may pass any of the following sentences-

- (a) imprisonment of either description for a term not exceeding three months;
- (b) fine not exceeding two hundred and fifty rupees;
- (c) whipping with a light cane if the offender is under sixteen years of age;
- (d) any lawful sentence combining any two of the sentences aforesaid.

(2) In the event of default of payment of any fine imposed on an accused the Judge of the Primary Court may subject to the provisions of this Part-

- (a) where the amount of the fine does not exceed twenty-five rupees sentence the accused to imprisonment of either description for a term not exceeding seven days;
- (b) where the amount of the fine exceeds twenty-five rupees but does not exceed fifty rupees sentence the accused to imprisonment of either description for a term not exceeding fourteen days;
- (c) where the amount of the fine exceeds fifty rupees sentence the accused to imprisonment of either description for a term not exceeding one month.

(3) Anything in this section shall not be construed as derogating from any special powers of punishment that may be given to a Primary Court by this or any other law.

9. Notwithstanding anything in this Act, the Penal Code or any other written law to the contrary, a Primary Court shall not sentence any person to imprisonment, whether in default of payment of a fine or not, for a term which is less than seven days.

10. A Primary Court may, in any circumstances in which it is empowered by any written or other law to sentence an offender to imprisonment, whether in default of payment of a fine or not, in lieu of imposing a sentence of imprisonment order that the offender be detained in the precincts of the court until such hour on the day on which the order is made, not being later than 4 p.m. as the court may specify in the order.

11. (1) A Primary Court may award such term of imprisonment in default of payment of a fine as is authorized by law in case of such default, provided that the term awarded is not in excess of the court's power under this Act.

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the court under section 8.

12. (1) A Primary Court may, in lieu of imposing a sentence of imprisonment on conviction of an accused person or in lieu of imposing a sentence of imprisonment on an accused person in default of payment of a fine, enter an order hereinafter referred to as a "community service order" directing the accused person to perform stipulated service at a named place in a State or State-sponsored project or establishment.

(2) A community service order entered under subsection (1) shall be carried out in such manner as the Judge of that court may direct.

(3) The duration of a community service order shall not be more than three months.

(4) If the convicted person in respect of whom a community service order has been entered fails to attend at the place named or having attended fails to do the stipulated

service or is irregular in attendance or does not work to the satisfaction of the person in charge or control of the place named or otherwise fails to comply with the order, then it shall be lawful for the Primary Court to revoke it and impose such sentence of imprisonment as it thinks fit.

(5) Throughout the duration of the community service order, the person in charge or control of the place named shall forward, every month to the Primary Court which entered the order, a report on the attendance and work of the convicted person and stating whether the order is being or has been complied with and such report shall be final and conclusive on such questions.

Suspended sentence of imprisonment.

13. (1) Where a Primary Court imposes a sentence of imprisonment on an offender it may order that the sentence shall not take effect unless during the period of eighteen months from the date of the order the offender commits another offence punishable with imprisonment.

(2) Where a Primary Court makes an order under subsection (1) of this section, the provisions of the Code of Criminal Procedure Act relating to suspended sentences of imprisonment other than subsections (1) and (2) of section 303 of that Act shall apply, *mutatis mutandis*, to that order, and for that purpose the period of eighteen months referred to in subsection (1) of this section shall be deemed to be the "operational period" referred to in those provisions.

Sentence in case of conviction for several offences at one trial.

14. (1) When a person is convicted at one trial of any two or more distinct offences the Primary Court may subject to subsection (3) sentence him for such offences to the several punishments prescribed therefor which the court is competent to inflict; such punishments when consisting of imprisonment to commence, unless the court orders them or any of them to run concurrently, the one after the expiration of the other in such order as the court may direct;

Provided that the aggregate punishment shall not exceed twice the amount of punishment which such court in the exercise of its ordinary jurisdiction is competent to inflict.

(2) For the purpose of appeal aggregate sentences passed under this section in case of conviction for several offences at one trial shall be deemed to be a single sentence.

(3) The provisions of sections 55 and 67 of the Penal Code shall apply to all offences whatever.

15. Whenever a Primary Court acquits or discharges the accused and declares that the complaint was frivolous and vexatious, it shall be lawful for such court to order the complainant to pay-

Payment of costs and compensation when complaint is frivolous or vexatious.

(a) State costs in a sum not exceeding fifty rupees; and

(b) compensation in a sum not exceeding fifty rupees to the accused or to each accused if there are more than one accused.

16. Whenever any person is convicted of any offence or where a Primary Court holds the charge proved but proceeds to deal with the offender without convicting him, the court may order the offender to pay within such time or in such instalments as the court may direct, such sum by way of compensation not exceeding two hundred rupees to any person affected by the offence as to the court shall seem fit. Any sum awarded under this section and section 15 shall be recoverable as if it were a fine imposed by the court:

Payment of compensation upon conviction.

Provided that if the offender is under the age of sixteen years, the court may if it thinks fit order the payment under this section to be made by the parent or guardian of such offender.

17. Whenever a Primary Court imposes a fine or passes a sentence of which fine forms a part the court may order the whole or any part of the fine recovered to be paid to the person affected by the offence.

Court may order payment of the fine paid or part of it to injured party.

18. Whenever a Primary Court holds that the charge is proved but is of opinion that having regard to the character, antecedents, age, health or mental condition of the person charged or the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment or any other than a nominal punishment or that it is expedient to

Power of court to permit conditional release of offenders.

discharge the offender conditionally as hereinafter provided, the court may without proceeding to conviction-

- (a) order such offender to be discharged after such admonition as to the court shall seem fit;
- (b) order such offender to pay State costs not exceeding fifty rupees;
- (c) order compensation under section 16 ;
- (d) discharge the offender conditionally on his entering into a recognizance with or without sureties to be of good behaviour, and to appear for conviction and sentence when called on at any time during such period, not exceeding eighteen months, as may be specified in such order ;
- (e) deal with the offender under the provisions of the Probation of Offenders Ordinance.

Conditions of recognizance.

19. A recognizance under section 18 may contain such conditions as the court may, having regard to the particular circumstances of the case, order to be inserted therein with respect to all or any of the following matters :-

- (a) for prohibiting the offender from associating with thieves and other undesirable persons, or from frequenting undesirable places;
- (b) as to abstention from intoxicating liquor, where the offence was drunkenness or an offence committed under the influence of drink;
- (c) generally for securing that the offender should lead an honest and industrious life;
- (d) providing that the offender, with his surety or sureties, if any, shall appear in chambers before the Judge of the Primary Court at such intervals as may be specified in the order;
- (e) directing the payment of compensation and State costs as provided in sections 16 and 18.

Power of court to vary conditions of recognizance.

20. The court before which any person is bound by his recognizance under this Act to appear for conviction and sentence may vary the conditions of the recognizance, and may,

on being satisfied that the conduct of that person has been such that the recognizance should be discharged, discharge the recognizance.

21. (1) If the court before which an offender is bound by his recognizance under section 18 to appear for conviction and sentence is satisfied on information that the offender has failed to observe any of the conditions of his recognizance it may issue a summons for the attendance of the offender and his sureties (if any) before it.

Provision in case of offender failing to observe conditions of recognizance.

(2) If upon such summons the attendance of the offender and his sureties (if any) cannot be procured the court may issue a warrant for such purpose.

(3) When the offender appears or is brought before the court before which the offender is bound by his recognizance to appear for conviction and sentence that court on being satisfied after summary inquiry that he has failed to observe any condition of his recognizance may forthwith convict and sentence him for the original offence; or, if the case was one in which the court in the first instance might under the Children and Young Persons Ordinance, have ordered the offender to be sent to an approved or certified school, and the offender is still apparently under the age of sixteen years, make such an order.

22. In lieu of ordering any male person under the age of sixteen years to be fined or imprisoned, a Primary Court may order such person to be whipped in accordance with the provisions of the Corporal Punishment Ordinance and section 294 of the Code of Criminal Procedure Act:

Whipping in certain cases.

Provided that a Judge of a Primary Court shall not have power to order more than six strokes with a light cane to be inflicted on any such person.

23. (1) Where a person has been sentenced to a fine only and to imprisonment in default of payment of the fine a Primary Court may do all or any of the following things :-

Fine may be paid in instalments.

- (a) allow time for the payment of the fine;
- (b) direct payment of the fine to be made by instalments;

(c) direct that the person liable to pay the fine shall be at liberty to give to the satisfaction of the court a bond with or without a surety or sureties, for the payment of the fine or any instalment thereof.

(2) Where a fine is directed to be paid by instalments and default is made in the payment of any one instalment the same proceedings may be taken as if default had been made in the payment of all the instalments then remaining unpaid.

PART III

OF THE MODE OF INSTITUTION OF CRIMINAL PROSECUTIONS

Mode of institution of prosecution.

24. Every criminal prosecution or proceeding for an offence triable by a Primary Court shall be instituted in the Primary Court within the local limits of whose jurisdiction the offence was committed:

Provided that where an offence is committed partly within the local limits of a Primary Court and partly within the local limits of another Primary Court, a criminal prosecution or proceeding in respect of that offence may be instituted in any of such courts.

Institution of proceedings in Primary Courts.

25. (1) A criminal prosecution or proceeding may be instituted in a Primary Court by presenting or transmitting a written complaint duly signed to the court by the complainant or the complainant may state his case orally to the Judge of such court who shall reduce it into writing and obtain the complainant's signature to it or cause it to be reduced into writing and signed and the statement so taken down in writing shall be the complaint in the case :

Provided that where the complainant is a local authority, the complaint may be signed by the chief executive officer of such local authority or by any officer of such local authority duly authorized to appear on behalf of such local authority. In this proviso " local authority " shall have the same meaning as in the Constitution.

(2) Every such complaint shall be dated and sealed with the seal of the court and

numbered in the order in which it was received, and shall form the commencement of the proceedings in respect thereof.

26. (1) Where proceedings have been instituted in a Primary Court, the court shall, if an offence is disclosed issue summons on the person or persons accused where such person or persons are not already before court.

Issue of summons or warrant.

(2) If the summons cannot be served or the accused person or persons are absconding or likely to abscond, the court may issue a warrant.

27. Every Primary Court shall for the purpose of the exercise of its jurisdiction have full power to issue summons, warrants and other processes on persons accused before it and on witnesses and other persons whose attendance the court considers necessary and to compel the production of documents as nearly as may be in the manner provided for in the Code of Criminal Procedure Act in respect of cases instituted in a Magistrate's Court.

Power of court to issue process.

28. (1) When the accused appears, the Judge of the Primary Court shall-

Procedure when accused appears.

(a) on the basis of the particulars in the complaint frame a charge ; and

(b) read and explain the charge to him and ask him if he has cause to show against it and if he makes an unqualified admission of guilt, pass sentence or make other order according to law.

(2) If the accused does not make an unqualified admission of guilt or if he refuses to plead or if he pleads not guilty, the Judge shall proceed in the manner set out in section 31.

29. (1) It shall be lawful for the complainant at any time before the verdict is given to move to withdraw the complaint and thereupon the Judge shall allow the motion and acquit the accused.

Withdrawal of charge.

(2) If the complainant is absent without excuse on any day the case is called in open court whether for the hearing or for any other

Absence of complainant

purpose the Judge of the Primary Court may acquit the accused unless he thinks proper to postpone the case for some other day. On ordering such postponement the Judge may order a sum not exceeding fifty rupees to be paid to the accused as costs :

Provided however that if the complainant appears in reasonable time and satisfies the Judge of the Primary Court that his absence was due to sickness, accident or some other cause over which he had no control, such Judge shall cancel any order made under this subsection.

(3) The accused may, for reasons to be recorded in writing, be discharged by the Judge at any time before verdict;

Provided, however, that the Judge may in his discretion consult the Attorney-General, prior to such discharge.

Primary Court to transmit proceedings to Attorney-General when required.

30. The Judge of a Primary Court shall whenever required in writing by the Attorney-General forthwith transmit to the Attorney-General the proceedings in any criminal case in which a trial has been or is being held before him :

Provided that the Attorney-General shall return the record to the Court not later than one month after it is received by him.

Procedure at bearing.

31. (1) It shall be the duty of the Judge of the Primary Court to inquire orally into the charge and, where appropriate by all lawful means to endeavour to bring the parties to an amicable settlement. If the parties agree to compound such offence or offences the Judge shall notwithstanding anything to the contrary in any other law, allow them to do so and make a record of the terms on which the case was compounded and after the accused has complied with such terms, record the fact and acquit the accused.

(2) If the parties refuse to compound the case, then the Judge shall proceed to try the case.

Legal representation.

32. Every accused person and every complainant shall be entitled to be represented by an attorney-at-law ;

Provided, however, that a public officer who has filed a complaint in his official capacity shall be entitled to be represented by

the Attorney-General or a State Counsel or any attorney-at-law specially or generally authorized by the Attorney-General but in the absence of such representation the public officer himself or any other public officer of the Department interested in the prosecution or with the permission of the court, an attorney-at-law may conduct the prosecution :

Provided further that an officer of any Municipality, Urban Council, Town Council or Village Council may appear in person or by an attorney-at-law to conduct the prosecution in any case in which the Municipality, Urban Council, Town Council or Village Council is interested.

33. (1) The trial in a Primary Court shall be held in the manner provided for in the Code of Criminal Procedure Act for trials in a Magistrate's Court. Procedure at trial.

(2) The provisions of sections 279 and 283 of the Code of Criminal Procedure Act shall apply to every judgment of a Primary Court and the provisions of sections 289 and 290 of that Act shall apply to every sentence of imprisonment passed by a Primary Court.

34. (1) At any stage of the trial, the Primary Court may make such order as it thinks fit for the disposal of any document or other property produced before it. Disposal of documents and productions.

(2) When an order is made under subsection (1) in a case in which an appeal lies, such order shall not (except when the property is livestock or is subject to speedy and natural decay) be carried out until the period allowed for presenting such appeal has passed, or when such appeal is presented within such period, until such appeal has been disposed of, Stay of disposal order pending

35. The Judge of the Primary Court may, if he deems it necessary, at any stage after the appearance of parties, adjourn the hearing of the trial until he has had an opportunity of inspecting the scene of the offence or any property in respect of which the offence is alleged to have been committed. Notice of the time and place of such inspection shall be duly given by the Judge to the parties, and such notice shall state that the parties are entitled to be present at the inspection. inspection of scene.

Absence of Judge.

36. In the event of the absence of the Judge of a Primary Court without arrangements being made for an acting Judge, it shall be competent for the Registrar of the court to call and postpone to any other date all such cases, whether instituted under this Part or Part IV, as may be fixed before the court for the period during which the Judge is absent.

41. The plaintiff may unite in the same complaint two or more causes of action when they all arise-

What causes of action may be joined.

- (a) out of the same transaction or transactions connected with the same subject of action ; or
- (b) against the same defendant or defendants.

But it must appear on the face of the complaint that all the causes of action so united are consistent with each other, that they entitle the plaintiff to the same kind of relief, and that they affect all the parties.

PART IV

OF THE MODE OF INSTITUTION OF CIVIL ACTIONS

Institution of action.

37. Subject to the pecuniary or other limitations prescribed by any law, action may be instituted in the Primary Court within the local limits of whose jurisdiction the plaintiff or defendant or where there are two or more plaintiffs or defendants, any one of them resides.

42. Upon such complaint being filed as aforesaid the Primary Court shall appoint a day for the appearance of the defendant, and shall inform the plaintiff thereof; and shall also issue a summons for the appearance of the defendant.

Summons to issue.

Filing of complaint.

38. An action may be instituted in a Primary Court by presenting or transmitting a written statement in plain or concise language duly signed to the court by the plaintiff or the plaintiff may state his case orally to the Judge of such court who shall reduce it into writing and obtain the plaintiff's signature to it or cause it to be reduced into writing and signed and the statement so taken down in writing or the statement presented or transmitted to the court shall be deemed to be the complaint in the case.

PROCEEDINGS ON APPEARANCE

43. (1) At the place and on the day specified in the summons the defendant shall be called upon to admit or deny the plaintiff's claim.

The defendant to appear and admit or deny the claim.

(2) If the defendant shall admit the claim, the Judge of the Primary Court shall enter such admission on the record and shall require the defendant to sign the same and enter judgment for the plaintiff:

if the defendant admits the claim.

Pleadings.

39. The pleadings in a Primary Court shall be limited to the following :-

- (a) the complaint of the plaintiff;
- (b) the answer and claim in reconvention (if any) of the defendant;
- (c) the plaintiff's reply to the defendant's claim in reconvention.

But where there is no claim in reconvention there shall be no further pleadings beyond the answer.

Provided that it shall be lawful for a defendant who cannot conveniently attend the court, to forward his admission to the Registrar of the court signed by himself in the presence and under the attestation of an attorney-at-law known to him and upon the receipt and entry of such admission the Judge shall enter judgment for the plaintiff accordingly.

(3) If the defendant shall deny the claim, the Judge of the Primary Court shall fix the case to be called for a pre-trial hearing.

If the defendant denies the claim.

Complaint to be numbered.

40. The complaint shall bear the names and residences of the parties and the date on which it is filed and shall be numbered in the order in which it was filed.

(4) On the day fixed for pre-trial hearing the Judge of the Primary Court shall wherever appropriate endeavour by every lawful means to conciliate the parties and settle the dispute.

Examination of parties.

44. (1) The parties may at this stage of the proceedings be examined orally by the Judge of the Primary Court with a view to-

- (i) ascertaining the points at issue between them and of dispensing with any unnecessary evidence, and
- (ii) inducing the parties to an amicable settlement, removing the cause of disagreement between them and conciliating them.

(2) If every lawful endeavour to conciliate the parties had failed the court shall fix a date for the defendant to file his answer. The answer shall be filed, *mutatis mutandis*, in the manner set out in section 38.

Of the claim in reconvention.

45. If the defendant pleads a claim in reconvention with his answer, the plaintiff shall be called upon to admit or deny the same. If he denies the claim in reconvention, the plaintiff shall be required forthwith, or at such further time as the court shall fix, to plead thereto, and the provisions of section 38 shall, so far as applicable, *mutatis mutandis*, apply to the plaintiff's reply to the defendant's claim in reconvention :

Of the reply thereto.

Provided that the plaintiff shall not set out in his reply new matter amounting to a new cause of action if he could have pleaded the same in his original plaint.

Fixing the case for trial.

46. After the answer is filed, or, if the answer discloses a claim in reconvention, after the plaintiffs reply, if any, thereto is filed, the Judge of the Primary Court shall fix the case for trial.

Immaterial variance to be disregarded.

47. A variance between an allegation in a pleading and the proof shall be disregarded as immaterial unless such proof discloses a new cause of action, or the court is satisfied that the adverse party has been misled thereby to his prejudice.

Legal representation.

48. Every party to an action or proceeding shall be entitled to legal representation.

Framing of issues.

49. The court shall at the trial frame the issues on which the right decision of the case appears to depend after questioning the parties and ascertaining the matters on which they are at variance- Issues need not strictly

accord with the pleadings and the court may allow an adjournment if necessary to the adverse party in consequence of new questions being raised in the issues but an amendment of pleadings shall not be allowed.

50. (1) The trial shall be held in the manner prescribed in the Civil Procedure Code for trials in regular actions in a District Court.

(2) The provisions of the Civil Procedure Code relating to judgments and decrees and the execution of decrees shall, *mutatis mutandis*, apply to judgments and decrees of a Primary Court.

51. Where in any proceeding before any Primary Court any defence or claim in reconvention of the defendant involves matter beyond the jurisdiction of the court, such defence or claim in reconvention shall not affect the competence or duty of the court to dispose of the matter in controversy so far as relates to the demand of the plaintiff and the defence thereto, but any relief exceeding that which the court has jurisdiction to grant shall not be given to the defendant upon any such claim in reconvention :

Provided always that in such case it shall be lawful for the Court of Appeal or any Judge thereof, if it shall be thought fit, on the application of any party to the proceeding, to direct that the action be transferred from the court in which it shall have been instituted to the District Court having jurisdiction over the whole matter in controversy; and in such case the Judge of the Primary Court shall transmit the record to the District Court specified in the order and the proceeding shall be continued and prosecuted in the District Court as if it had been originally commenced therein.

52. (1) The Primary Court shall have jurisdiction to summon and examine all witnesses touching the causes being tried or heard by it and if necessary to issue warrants for the apprehension and production before it of any party or witness and to deal with them according to law.

And also jurisdiction to order any party or witness or other person to produce or cause to be produced any document or thing before it provided there is no bar or privilege under

Procedure at trial.

Claim in reconvention.

Power to summon witnesses and issue warrants.

any other law in force for the time being which excuses non-production of such document or thing.

(2) The provisions of the Civil Procedure Code relating to summons and warrants shall apply as nearly as possible to summons and warrants issued under subsection (1) of this section and section 42.

OF DEFAULT OF APPEARANCE

Proceedings on default of appearance of plaintiff.

53. (1) If upon the day specified in the summons for the appearance of the defendant or upon any day fixed for the hearing of the action the plaintiff shall not appear or sufficiently excuse his absence, the plaintiff's action may be dismissed.

Provided that if the defendant appears when called upon under section 43 shall admit the claim of the plaintiff, the Judge of the Primary Court shall enter judgment for the plaintiff according to law.

On default of appearance of defendant.

(2) If upon the day specified in the summons or upon any day fixed for the hearing of the action the defendant shall not appear or sufficiently excuse his absence, while the plaintiff appears the Judge of the Primary Court, upon due proof of service of the summons, notice, or order requiring such appearance, may enter judgment by default against the defendant.

Judgment by default may be opened up in certain cases.

(3) If the defendant shall within a reasonable time, after such judgment, by affidavit or otherwise, with notice to the plaintiff satisfy the Judge of the Primary Court that he was prevented from appearing in due time by accident, misfortune, or other unavoidable cause, or by not having received sufficient information of the proceedings, and that he did not absent himself for the purpose of avoiding service of the summons or notice, and that he has a good and valid defence on the merits of the case, then the Judge may set aside such judgment and any proceedings had thereon, and may admit the defendant to proceed with his defence upon such terms as the Judge may think fit.

If neither party appears action to be dismissed.

(4) If upon the day specified in the summons or if upon any day fixed for the hearing of the action neither party appears when the case is called the Judge of the Primary Court shall enter judgment dismissing the plaintiff's action, but without costs.

(5) When an action has been dismissed under the provisions of subsection (1) or subsection (4) and the plaintiff has by affidavit or otherwise with notice to the defendant satisfied the Judge of the Primary Court that he was prevented from appearing by accident, misfortune, or other unavoidable cause, the Judge may grant to the plaintiff permission to institute a fresh action upon such terms as may be fixed by the court, and where permission is so granted the action dismissed under subsection (1) or subsection (4) shall not operate as a bar to the institution of a fresh action.

Plaintiff may be granted permission to institute a fresh action.

(6) An appeal shall not lie against any judgment or order entered under this section for default of appearance, anything in this or any other law to the contrary notwithstanding.

An appeal from judgment or order by default not available.

PARTY

APPEALS FROM PRIMARY COURTS TO THE COURT OF APPEAL

54. (1) Subject to subsection (4) every appeal from a judgment, conviction, sentence, decree or final order of a Primary Court shall be by petition and presented to the Judge of the Primary Court, save as otherwise provided in subsection (5), within fourteen days of the date of entering of the judgment, conviction, sentence, decree or final order appealed against.

Appeals.

(2) Such petition of appeal shall be in writing and state shortly the grounds of appeal and be signed by the appellant or his attorney-at-law.

(3) Every such petition of appeal shall bear a stamp to the value of five rupees but where the appellant is the Attorney-General such stamp shall not be necessary.

(4) An appeal shall not lie from an acquittal by a Judge of the Primary Court except at the instance of or with the written sanction of the Attorney-General.

(5) Where the Attorney-General prefers an appeal against any judgment, sentence or final order pronounced by a Primary Court in any criminal case or matter or where the appeal is from an acquittal with the sanction of the Attorney-General, the time within which the petition of appeal must be

preferred shall be twenty-eight days from the date of entering of the judgment, sentence or order.

Procedure on receiving appeal.

55. (1) The Judge of the Primary Court shall certify on the face of the petition of appeal the date on which it was received, cancel the stamp and with the least possible delay cause the petition of appeal and the record of the case to be forwarded to the Court of Appeal.

(2) If the appellant had been committed to prison in pursuance of the judgment, sentence or final order appealed from, he shall forthwith on lodging his appeal be released on bail to appear before the Primary Court on any date notified to him and abide the order in appeal. If such appellant fails to furnish the bail ordered he may be remanded to the custody of a Superintendent of Prisons.

56. (1) The Registrar of the Court of Appeal shall on receipt of the record number and register the appeal and cause sufficient copies of the record and petition of appeal to be prepared. The appeal shall thereafter be entered on the list of appeals and shall come on for hearing on a day of which at least one month's notice shall have been given to the appellant and the other parties.

(2) The parties to the appeal shall be entitled to a copy of the record and the petition of appeal on payment therefor at the rate of twenty-five cents for every folio of one hundred words:

Provided that the Attorney-General shall be issued his copy of the record and petition of appeal free of any charge.

Hearing of the appeal.

57. (1) At the hearing all parties shall be entitled to appear or be represented by their respective attorneys-at-law.

(2) When the appeal comes on for hearing, the appellant if present shall be first heard in support of the appeal and then the respondent, if present, shall be heard against it.

(3) If the appellant does not appear to support his appeal, the Court of Appeal shall consider the appeal and may make such order thereon as it may deem fit.

58. Upon appeal the Court of Appeal may- Power of the Court of Appeal on appeals.

(a) in a criminal case -

(i) affirm the judgment, conviction, sentence or final order appealed from and dismiss the appeal; or

(ii) allow the appeal and set aside the judgment, conviction, sentence or final order appealed from and order a retrial or acquit the appellant or make such other order as may be appropriate; or

(iii) vary the judgment, conviction, sentence or final order appealed from or reduce or enhance the sentence or the nature thereof; where the sentence is enhanced, the sentence shall not exceed the sentence which a Primary Court could impose ; or

(iv) where the appeal is from an order of acquittal reverse such order and direct a new trial;

(b) in a civil case -

(i) affirm the judgment, decree or order and dismiss the appeal; or

(ii) allow the appeal and set aside the judgment, decree or order; or

(iii) vary the judgment, decree or order; and

(iv) order costs in an amount which seems to the court to be reasonable.

59. (1) On the termination of the hearing of the appeal the Court of Appeal shall either at once or on some future day which shall then be appointed for the purpose, deliver judgment in open court. Judgment in appeal to be given in open court.

(2) On the day so fixed, if the court is not prepared to give its judgment, a yet further day may be appointed and announced for the purpose.

(3) A Judge may pronounce a judgment written and signed by another Judge, but not pronounced.

63. In computing the time within which Computation of an appeal shall be preferred under this Part time. the day on which the judgment, decree, sentence, conviction, or final order appealed against was pronounced or entered shall be included, but all public holidays shall be excluded.

Older of the Court of Appeal to be certified to Primary Court.

60. (1) Whenever a case is decided on appeal the Court of Appeal shall certify its order under its seal to the Primary Court and shall return to such court the record and petition of appeal accompanied by a copy of the reasons given for the order.

(2) The Primary Court to which the order of the Court of Appeal is certified shall thereupon make such orders as are conformable to the order so certified and if necessary the record shall be amended in accordance therewith.

Abatement of appeals.

61. Every appeal in a criminal case shall finally abate on the death of the accused.

Court of Appeal may call for record and make order.

62. (1) The Court of Appeal may of its own motion or on application by any aggrieved party call for and examine the record of any case whether already tried or pending in a Primary Court for the purpose of satisfying itself as to the legality or propriety of any sentence or order passed thereon or as to the regularity of the proceedings of such court.

(2) In any such case, the Court of Appeal may make any of the orders referred to in section 58.

(3) An order under this section may not be made in a criminal case to the prejudice of the accused unless he has had an opportunity of being heard either personally or by his attorney-at-law.

(4) Anything in this section shall not be construed to authorize the Court of Appeal to convert a finding of acquittal into one of conviction.

(5) Except as hereinbefore provided, a party shall not have any right to be heard either personally or by attorney-at-law before the Court of Appeal when exercising its powers of revision:

Provided that the court may, if it thinks fit, when exercising such powers, hear any party either personally or by attorney-at-law.

(6) The provisions of section 60 shall apply in respect of the orders made by the Court of Appeal in the exercise of its powers of revision.

PART VI

STAMPS AND COSTS IN CIVIL ACTIONS

64. All documents filed in a civil action instituted in a Primary Court shall be exempt from the payment of stamp duty under the Stamp Ordinance: Stamp duty ia civil actions. [2,49 of 1980.]

Provided, however, that in any such action, there shall be affixed to the plaint of the plaintiff, the answer of the defendant and the plaintiffs reply to the defendant's claim in reconvention, as the case may be, a stamp to the value of one rupee.

65. Every Primary Court shall have power upon the determination of a civil action to award to a plaintiff or defendant costs in an amount which seems to the court to be reasonable. Costs.

PART VII

INQUIRIES INTO DISPUTES AFFECTING LAND WHERE A BREACH OF THE PEACE IS THREATENED OR LIKELY

66. (1) Whenever owing to a dispute affecting land a breach of the peace is threatened or likely- Reference of disputes affecting land.

(a) the police officer inquiring into the dispute-

(i) shall with the least possible delay file an information regarding the dispute in the Primary Court within whose jurisdiction the land is situate and require each of the parties to the dispute to enter into a bond for his appearance before the Primary Court on the day immediately succeeding the date of filing the information on which sittings of such court are held ; or

PRIMARY COURTS' PROCEDURE

(ii) shall, if necessary in the interests of preserving the peace, arrest the parties to the dispute and produce them forthwith before the Primary Court within whose jurisdiction the land is situate to be dealt with according to law and shall also at the same time file in that court the information regarding the dispute; or

(b) any party to such dispute may file an information by affidavit in such Primary Court setting out the facts and the relief sought and specifying as respondents the names and addresses of the other parties to the dispute and then such court shall by its usual process or by registered post notice the parties named to appear in court on the day specified in the notice-such day being not later than two weeks from the day on which the information was filed.

(2) Where an information is filed in a Primary Court under subsection (1), the Primary Court shall have and is hereby vested with jurisdiction to inquire into, and make a determination or order on, in the manner provided for in this Part, the dispute regarding which the information is filed.

(3) On the date on which the parties are produced under subsection (1) or on the date fixed for their appearance under that subsection, the court shall appoint a day which shall not be later than three weeks from the date on which the parties were produced or the date fixed for their appearance directing the parties and any persons interested to file affidavits setting out their claims and annexing thereto any documents (or certified copies thereof) on which they rely.

(4) The court shall, not later than one week of the filing of the information, cause a notice to be affixed in some conspicuous place on the land or part of the land which is the subject-matter of the dispute announcing that a dispute affecting the land has arisen and requiring any person interested to appear in court on the date specified in such notice, such date being the day on which the case is next being called in court:

Provided that where the information has been filed by a police officer, the notice referred to in the preceding provisions of this subsection shall also require that the person interested shall, in addition to appearing in court, file affidavits setting out his claims and annexing thereto any documents (or certified copies thereof) on which he relies.

(5) Where any affidavits and documents are filed on the date fixed for filing them, the court shall, on application made by the parties filing affidavits, grant such parties time not exceeding two weeks for filing counter-affidavits with documents if any. The Judge of the Primary Court shall permit such parties or their attorney-at-law to peruse the record in the presence of the Registrar for the preparation of the counter-affidavits.

(6) On the date fixed for filing affidavits and documents, where no application has been made for filing counter-affidavits, or on the date fixed for filing counter-affidavits, whether or not such affidavits and documents have been filed, the court shall before fixing the case for inquiry make every effort to induce the parties and the persons interested (if any) to arrive at a settlement of the dispute and if the parties and persons interested agree to a settlement the settlement shall be recorded and signed by the parties and persons interested and an order made in accordance with the terms as settled.

(7) Where the parties and persons interested (if any) do not arrive at a settlement, the court shall fix the case for inquiry on a date which shall not be later than two weeks from the date on which the case was called for the filing of affidavits and documents or counter-affidavits and documents, as the case may be.

(8) (a) Where a party or person interested is required to enter an appearance under this Part he may enter such appearance by an attorney-at-law.

(b) Where a party fails to appear or having appeared fails to file his affidavit and also his documents (if any) he shall be deemed to be in default and not be entitled to participate at the inquiry but the court shall consider such material as is before it respecting the claims of such party in making its determination and order.

Inquiry to be held in summary manner.

67. (1) Every inquiry under this Part shall be held in a summary manner and shall be concluded within three months of the commencement of the inquiry.

(2) The Judge of the Primary Court shall deliver his order within one week of the conclusion of the inquiry.

(3) Pending the conclusion of the inquiry it shall be lawful for the Judge of the Primary Court to make an interim order containing any provision which he is empowered to make under this Part at the conclusion of the inquiry.

Determination and order of Judge of the Primary Court when dispute is in regard to possession.

68. (1) Where the dispute relates to the possession of any land or part thereof it shall be the duty of the Judge of the Primary Court holding the inquiry to determine as to who was in possession of the land or the part on the date of the filing of the information under section 66 and make order as to who is entitled to possession of such land or part thereof.

(2) An order under subsection (1) shall declare any one or more persons therein specified to be entitled to the possession of the land or the part in the manner specified in such order until such person or persons are evicted therefrom under an order or decree of a competent court, and prohibit all disturbance of such possession otherwise than under the authority of such an order or decree.

(3) Where at an inquiry into a dispute relating to the right to the possession of any land or any part of a land the Judge of the Primary Court is satisfied that any person who had been in possession of the land or part has been forcibly dispossessed within a period of two months immediately before the date on which the information was filed under section 66, he may make a determination to that effect and make an order directing that the party dispossessed be restored to possession and prohibiting all disturbance of such possession otherwise than under the authority of an order or decree of a competent court.

(4) An order under subsection (1) may contain in addition to the declaration and prohibition referred to in subsection (2), a

direction that any party specified in the order shall be restored to the possession of the land or any part thereof specified in such order.

69. (1) Where the dispute relates to any right to any land or any part of a land, other than the right to possession of such land or part thereof, the Judge of the Primary Court shall determine as to who is entitled to the right which is the subject of the dispute and make an order under subsection (2).

(2) An order under this subsection may declare that any person specified therein shall be entitled to any such right in or respecting the land or in any part of the land as may be specified in the order until such person is deprived of such right by virtue of an order or decree of a competent court, and prohibit all disturbance or interference with the exercise of such right by such party other than under the authority of an order or decree as aforesaid.

70. An order made under this Part may also contain such other directions as the Judge of the Primary Court may think fit with regard to the furnishing of security for the exercise of the right of possession of the land or part of it or for the exercise of any right in such land or with regard to the sale of any crop or produce or the manner of exercise of any right in such land or the custody or disposal of the proceeds of the sale of any crop or produce.

71. Where the parties to the dispute do not appear before court or having appeared or been produced do not file any affidavits whether with or without documents annexed the court shall-

- (a) in a case where the dispute is in regard to possession make order permitting the party in possession to continue in possession, and
- (b) in a case where the dispute is in regard to any other right, make order permitting the *status quo* in regard to such right to continue.

72. A determination and order under this Part shall be made after examination and consideration of-

- (a) the information filed and the affidavits and documents furnished;

Determination and order of Judge of the Primary Court when dispute is in regard to any other right

Security for possession or exercise of any right may be ordered.

Order where no party appears.

For determination of Judge of the Primary Court, material on which he may act.

- (d) such other evidence on any matter arising on the affidavits or documents furnished as the court may permit to be led on that matter; and
- (c) such oral or written submission as may be permitted by the Judge of the Primary Court in his discretion.

75. In this Part "dispute affecting land" includes any dispute as to the right to the possession of any land or part of a land and the buildings thereon or the boundaries thereof or as to the right to cultivate any land or part of a land, or as to the right to the crops or produce of any land, or part of a land, or as to any right in the nature of a servitude affecting the land and any reference to "land" in this Part includes a reference to any building standing thereon.

Penalty for contravention of or failure to comply with order.

73. Any person who acts in contravention of or fails to comply with an order made under this Part shall be guilty of an offence and shall on conviction by a Judge of the Primary Court be liable to imprisonment of either description for a term not exceeding six months or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

76. The Fiscal of the court shall where necessary execute all orders made under the provisions of this Part.

PART VIII

Casus Omissus

Order not to affect right or interest which maybe established in civil suit.

74. (1) An order under this Part shall not affect or prejudice any right or interest in any land or part of a land which any person may be able to establish in a civil suit; and it shall be the duty of a Judge of a Primary Court who commences to hold an inquiry under this Part to explain the effect of these sections to the persons concerned in the dispute.

78*. If any matter should arise for which no provision is made in this Act, the provisions in the Code of Criminal Procedure Act governing a like matter where the case or proceeding is a criminal prosecution or proceeding and the provisions of the Civil Procedure Code governing a like matter where the case is a civil action or proceeding shall with such suitable adaptations as the justice of the case may require be adopted and applied.

(2) An appeal shall not lie against any determination or order under this Part.

* Section 77 omitted.

CHAPTER 382

PUBLIC EXAMINATIONS

Act AN ACT TO MAKE MORE EFFECTIVE PROVISIONS FOR THE PROPER CONDUCT OF
No. 25 of 1968, PUBLIC EXAMINATIONS, FOR THE PUNISHMENT OF OFFENCES COMMITTED IN
Law CONNEXION WITH SUCH PUBLIC EXAMINATIONS, AND FOR ALL MATTERS
No. 15 of 1976. CONNECTED THEREWITH OR INCIDENTAL THERETO.

[16th June. 1968.]

Short title. **1.** This Act may be cited as the Public Examinations Act. or examinations held by Government-sponsored bodies.

Administration of this Act. **2.** (1) The Commissioner of Examinations, hereafter in this Act referred to as "the Commissioner", and the other officers of the Department of Examinations shall be responsible for the administration of this Act. (2) The Commissioner shall have the power to issue certificates or awards to candidates who are successful at any examination referred to in subsection (1). (3) The examinations referred to in subsection (1) shall be conducted on syllabuses and books prescribed—

[§ 2, Law 15 of 1976.] (2) The Commissioner may delegate any of his powers or duties under this Act or any regulation made thereunder, to the Deputy Commissioner or to any Assistant Commissioner or to any Superintendent of Examinations of the Department of Examinations or to any Regional Director of Education or to any Chief Education Officer. (a) in the case of General Education Examinations, by the Director-General of Education in consultation with the Schools Examinations Advisory Committee;

Advisory Committees. **3.** (1) There shall be a Schools Examinations Advisory Committee and a Technical Examinations Advisory Committee, constituted by the Minister in accordance with regulations that may be made in that behalf. (b) in the case of Technical Education Examinations, by the Director-General of Education in consultation with the Technical Examinations Advisory Committee;

(2) The Minister may, in accordance with regulations made in that behalf, constitute any other Advisory Committee in respect of any particular public examination or a group of public examinations. (c) in the case of examinations referred to in paragraph (b) of subsection (1), by the Government department or the Government-sponsored body concerned, in consultation with the Director-General of Education.

Powers of the Commissioner. **4.** (1) The Commissioner shall, subject to the provisions of subsection (3), have the power to organize and conduct— **5.** (1) Any person who—

- (a) General Education Examinations and Technical Education Examinations other than those pertaining to Higher Educational Institutions, and
- (b) any other Government examinations held by Government departments
- (a) not being a candidate entitled to sit for any public examination, fraudulently or dishonestly, sits for such examination as a candidate entitled to sit therefor, or
- (b) being a candidate entitled to sit for such examination, fraudulently or dishonestly, enters in his answer

Impersonation at public examinations.

script the index number which is allotted to any other candidate,

any such mark register, he shall be guilty of an offence under this Act.

shall be guilty of an offence under this Act.

(2) In the case of a fraudulent or dishonest entry of an index number under paragraph (b) of subsection (1), the "other candidate" referred to in that paragraph shall also be guilty of an offence under this Act if he aided, abetted or connived at such fraudulent or dishonest entry.

(4) If any person who is conducting or supervising any public examination on behalf of the Commissioner or who is an invigilator at such examination, fraudulently or dishonestly, aids or assists, directly or indirectly, any candidate to answer a question paper at such examination, he shall be guilty of an offence under this Act.

Question papers to be secret documents.

6. (1) Every question paper that is set for any public examination shall, for the purposes of this Act, be a secret document from the time such paper is set until the lapse of half an hour from the time fixed for the commencement of the answering of such paper by candidates at that examination, and the words " secret document " wherever it appears hereafter in this Act shall be construed accordingly.

8. If any person who is entrusted with the duty of printing or making by manual or mechanical means any secret document or any other document relating to any public examination, or any person whose duty is to assist such first-mentioned person in his duties, fraudulently or dishonestly secretes, makes away with or disposes of such secret document or such other document or part thereof or makes a copy of such secret document or such other document or part thereof, he shall be guilty of an offence under this Act.

Theft or disposal of secret documents, &c.

(2) Any person who, fraudulently or dishonestly, delivers a secret document or part thereof, or communicates any information relating to the contents of a secret document or part thereof, to any other person who is not a person to whom he is authorized to deliver such document or communicate such information, shall be guilty of an offence under this Act.

9. If any person who is charged with the receipt, custody or despatch of any secret document, or any answer script, mark register or other document relating to a public examination, fraudulently or dishonestly, breaks open or destroys any sealed packet, package, box, safe or other receptacle containing any such document or takes out any such document or part thereof therefrom, he shall be guilty of an offence under this Act.

Destruction or tampering with secret document, &c.

Divulging of information relating to, or making fraudulent alterations in, answer scripts or mark registers.

7. (1) If any examiner appointed for a public examination or a person entrusted with the filling up of mark registers relating to such examination, fraudulently or dishonestly, divulges any information relating to the answer scripts or mark registers to any other person who is not a person to whom he is authorized to divulge such information, he shall be guilty of an offence under this Act.

10. If any person entrusted with the delivery or transmission of any secret document or any answer script, mark register or other document relating to any public examination, fraudulently or dishonestly, delivers or transmits such document to any person who is not a person to whom he is authorized to deliver or transmit such document, he shall be guilty of an offence under this Act.

Fraudulent misdelivery of secret document, &c.

(2) If any person who is entrusted with the duty of collecting answer scripts at any public examination, fraudulently or dishonestly, makes any erasures, interpolations, or any other alterations in any such answer script, he shall be guilty of an offence under this Act.

11. If any person, except with lawful authority, whereof the burden of proof shall lie on him, has in his possession, or distributes or sells or offers for sale or distribution, any secret document or a copy thereof or a part of such document or copy or what is purported to be a secret document or copy thereof or part of such document or copy, he shall be guilty of an offence under this Act.

Being in possession of, and sale of, secret documents.

(3) If any person who is entrusted with the duty of preparing, tabulating or checking the mark registers of candidates at any public examination, fraudulently or dishonestly, makes any erasures, interpolations or any other alterations in

Dishonesty at public examination.

12. (1) If any candidate at any public examination copies from or holds dishonest communication with any other person or uses dishonest means in the answering of any question paper, such candidate shall be guilty of an offence under this Act.

(2) If any person, at a public examination, fraudulently or dishonestly has in his possession any answer script or part thereof or any document which purports to be an answer script or part thereof, which has been written or prepared fraudulently or dishonestly, he shall be guilty of an offence under this Act.

Divulging of information relating to examiners, and dishonest transmission of answer scripts to particular examiners.

13. If any person, fraudulently or dishonestly,—

- (a) communicates any information regarding the identity of any examiner appointed or to be appointed to set any question paper, or any information relating to the transmission of question papers or answer scripts, to any person who is not a person to whom he is authorized to communicate such information, or
- (b) transmits for the purpose of assessment a particular answer script to a particular examiner being an examiner to whom he is not authorized to transmit such answer script, or
- (c) is in possession of any document containing or purporting to contain the marks or the results relating to a public examination,

he shall be guilty of an offence under this Act.

Use of faked documents.

14. (1) If any person uses as genuine any schedule of results, pass list, certificate, or other document issued by the Commissioner, which has been altered, defaced, or otherwise tampered with, he shall be guilty of an offence under this Act.

(2) If any person uses as genuine a certificate or other document purporting to be a certificate or other document issued by the Commissioner, and which is not a genuine certificate or other document so issued, such person shall be guilty of an offence under this Act.

15. Whoever abets another person to commit an offence under this Act, shall himself be guilty of an offence under this Act.

Abetment of offences.

16. Whoever attempts to commit an offence under this Act and in such attempt does any act towards the commission of the offence, he shall be guilty of an offence under this Act.

Attempts to commit offences.

17. Every offence under this Act or any regulation made thereunder shall be triable summarily by a Magistrate and any person who is convicted of such an offence shall be liable to a fine not exceeding two thousand rupees and to a term of imprisonment of either description not exceeding one year.

Punishment for offences under this Act.

18. Notwithstanding anything in the Code of Criminal Procedure Act, every offence under this Act shall be a cognizable offence within the meaning and for the purposes of that Act.

Offences to be cognizable.

19. No prosecution under this Act shall be entered in respect of an offence under this Act except with the written sanction of the Commissioner.

Prosecution only with consent of Commissioner.

20. The Commissioner shall have the power—

Powers of the Commissioner with regard to disciplinary control.

- (a) to set out the conditions, rules, and restrictions to which persons who offer themselves as candidates for public examinations shall be subject;
- (b) of disciplinary control, in his absolute discretion, over examiners, invigilators, candidates and all persons engaged by him for the purpose of the conduct of public examinations at any stage;

(c) to impose, in his absolute discretion, after such inquiry as may be made in that behalf, any restrictions or disabilities in regard to sitting for public examinations by candidates or to cancel or impound any certificates issued to any candidate, where such candidate has violated any rule, condition or restriction referred to in paragraph (a) or been convicted of an offence under this Act or any regulation made thereunder.

Oath of
secrecy.

21. Except in the performance of any duty or function or the exercise of any power under this Act or any regulation made thereunder, every person entrusted with any power, duty or function in connexion with any public examination shall preserve and aid in preserving secrecy with regard to all matters relating to such examination that may come to his knowledge, and shall not communicate any such matter to any person other than the person to whom he is authorized to communicate it, or offer or permit any unauthorized person to have access to any secret document or other document in his possession, custody, or control. Every such person employed in the performance of any duty or function or the exercise of any power under this Act or any regulation made thereunder relating to any public examination shall, before acting in such capacity, take and subscribe before a Justice of the Peace or a Commissioner for Oaths an oath of secrecy in a form prescribed by the Commissioner. The Commissioner may prescribe different forms of oaths of secrecy for different persons in accordance with the functions that are to be performed by such persons.

Regulations.

22. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of any of the following matters:—

- (a) all matters in respect of which regulations are required or authorized to be made;
- (b) the nature and scope of public examinations and the certificates, duplicates of such certificates or awards, which may be given to successful candidates;
- (c) the mode of appointment and the duties and emoluments of examiners and the payment and other conditions subject to which examiners may be appointed;

- (d) all matters relating to the standard of public examinations and the mode of conduct of such examinations;
- (e) the constitution, powers, duties and functions of—
 - (i) the Schools Examinations Advisory Committee;
 - (ii) the Technical Examinations Advisory Committee; and
 - (iii) any other committee which the Minister may set up in relation to any specified public examination or group of public examinations.

(3) No regulation made under this Act shall have effect until it is approved by Parliament and notification of such approval is published in the Gazette.

23. In this Act, unless the context otherwise requires—

"Chief Education Officer" has the same meaning as in the Education Ordinance; [§ 3, Law 15 of 1976.]

"examiner", in relation to any public examination, means a person who is appointed to set a question paper or a person who is appointed to read answer scripts and assign marks to them;

"Higher Educational Institution" has the same meaning as in the Universities Act;

"public examination" means any examination referred to in paragraph (a) or paragraph (b) of subsection (1) of section 4 of this Act;

"Regional Director of Education" has the same meaning as in the Education Ordinance; [§ 3, Law 15 of 1976.]

"regulation" means a regulation made by the Minister.

CHAPTER 385

PIRIVENA EDUCATION

Act No. 64 of 1979. AN ACT TO PROVIDE FOR THE REORGANIZATION OF PIRIVENA EDUCATION; FOR THE ESTABLISHMENT OF A PIRIVENA EDUCATION BOARD; FOR THE REGISTRATION, MAINTENANCE AND ADMINISTRATION OF PIRIVENAS AND FOR THE ESTABLISHMENT OF PIRIVENA TRAINING INSTITUTES AND FOR CONNECTED MATTERS.

[1st October, 1980.]

Short title. **1.** This Act may be cited as the Pirivena Education Act.

PART I

AIMS AND OBJECTS OF PIRIVENA EDUCATION

Objects of Pirivena Education. **2.** The objects of Pirivena Education shall be to provide educational facilities—

- (a) to *bhikkhus*; and
- (b) to male lay pupils over fourteen years of age who are desirous of following a course of studies imparted in a Pirivena and who wish to receive their education in a Buddhistenvironment.

Aims of Pirivena Education. **3.** The aims of Pirivena Education shall be-

- (a) to foster an interest among *bhikkhus* in the protection and progress of the threefold Sasane namely, Pariyatti, Patipaththi, Pativedha;
- (b) to foster discipline, knowledge in the Tripitaka and devotion to Dhamma among *bhikkhus* in order to maintain the order of *bhikkhus* descending from the lineage of Sariputtra and Moggallana Maha Theras;
- (c) to give a training in practical knowledge, necessary for the Dhamma dutha activities in Sri Lanka and abroad and in other services appropriate to *bhikkhus*; and

- (d) to provide facilities for *bhikkhus* to acquire a thorough knowledge in various subjects and languages including Buddhist Philosophy, Buddhist Culture, Buddhist History, Sinhala, Pali and Sanskrit-

PART II

PIRIVENA EDUCATION BOARD

4. (1) There shall be established a Pirivena Education Board to be called the Pirivena Education Board (hereinafter referred to as the "Board") consisting of the following members:—

- (a) the Mahanayake Thera of the Malwatte Chapter of the Siam Nikaya or any other *bhikkhu* of that Nikaya nominated by him;
- (b) the Mahanayake Thera of the Asgiriya Chapter of the Siam Nikaya or any other *bhikkhu* of that Nikaya nominated by him;
- (c) the Mahanayake Thera of the Sri Lanka Amarapura Nikaya or any other *bhikkhu* of that Nikaya nominated by him;
- (d) the Mahanayake Thera of the Sri Lanka Ramanya Nikaya or any other *bhikkhu* of that Nikaya nominated by him;
- (e) the Director-General,
- (f) the Director in charge of Pirivena Education;

- (g) three *bhikkhus*, who have experience in Pirivena Education, nominated by the Minister; and
- (h) three laymen, who profess Buddhism and who have considerable experience in Buddhist Education and Buddhist activities, nominated by the Minister.

(2) The members of the Board shall at the first meeting of the Board elect from among its members a *bhikkhu* to be the Chairman of the Board.

(3) The Director in charge of Pirivena Education shall be the Secretary of the Board.

(4) The Chairman shall preside at the meeting of the Board. In the absence of the Chairman at any meeting of the Board, the members of the Board shall elect from among themselves a *bhikkhu* to preside at that meeting,

(5) A person shall be disqualified for being nominated or being a member of the Board if he—

- (a) is bankrupt or has been adjudicated an insolvent; or
- (b) has been found guilty of any criminal offence involving moral turpitude; or
- (c) is under any law for the time being in force found or declared by a court of competent jurisdiction to be of unsound mind.

(6) Every member of the Board nominated by the Minister under paragraph (g) or paragraph (h) of subsection (1) (hereinafter referred to as "nominated member") shall subject to the provisions of subsections (7), (8) and (9), hold office for a period of three years from the date of nomination and shall be eligible for renomination:

Provided, however, that a person who is nominated in place of a nominated member who resigns or dies or otherwise vacates office shall, unless he earlier resigns, dies or

otherwise vacates office, hold office for the unexpired part of the term of office of the member whom he succeeds.

(7) Any nominated member may resign his office by letter in that behalf addressed to the Minister.

(8) The Minister may remove from office any nominated member without assigning any reason therefor.

(9) Any nominated member shall vacate office if he absents himself without the permission of the Chairman from three consecutive meetings of the Board.

(10) Where any member of the Board becomes by reason of illness or other infirmity or absence from Sri Lanka temporarily unable to perform the duties of his office then—

- (a) if he is the Mahanayake Thera of any of the Nikayas specified in paragraphs (a) to (b) of subsection (1), a *bhikkhu* nominated by that Mahanayaka Thera or where he is unable to nominate a *bhikkhu* a *bhikkhu* elected by that Nikaya;
- (b) if he is a *bhikkhu* nominated by any of the Mahanayaka Theras specified in paragraphs (a) to (d) of subsection (1), any other *bhikkhu* nominated by the respective Mahanayake Thera;
- (c) if he is the Director-General or the Director in charge of Pirivena Education, another officer of the Department of Education nominated by the Minister; and
- (d) if he is a nominated member, another suitable person nominated by the Minister,

may act in his place.

(11) The members of the Board shall not be entitled to any remuneration as members of the Board :

Provided, however, that the Minister may, in consultation with the Minister in charge of the subject of Finance, pay an allowance to such members if he considers it expedient so to do.

(12) Six members of the Board shall form the quorum for any meeting of the Board ;

Provided, however, that where there has been no quorum for two consecutive meetings of the Board, it shall be lawful for the Chairman to discharge any function of the Board which he considers urgent and necessary without the approval of the Board and such function shall be deemed to have been discharged with the approval of the Board.

(13) The Board shall meet at least once in every three months.

(14) The Chairman shall convene a special meeting of the Board on a written request made by not less than four members of the Board.

(15) The Board may act notwithstanding any vacancy among its members and any decision of the Board shall not be invalid by reason only of the fact that there is a vacancy in the membership of the Board.

(16) The procedure for the transaction of business of the Board shall be determined in accordance with the rules made by the Board under this Act.

Powers, duties and functions of the Board.

5. (1) Subject to the provisions of this Act or any regulations made thereunder, the Board shall exercise, perform and discharge the following powers, duties and functions:—

- (a) advising the Minister on all aspects of Pirivena Education;
- (b) promoting the study of and research into Pirivena Education;
- (c) inquiring into and reporting on any matter referred to the Board by the Director-General.

(2) Where the Director-General refers any matter to the Board for inquiry or report, the Director-General as a member of the Board shall not take part in any deliberations in respect of that inquiry or report.

(3) The Director-General shall be the chief executive authority of the Board,

6. (1) The Board may in accordance with rules made in that behalf appoint committees from among its members for the purpose of conducting inquiries or investigations on any matter that may come up before the Board for inquiry. Committees of the Board.

(2) The Board may co-opt any person or persons not being a member or members of the Board subject to the approval of the Minister, to any such committees of the Board for the purpose of any inquiry or investigation.

PART III

CLASSIFICATION OF PIRIVENAS AND ESTABLISHMENT OF PIRIVENA TRAINING INSTITUTES

7. All Pirivenas other than Pirivena Training Institutes shall be classified into the following three groups:— Classification of Pirivenas other than Pirivena Training Institutes.

- (a) Mulika Pirivenas;
- (b) Maha Pirivenas;
- (c) Pirivena Vidyayathana.

8. (1) Classes from Pirivena Grade I to Pirivena Grade V shall be conducted in a Mulika Pirivena. Mulika pirivena.

(2) A Mulika Pirivena shall be a residential educational institution providing classes for *bhikkhus* resident in the Mulika Pirivena:

Provided that male lay pupils may be allowed to attend classes in a Mulika Pirivena.

(3) In the curriculum of a Mulika Pirivena the teaching of the traditional Pirivena curriculum and the training of *bhikkhus* according to the vinaya rules shall be given a foremost place.

(4) The Commissioner of Examinations on the advice of the Board may, at the end of the course of studies in a Mulika Pirivena, hold an examination for pupils of a Mulika Pirivena.

Maha Pirivena. **9.** (1) Classes for the examinations held by the Oriental Studies Society and for any other examinations with a similar curriculum approved by the Board shall be conducted in a Maha Pirivena.

(2) A *bhikkhu* who has passed the examination held at the end of the course of studies in a Mulika Pirivena or any other examination of a similar standard recognized by the Board may be admitted to a Maha Pirivena:

Provided that male lay pupils who have passed the examinations referred to in the preceding provisions of this subsection may be admitted to a Maha Pirivena.

Pirivena Vidyayathana. **10.** (1) Classes for the examinations held by the Oriental Studies Society or by the Department of Examinations or by any University recognized by the Board shall be conducted in a Pirivena Vidyayathanaya.

(2) *Bhikkhus* who have passed the examination held at the end of the course of studies in a Mulika Pirivena and male lay pupils who have passed the Grade VIII examination in a Government School may be admitted to a Pirivena Vidyayathanaya.

The curriculum and duration of course of study. **11.** Subject to section 8 (3), the Board shall prescribe the curriculum and the duration of the course of studies in any Pirivena.

The situation and management of Pirivenas. **12.** (1) A Mulika Pirivena and a Maha Pirivena may be held within the same premises and under the same management.

(2) A Pirivena Vidyayathanaya shall not be held within the premises of a Mulika Pirivena or a Maha Pirivena or under the same management as a Mulika Pirivena or a Maha Pirivena.

Pirivena Training Institutes. **13.** The Board shall establish educational institutions which shall be known as Pirivena Training Institutes for the training of *bhikkhus* for the purpose of achieving the following objects :—

- (a) teaching in Pirivenas;
- (b) the propagation of the Buddha Dhamma and Buddhist Culture and

the promotion of the Buddhist way of life;

- (c) social service;
- (d) the practice of Buddhist meditation;
- (e) the acquisition of the knowledge of the Buddha Dhamma and the Vinaya; and
- (f) the teaching of Buddhism.

14. The Director-General shall, from time to time, in consultation with the Board determine which of the objects referred to in section 13 shall be selected for the purpose of providing courses of study at any specified Pirivena Training Institute.

Director-General to determine courses of study.

15. Every Pirivena Training Institute shall have an Advisory Committee consisting of three members, of whom one shall be the Manager of such Institute. The other two members shall be appointed by the Director-General.

Advisory Committee of Pirivena Training Institutes.

16. The members of the Advisory Committee referred to in section 15 shall not be entitled to any remuneration;

Members not to receive remuneration.

Provided, however, that the Minister may, in consultation with the Minister in charge of the subject of Finance, pay an allowance to such members if he considers it expedient to do so.

17. Subject to the provisions of this Act it shall be the duty of the Advisory Committee of a Pirivena Training Institute to assist the Principal of that Institute in the proper management of the Institute.

Powers and duties of Advisory Committee.

PART IV

POWERS, DUTIES AND FUNCTIONS OF THE DIRECTOR-GENERAL

18. (1) Subject to the general direction and control of the Minister, the Director-General shall be responsible for the administration of this Act.

Powers, duties and functions of the Director-General.

(2) There shall be appointed other officers of the Department of Education to assist the Director-General in the exercise, performance and discharge of his powers, duties and functions under this Act.

(3) The Director-General may, on application made in that behalf, in consultation with the Board register a Pirivena that conforms to the requirements of this Act or regulations made thereunder.

(4) Any Pirivena registered under this Act or deemed to be registered under this Act shall be eligible for a grant from State funds in accordance with this Act or any regulations made thereunder.

(5) Where a *bhikkhu* is a Viharadhipathi of more than one temple and two or more Pirivenas are situated on the lands belonging to those temples (except in the circumstances set out in the proviso to subsection (4)), the Viharadhipathi may elect to be appointed as the Manager of any one of those Pirivenas and the Viharadhipathi may, with the concurrence of the Board, nominate a *bhikkhu* for appointment as Manager of any one of those other Pirivenas.

PART V

MANAGERS, PRINCIPALS AND TEACHERS OF PIRIVENAS

Manager of a Pirivena.

19. Every Pirivena shall have a Manager appointed by the Director-General.

Managers of Mulika Pirivenas, Maha Pirivenas and Pirivena Vidyayathana.

20. (1) Where a Pirivena is a Mulika Pirivena or a Maha Pirivena or a Pirivena Vidyayathanaya, the Viharadhipathi of the temple to which the land on which the Pirivena is situated belongs shall be appointed as the Manager of that Pirivena if the Viharadhipathi consents to that appointment.

(2) Where the Viharadhipathi does not consent to his appointment under subsection (1), another *bhikkhu* shall be appointed as the Manager of that Pirivena on the recommendation of the Viharadhipathi, if the Director-General is satisfied that the *bhikkhu* is suitable for the appointment.

(3) Where the Director-General is not satisfied that the *bhikkhu* who is recommended by a Viharadhipathi is suitable for appointment as the Manager, the Director-General may appoint a suitable *bhikkhu* as the Manager of that Pirivena.

(4) A *bhikkhu* shall not be appointed as a Manager of more than one Pirivena:

Provided that where a Mulika Pirivena and a Maha Pirivena are situated within the same premises the same *bhikkhu* may be appointed as Manager of both those pirivenas.

(6) Where a Viharadhipathi of a temple is a minor or suffers from any mental or physical disability, the Director-General shall, after consulting the Dayakha Sabha of the temple and the Board, appoint a suitable *bhikkhu* to act as Manager of any Pirivena situated on any land belonging to that temple, until the Viharadhipathi attains majority or recovers from such disability.

(7) Where there is a dispute to the office of a Viharadhipathi of a temple the Director-General shall, after consulting the Board, make a temporary appointment as Manager of any Pirivena situated on any land belonging to that temple until that dispute is determined.

21. The Board shall recommend to the Director-General a suitable *bhikkhu* for appointment as the Manager of a Pirivena Training Institute.

Manager of a Pirivena Training Institute.

22. (1) A *bhikkhu* who holds any paid office under the Republic shall not be appointed as a Manager of a Pirivena.

Holder of a paid office under the Republic disqualified for appointment as Manager.

(2) Where a Viharadhipathi of a temple is a holder of a paid office under the Republic, he shall, for the purpose of section 20, be deemed to have not consented to his appointment as a Manager of a Pirivena and accordingly subsections (2) and (3) of that section shall apply to the appointment of a manager of a Pirivena referred to in that section.

23. The Manager of a Pirivena shall be responsible to the Director-General for the proper administration and maintenance of that Pirivena.

Manager of a Pirivena, to be responsible to the Director-General.

Powers, duties and functions of Managers of Pirivenas.

24. Subject to the provisions of this Act and any regulations made thereunder, the powers, duties and functions of the Manager of a Pirivena shall be—

- (a) to provide suitable and adequate accommodation, furniture, equipment, sanitary and other facilities for the Pirivena as may be required by the Director-General;
- (b) to maintain such educational and cultural standards in the Pirivena as may be prescribed ;
- (c) to appoint or discontinue subject to the approval of the Board the Principal and teachers of the Pirivena;
- (d) to utilize in the best interest of the Pirivena the grant paid out of State funds in respect of the Pirivena;
- (e) to be responsible for the general administration and proper maintenance of the Pirivena;
- (f) to ensure that the staff of the Pirivena carries out the functions and duties assigned to such staff and complies with such instructions as may be issued by the Director-General from time to time; and
- (g) to recommend a suitable person acceptable to the Board and the Director-General to act as Manager where the Manager is unable to perform his duties by reason of illness or absence from Sri Lanka or for any other cause.

Principal of Pirivenas.

25. A person shall not be eligible for appointment as the Principal of a Pirivena unless—

- (a) he is a *bhikkhu* who has received *Upasampada* not less than five years prior to the date of appointment; and
- (b) he-
 - (i) has passed the Pandits' examination of the Oriental Studies Society; or

- (ii) holds a degree of a University recognized by the Director-General ; or

- (iii) holds a degree of the Anuradhapura Buddha Sravaka Dharmapithaya; or

- (iv) holds a first-class trained teacher's certificate awarded by a Pirivena Training Institute approved by the Director-General;

- (v) holds the Final Examination Certificate of the Vidyodaya and Vidyalkara Maha Pirivenas;

Provided that a *bhikkhu* who was a Principal of a Pirivena on the day immediately preceding the appointed date may, notwithstanding paragraph (b) continue as Principal of that Pirivena.

26. (1) A person shall not be eligible for appointment as a teacher of a Pirivena unless he is a *ohikkhu*. Teachers of Pirivenas.

Provided, however, that where a *bhikkhu* is not available for appointment as a teacher in respect of such subjects as may be specified by the Director-General, a qualified layman may be appointed as a teacher of a Pirivena.

(2) The minimum educational qualifications for teachers of Pirivenas shall be as prescribed and different qualifications may be prescribed in respect of different subjects.

(3) A *bhikkhu* appointed as a teacher to a Pirivena shall be paid a monthly stipend and it shall be paid to a 'Kepakaru' nominated by the teacher:

Provided, however, that a *bhikkhu* who was a full-time Pirivena teacher on the day immediately preceding the appointed date may continue to draw his salary.

(4) A layman appointed as a teacher of a Pirivena shall be paid such salary, in accordance with the qualifications held by him, as may be prescribed and such salary may be paid direct to him.

(5) The Board shall maintain for the purposes of this Act a Register of Pirivena Teachers which shall include teachers and Principals of all registered Pirivenas.

Certain matters to be prescribed.

27. (1) All matters connected with the conditions of service including the procedure in respect of appointments, dismissals and disciplinary control of teachers and principals, and the payment of salaries shall be as prescribed.

(2) Only male persons shall be eligible for appointment to the staff of a Pirivena either as a teacher or otherwise.

PART VI

GENERAL

Existing Pirivenas to continue under this Act.

28. Every Pirivena the registration of which has been confirmed under regulation 3 (6) of the Code of Regulations for Pirivenas published in Gazette No. 11,828 of August 7, 1959, as amended from time to time, and in existence on the day immediately preceding the appointed date shall be deemed to be a Pirivena registered under this Act.

Manager, Principal and teacher of any existing Pirivenas.

29. Every Manager of a Pirivena, and every Principal or teacher of a Pirivena, which under section 28 is deemed to be registered under this Act, and who is functioning as such on the day immediately preceding the appointed date shall be deemed to be respectively the Manager, Principal or a teacher of that Pirivena appointed under this Act and shall, subject to this Act or any regulation made thereunder, continue in that capacity under this Act.

Board may make rules.

30. The Board may with the approval of the Minister make rules in respect of the matters set out in sections 4(16) and 6 and every rule made under this section shall come into operation on the date on which those rules are approved at a meeting of the Board summoned for the purpose.

31. Every Pirivena registered or deemed to be registered under this Act shall comply with the provisions of this Act and the regulations made thereunder.

Registered Pirivenas to comply with this Act.

32. The grants payable from State funds to any Pirivena registered or deemed to be registered under this Act in respect of maintenance, salaries of teachers and library grants shall be according to the rate prescribed by the Minister in consultation with the Minister in charge of the subject of Finance.

Grants payable to a Pirivena.

33. (1) The Minister may, with the concurrence of the Board, make regulations for all matters in respect of which regulations are authorized or required to be made under this Act.

Regulations.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Minister may with the concurrence of the Board make regulations in respect of all or any of the following matters:—

- (a) the registration, classification and grading of Pirivenas, cancellation of such registration, payment of grants from State funds and the terms and conditions subject to which such grants shall be paid;
- (b) the matters to be taken into consideration in the determination of the maximum number of Pirivenas in Sri Lanka eligible for registration and the maximum number of pupils eligible for admission to a Pirivena;
- (c) the maintenance of a register of Pirivena teachers and the appointment and discontinuance of Managers of Pirivenas and their functions and duties;
- (d) the appointment, transfer, discontinuance, qualifications and grading of teachers including Principals of Pirivenas and the determination of the scales of salaries;
- (e) the procedure for the payment of salaries to the members of the staff of a Pirivena;

(f) the admission of pupils to Pirivenas, their age limits and the maintenance of specified ratios as between *bhikkhus* and lay pupils in Pirivenas and courses and schedules of studies in Pirivenas and the books, apparatus and equipment to be used therein;

(g) the training of *bhikkhus* at Pirivena Training Institutes, the courses of study and their duration;

(h) the examination and inspection of Pirivenas, certificates and diplomas to be awarded in Pirivenas ; and

(i) the maintenance of discipline in Pirivenas.

(3) Every regulation made by the Minister under this Act shall be published in the Gazette and shall come into operation on the date of the publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after the date of its publication, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

(5) Notification of the date on which any regulation is so deemed to be rescinded shall be published in the Gazette.

Rescission.

34. The Code of Regulations for Pirivenas published in Gazette No. 11,828 of August 7, 1959, as amended from time to time, is hereby rescinded :

Provided, however, that notwithstanding such rescission, any regulation which is in

force on the day immediately preceding the appointed date and which is not inconsistent with the provisions of this Act shall be deemed to have been made under the provisions of this Act and shall have effect as such and may at any time be amended, varied or rescinded by regulations made under this Act.

35. In this Act, unless the context interpretation. otherwise requires—

"appointed date" means the 1st day of October, 1980;

" *bhikkhu* " includes a Samanera;

" Director-General " means the person for the time being holding the office of the Director-General of Education and except for the purposes of section 4 includes a Deputy Director-General, a Director of Education or other officer authorized by the Director-General to act on his behalf for the purposes of this Act;

" Pirivena " means—

(a) an educational institution receiving a grant from State funds under section 32 and managed by a *bhikkhu* and having for its aims and objects the aims and objects specified in sections 2 and 3 ; or

(b) a Pirivena Training Institute established under section 13 ;

" Pirivena Education" means the education provided in a Pirivena; and

" temple and Viharadhipathi" have the same meaning as in the Buddhist Temporalities Ordinance.

CHAPTER 243

PEARL FISHERIES

Ordinances Nos. 2 of 1925, 3 of 1946. AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE PEARL FISHERIES OF SRI LANKA.

[12th February, 1925.]

PART I

PRELIMINARY

Short title. 1. This Ordinance may be cited as the Pearl Fisheries Ordinance.

Interpretation. 2. In this Ordinance, unless the context otherwise requires—

"inspector of pearl banks" means the person appointed to act as such;

"pearl bank" means the areas from time to time specified in the First Schedule and includes the bed of any pearl bank. The said Schedule may from time to time be altered by regulation;

"pearl fishery guard" means all customs officers, police officers, peace officers, the camp superintendent, the inspector of pearl banks, and every person appointed by the camp superintendent, or the inspector of pearl banks, to act as a pearl fishery guard;

"pearl oyster" means pearl-bearing oysters of all descriptions, and includes the mollusc commonly called the "window pane oyster" or "the Tampalakam pearl oyster", and scientifically known as Placuna Placenta, as well as any other pearl-producing molluscs which may be

introduced, or laid down, off the coasts of Sri Lanka, or in the bays or inland waters of Sri Lanka;

"regulation" means a regulation made by the Minister and published in the Gazette;

"vessel" includes ships, boats, rafts, canoes, and vessels of every description.

3. The exclusive right of fishing for and taking pearl oysters off the coasts of Sri Lanka and in all bays and inland waters of Sri Lanka is vested in the State. Exclusive right of state in pearl fisheries

PART II

REGULATION OF PEARL FISHERIES

4. (1) No person shall fish, or dive for, or collect, pearl oysters on, or from any pearl bank, or use a vessel for any such purpose, unless he holds a licence (in this Ordinance referred to as a pearl fishery licence) authorizing him so to do. Prohibition of fishing for pearls without a licence.

(2) A pearl fishery licence shall be issued in the discietion of and by a Government Agent authorized to issue such licences, and shall be in the appropriate form in the Second Schedule. The said Second Schedule may be altered by regulation.

(3) Any penalty imposed by a pearl fishery licence may be recovered on summary conviction before a Magistrate as well as by any means provided by the licence.

(4) Every person, to whom a pearl fishery licence is issued under this section, shall produce it on the demand of and for the perusal by any pearl fishery guard, and shall observe the terms and conditions contained in the licence.

(5) A licence to collect pearl oysters issued by any Government Agent before the commencement of this Ordinance shall be deemed to be a pearl fishery licence issued under this Ordinance.

(6) All pearl oysters or pearls collected otherwise than under the authority of and in accordance with the terms and conditions contained in a duly issued pearl fishery licence are the property of the State.

Power to prohibit and regulate fishing for pearls.

5. Regulations may be made regulating the fishing or diving for or collection of pearl oysters under a pearl fishery licence and the use of vessels for such purposes and the forms of and the fees to be charged for pearl fishery licences, and generally for the protection, management, control, development, and improvement of the pearl fisheries off the coasts of Sri Lanka or in any bay or inland water of Sri Lanka.

Restriction on fishing on pearl banks.

6. (1) No person shall on any pearl bank use or have in his possession, power, or control for use on such bank any net, dredge, or fishing line, or fishing tackle.

(2) Nothing in this section shall apply to any dredge, net, fishing line, or fishing tackle, the use of which is for the time being permitted by regulation.

Anchoring on a pearl bank.

7. Unless permitted by regulation, no person shall anchor any vessel on a pearl bank except when collecting pearl oysters under the authority of a pearl fishery licence or compelled to do so by necessity.

Unlawful possession of pearls or pearl oysters.

8. If any pearls or pearl oysters are found in the possession, power, or control of any person on a pearl bank, or proceeding from a pearl bank to the shore, or disembarking or immediately after having disembarked, on coming from a pearl bank, and there appears to the Magistrate to be prima facie evidence that the pearls or pearl oysters were obtained in contravention of the provisions of this

Ordinance, then such pearls or pearl oysters shall be forfeited to the State unless satisfactory evidence is given that they were lawfully obtained, and that person shall be guilty of an offence unless satisfactory evidence is given that he was not personally concerned in the unlawful obtaining thereof and that they were not dishonestly retained in his possession, power, or control with the knowledge that they had been unlawfully obtained.

Seizure and forfeiture of poaching vessels.

9. (1) If any vessel is found on a pearl bank anchoring or hovering and not proceeding to her proper destination as wind and weather permit, or is found on or near a pearl bank in circumstances giving rise to reasonable suspicion that she is being or has been used for the unlawful collection of pearl oysters, any pearl fishery guard specially authorized by a Government Agent, Assistant Government Agent, or the inspector of pearl banks to act for the purposes of this section may enter, seize, and search such vessel, and convey the same to some convenient place in Sri Lanka for adjudication.

(2) As soon as may be after the arrival of a vessel seized under this section proceedings shall be commenced before a Magistrate against the person appearing to be in charge of the vessel and the owner thereof, if known and in Sri Lanka, alleging that the vessel has been used for the unlawful collection of pearl oysters, and in such proceedings, unless satisfactory evidence is given that the vessel had not been used for the unlawful collection of pearl oysters, the Magistrate may declare that the vessel and her gear shall be forfeited to the State, unless a fine not exceeding one thousand rupees is paid within a time to be specified in the order, and shall also declare all appliances found in the vessel and appearing to be intended for the collection of pearl oysters and any pearl oysters or pearls found in the vessel to be forfeited to the State.

(3) If such proceedings are not commenced within one month from the arrival of the vessel, then, unless the delay is accounted for to the satisfaction of the Magistrate, the Magistrate shall, on the application of the owner of the vessel or of the person in charge, order the vessel to be released.

Penalty for offences under Part II.

10. If any person contravenes or attempts to contravene or abets the contravention of any provision of this Part or any regulation made thereunder, he shall be guilty of an offence against this Ordinance, and shall, on conviction by a Magistrate, be liable to a fine not exceeding two hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such line and imprisonment.

and shall be admissible in evidence if it appears to the Magistrate in all the circumstances of the case and after hearing any evidence given by or on behalf of the person charged to be true, and if the Magistrate is satisfied that in the circumstances it is impracticable to obtain direct evidence as to the fact without an amount of delay or expense which in the circumstances appears to the Magistrate to be unreasonable.

PART III

PEARL FISHERY CAMPS

Power to declare a pearl fishery camp.

11. (1) The Minister may from time to time by notification in the Gazette declare that a pearl fishery shall be held on any pear! bank between the dates specified therein, and may by the same or other similar notification declare any place to be a pearl fishery camp for the purposes of the pearl fishery, and may appoint any person to be camp superintendent thereof. A notification under this section may be amended from lime to time.

This subsection applies only where the holding of the inquiry has been approved in writing by the camp superintendent.

(2) When any person found in or attempting or proposing to enter a pearl fishery camp and ordered to give security under Chapter VII of the Code of Criminal Procedure Act, does not give such security on or before the date on which the period for which such security is to be given commences, the court may, if it thinks fit, order that thai person shall, instead of being committed to prison, refrain from entering or be removed from the camp, and pending and during removal be kept in the custody of the police.

(2) A place declared to be a pearl fishery camp shall be deemed to be a pear! fishery camp within the meaning of this Ordinance for one month before the commencement of, during the continuance of, and for one month after the termination of the fishery for which the camp is established.

(3) If any person with respect to whom such an order is made subsequently enters the pearl fishery camp, he shall, on conviction by a Magistrate, be liable to imprisonment of either description for any period not exceeding six months.

Prevention of offences under Chapter VII of Code of Criminal Procedure Act.

12. (1) In any inquiry under section 86 of Chapter VII of the Code of Criminal Procedure Act (which relates to security for keeping the peace or for good behaviour), as respects any person found in or attempting or proposing to enter a pearl fishery camp, the evidence of any member of the police force of the country to which that person belongs, or from which that person has come, that that person is an habitual robber, housebreaker, or thief, or an habitual receiver of stolen property knowing the same to have been stolen, or is an habitual aider in the concealment or disposal of stolen property, or that he is a dangerous character by reason of his having been convicted of a crime of violence, shall be sufficient prima facie evidence of the fact

13. (1) No person shall, without the permit of the camp superintendent, bring into a pearl fishery camp, or into the vicinity of a pearl fishery camp with a view to its being brought into the camp, or have in his possession in a pearl fishery camp, any arlifical or cultured pearl or any pearl not being a pearl the product of a pearl oyster lawfully taken from a pearl bank at and during the continuance of the pearl fishery for which the camp is established.

Prohibition of the import of pearls into a camp.

(2) For the purposes of enforcing the provisions of this section every pearl fishery guard specially authorized in writing thereto by the camp superintendent shall have all the powers of search, seizure, and detention possessed by customs officers for the prevention and detection of smuggling.

(3) All pearls seized under the foregoing power or otherwise coming into the hands of a pearl fishery guard and suspected to have been dealt with in contravention of the provisions of this section shall, as soon as possible, be brought before a Magistrate, who, if an offence has been committed in respect of the pearls, may, in his discretion, either in addition to or without inflicting any other punishment, declare them to be forfeited to the State, or he may order them to be detained until the end of the pearl fishery or until the owner leaves the camp.

14. Regulations may be made for preserving order, preventing the theft of pearls, accidents, fire, and disease, and regulating food prices within a pearl fishery camp, and as to any other matter or thing whatsoever, whether similar to those before enumerated or not, which the Minister considers necessary or convenient for the proper administration of a pearl fishery camp.

15. No person shall bring any pearl oyster to any place within the administrative limits of any Municipality, Urban Council, or Town Council, or transport, store, allow to rot, or otherwise treat any pearl oyster within such limits unless permitted so to do by, and in accordance with, such conditions (including the payment of fees) and directions as may be given by the Mayor of the Municipality, or Chairman of the Council concerned.

16. Any person who contravenes or attempts to contravene or abets the contravention of any provision of this Part or any regulation made thereunder shall be guilty of an offence against this Ordinance, and, on conviction by a Magistrate, shall be liable to a fine not exceeding one hundred rupees.

Penalty for offences under Part III.

**PART IV
SUPPLEMENTARY**

17. For the purposes of the Code of Criminal Procedure Act, every offence against this Ordinance shall be deemed to be cognizable and bailable.

Offences to be cognizable and bailable.

18. Nothing in this Ordinance shall affect any power conferred on customs officers by the Customs Ordinance.

Saving of powers of customs officers.

19. Any pearls and pearl oysters appearing to be liable to forfeiture under this Ordinance may be seized by any pearl fishery guard and, when seized, shall be conveyed to the nearest police station and there detained until the court having jurisdiction in the matter has determined how the same are to be dealt with.

Power to seize articles liable to forfeiture.

20. All regulations shall, as soon as conveniently may be, be laid before Parliament, and may, at any of the next following three meetings be rescinded by resolution of Parliament, but without prejudice to anything already done thereunder, and if not so rescinded shall be deemed to be valid.

Regulations to be laid before Parliament.

Power to make regulations for administration of a pearl fishery camp.

Restriction on rotting pearl oysters in urban area.

PEARL FISHERIES

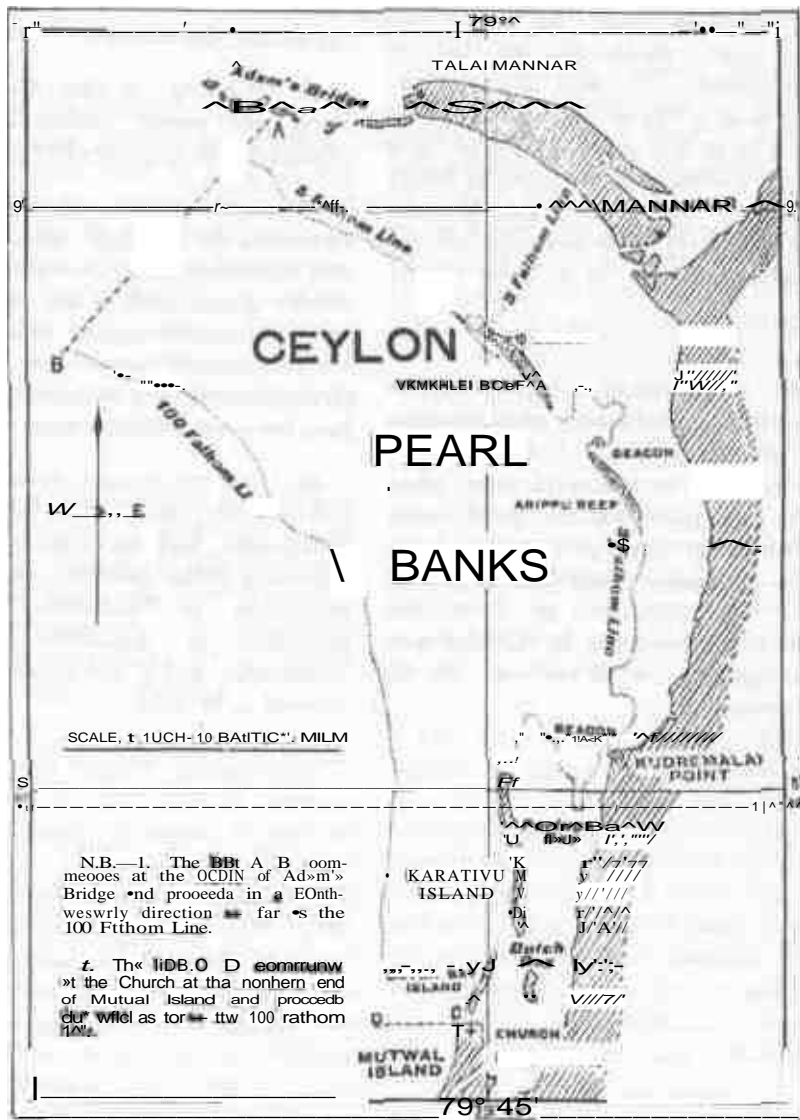
[Section 2.]

FIRST SCHEDULE

PART I

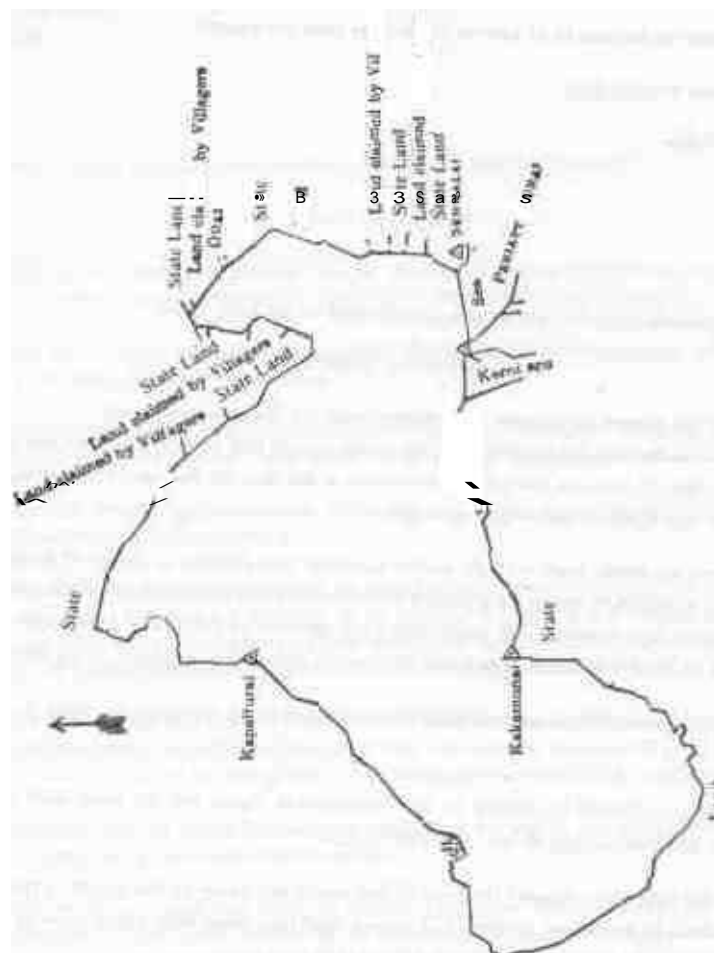
All that area of water enclosed on the plan delineated below by a dotted line in part marked " 100 fathom line ", in part marked " 3 fathom line ", in part marked " 5 fathom line ", in part marked " A B ", and in part marked " DC "

Plan above referred to :—



PART II

That portion of Tampalakamam Bay, in the administrative district of Trincomalee, Eastern Province, to the north and west of a line drawn from the hill called Semmalai, on the north side of the bay to the promontory called Periyattumunai, on the south side of the bay described in the plan hereto annexed, and dated 5th February, 1925, authenticated by A. J. Wickwar, Esq., Surveyor-General.



Scale of 100 Chains to an Inch.

Plan of Tampalakamam Bay, Trincomalee District, Eastern Province; bounded as follows: north by State land and land claimed by villagers; east by land claimed by villagers, and *odai*, and State land; south by the sea, Kerni-aru, and State land; west by State land; containing in extent 5,006 acres only.

Surveyor-General's Office,
Colombo, February 5, 1925.

A. J. WICKWAR,
Surveyor-General.

Note:—The references in this map to "Crown Land" have been replaced with references to "State Land."

PEARL FISHERIES

[Section 4.]

SECOND SCHEDULE

Forms of Pearl Fishery Licences

THE PEARL FISHERIES ORDINANCE

LICENCE TO USE A BOAT FOR COLLECTING PEARL OYSTERS

(Not transferable.)

Under the above-mentioned Ordinance, (name of licensee) of boat No. is hereby licensed to use the said boat for collecting pearl oysters.

The maximum number of persons to be carried in the boat shall not exceed.....

This licence to remain in force until.....

Government Agent's Office,
..... Sri Lanka,
....., 19.....

Government Agent.

Note.—This licence is issued subject to the conditions inscribed on the back hereof.

Conditions referred to

- 1. On the issue of this licence the licensee shall deposit with the Government Agent,..... District, the sum of one hundred rupees as security for carrying out the conditions of this licence, and shall pay a fee equivalent to five rupees per ton or part of a ton on the registered tonnage of his boat for the issue of the licence, but so that the maximum fee shall be one hundred and twenty-five rupees.
2. The licensee and his tindal shall obey all orders received from officers in charge of Government vessels in regard to towage and in regard to taking up a proper position for being taken in tow, and shall facilitate the work of such officers in every way possible. The tindal and each member of the boat's crew shall wear an armet badge to be provided by the Government Agent and returned to him at the expiration of the licence.
3. If instructions are received that the boat shall be towed, it shall not be sailed or rowed or paddled instead of being lowed.
4. The fishery number placed by orders of the Government Agent on the boat shall not be defaced or concealed from view, and shall always be kept in a legible state.
5. Fishing shall not take place beyond the lines of flag buoys put down on the orders of the inspector of pearl banks to mark the limits of the fishing ground, and fishing shall take place only where white flag buoys shall have been laid down to indicate the centres round which fishing shall take place.
6. Should the licensee or his tindal or both the licensee and his lindal be declared by the Government Agent, or by the inspector of pearl banks, or by the koddu superintendent to have infringed or broken any of these conditions, the licensee shall pay such sum of money by way of a penalty as the Government Agent or the koddu superintendent shall deem adequate and authorize. For the first infringement or breach of any condition the penally shall not exceed thirty rupees, or, in lieu of such penalty, the boat may be suspended from fishing for two days; for a second or subsequent infringement or breach of any condition the penally shall not exceed fifty rupees, or, in lieu of such penalty, (he boat may be suspended from fishing for such time as the Government Agent may consider fitting. Any of the said sums may be deducted from the deposit made by the licensee, or may be recovered by due process of law.

I, hereby accept the licence on the above conditions and hereby agree to perform and observe the same.

At..... 19....

Signature of the Licensee.

THE PEARL FISHERIES ORDINANCE

For Arab Divers.

**LICENCE TO DIVE FOR PEARL OYSTERS
(Not transferable.)**

Under the-above-mentioned Ordinance, (name of licensee) of boat No. is hereby licensed to dive from the said boat for pearl oysters.

This licence to remain in force until.....

Government Agent's Office,
..... Sri Lanka,
..... 19....

Government Agent.

Note.- This licence is issued subject to the conditions inscribed on the back hereof.

Conditions referred to

1. On the issue of this licence the licensee will be required to deposit with the Government Agent, District, the sum of fifteen rupees as security for carrying out the conditions of this licence.

2. The licensee shall wear conspicuously a numbered badge during the continuance of the fishery, and shall produce it whenever required by any public officer.

3. The licensee shall not carry any knife or cutting instrument in the boat in which he is engaged, and shall be subject to be searched at any lime whilst in the boat or in the *koddu* by any public officer.

4. The licensee shall not cut open any oyster fished, but shall deliver the whole catch intact to the officer of the Sri Lanka Government appointed to receive it.

5. The licensee shall not commence diving till the signal to commence fishing is given from the mark vessel by the hoisting of the fishing flag and the blowing of the whistle. He shall not dive anywhere except in the area marked by buoys as directed by the inspector of pearl banks. He shall cease diving immediately the signal to cease fishing is given by the hauling down of the fishing flag and the blowing of the whistle.

6. The licensee shall collect and place in bags supplied to him by the Government of Sri Lanka all the oysters fished by him, and shall permit any officer acting under the orders of the inspector of pearl banks to close and seal each or any bag as soon as it is full or immediately upon the signal to cease fishing being given.

7. The licensee shall obey all orders for the good conduct of the fishery issued by the Government Agent, the inspector of pearl banks, or by the *koddu* superintendent.

8. All the divers working in each boat shall, on landing, bring their catches directly into the *koddu* and deposit them in the compartment of the *koddu* allotted by the *koddu* superintendent. The catches shall be divided by them into heaps of three. One-third share shall be selected by the *koddu* superintendent or his representative and shall be given back to the divers. The other two-thirds shall be retained by the *kuddu* superintendent on behalf of the Stale. Failure on the part of the divers to comply with thi., rule will entail forfeiture of licences to dive, but each diver's deposit or the balance of his deposit shall be returned to him.

9. Should the licensee be declared by the Government Agent, or by the inspector of pearl banks, or by the *kuddu* superintendent to have infringed or broken any of the said conditions, the licensee shall pay such sum of money by way of penalty as the Government Agent or the *kuddu* superintendent shall deem adequate and authorize- For the first Infringement or breach of any condition, the penalty shall not exceed five rupees , for the second int'ringemtnl or breach of any condition, the penally shall not exceed ten rupees . and for the third or any subsequent infringement or breach of any condition, it shall be lawful for the Government Agent, in addition to imposing a fine of ten rupees, to confiscate the one-third share of oysters earned by the licensee for that day, or to cancel his licence to dive. Any of the said sums may be deducted from the deposit made by the licensee.

I, hereby accept the licence on the above conditions, and hereby agree to perform and observe the same.

At..... 19.

Signature of Licensee.

THE PEARL FISHERIES ORDINANCE

For Non-Arab Divers.

LICENCE TO DIVE FOR PEARL OYSTERRS
(Not transferable.)

Under the above-mentioned Ordinance, (name of licensee) of boat No. is hereby licensed to dive from the said boat for pearl oysters.

This licence to remain in force until.....

Government Agent's Office,
..... Sri Lanka,
..... 19.....

Government Agent.

Noie.—This licence is issued subject to the conditions inscribed on the back hereof.

Conditions referred to

1. The licensee shall wear conspicuously a numbered badge during the continuance of the fishery, and shall produce it whenever required by any public officer.
2. The licensee shall not carry any knife or cutting instrument in the boat in which he is engaged, and shall be subject to be searched at any time whilst in the boat or in the *koddus* by any public officer.
3. The licensee shall not cut open any oyster fished, but shall deliver the whole catch intact to the officers of the Sri Lanka Government appointed to receive it.
4. The licensee shall not commence diving till the signal to commence fishing is given from the mark vessel by the hoisting of the fishing flag and the blowing of the whistle. He shall nol dive anywhere except in the area marked by buoys as directed by the inspector of pearl banks. He shall cease diving immediately the signal to cease fishing is given by the hauling down of the fishing flag and the blowing of the whistle.
5. The licensee shall collect and place in bags supplied to him by the Government of Sri Lanka all the oysters fished by him, and shall permit any officer acting under the orders of the inspector of pearl banks to close and seal each or any bag as soon as it is full or immediately upon the signal to cease fishing being given.
6. The licensee shall obey all orders for the good conduct of the fishery issued by the Government Agent, the inspector of pearl banks, or by the *koddu* superintendent.
7. All the divers working in each boat shall on landing bring their catches directly into the *koddu* and deposit them in the compartment of the *koddu* allotted by the *koddu* superintendent. The catches shall be divided by them into heaps of three. One-third share shall be selected by the *koddu* superintendent or his representative and shall be given back to the divers. The other two-thirds shall be retained by the *koddu* superintendent on behalf of the State. Failure on the part of the divers to comply with this rule will entail forfeiture of licences to dive.
8. Should the licensee be declared by the Government Agent, or by the inspector of pearl banks, or by the *koddu* superintendent to have infringed or broken any of the said conditions, the licensee shall pay such sum of money by way of penally as the Government Agent or the *koddu* superintendent shall deem adequate and authorize. For the first infringement or breach of any condition, the penally shall not exceed five rupees ; for the second infringement or breach of any condition, the penalty shall not exceed ten rupees ; and for a third or any subsequent infringement or breach of any condition, it shall be lawful for the Government Agent, in addition to imposing a fine of ten rupees, to confiscate the one-third share of oysters earned by the licensee for that day or to cancel his licence to dive.

I, hereby accept the licence on the above conditions, and hereby agree to perform and observe the same.

At..... 19.....

Signature of Licensee.

CHAPTER 334

PRESIDENT'S FUND

Act No. 7 of 1978.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A FUND CALLED "THE PRESIDENT'S FUND" FOR THE PROVISION OF FUNDS FOR THE RELIEF OF POVERTY, FOR THE ADVANCEMENT OF EDUCATION OR KNOWLEDGE, FOR THE ADVANCEMENT OF RELIGION, FOR THE MAKING OF AWARDS TO PERSONS WHO HAVE SERVED THE NATION, AND FOR ANY OTHER PURPOSES BENEFICIAL OR OF INTEREST TO THE PUBLIC ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[24th November. 1978.]

Short title.

1. This Act may be cited as the President's Fund Act.

subsections (3) and (4), hold office for such period as may be specified in the letter of appointment issued to him by the President.

Establishment of the President's Fund.

2. (1) There shall be established a Fund to be called "the President's Fund" (hereinafter referred to as " the Fund ").

(3) The President may in his absolute discretion revoke the appointment of any member appointed by him under paragraph (/) of subsection (2).

(2) The Fund shall, by the name assigned to it by subsection (1), be a body corporate, and shall have perpetual succession and a common seal and may sue and be sued in such name.

(4) Any member of the Board appointed under paragraph (/) of subsection (2) may at any time resign from the Board by a letter in that behalf addressed to the President.

Board of Governors of the Fund.

3. (1) The administration, management and control of the Fund shall be vested in a Board of Governors constituted as hereinafter provided.

(5) The Board may regulate the procedure in regard to its meetings and the transaction of business at such meetings.

(2) The Board of Governors of the Fund (hereinafter referred to as " the Board") shall consist of—

(6) No act or proceeding of the Board shall be deemed to be invalid by reason only of the existence of a vacancy among its members or any defect in the appointment of a member thereof.

(a) the President of the Republic;

(7) The President shall be the Chairman of the Board.

(b) the Prime Minister;

(c) the Speaker;

(d) the Leader of the Opposition;

4. (1) The Board shall, in the name of the Fund, have the power to— Powers of the Fund-

(e) the Secretary to the President; and

(a) acquire, hold or manage property, whether movable or immovable;

(f) two other members appointed by the President, each of whom shall, subject to the provisions of

(b) sell, mortgage, exchange or otherwise dispose of, or deal with, any

PRESIDENT'S FUND

property, whether movable or immovable, to which the Fund may become entitled;

(c) perform all such acts or things as may be necessary to give effect to the provisions of this Act.

(2) With effect from the 24th day of November, 1978, all moneys lying to the credit of the account named the "President's Fund Suspense Account" maintained at the Central Bank shall vest in the Fund.

The President's Fund Account.

5. The Board shall maintain an account called "The President's Fund Account" at the Central Bank and there shall be credited to such account—

(a) all moneys which vest in the Fund by reason of the operation of subsection (2) of section 4; and

(b) all moneys that may accrue to the Fund after the 24th day of November, 1978.

Purposes for which the moneys of the Fund may be applied.

6. It shall be the duty of the Board to apply the moneys belonging to the Fund in such manner as the Board may determine, subject to the directions of the President—

(a) for the relief of poverty; or

(b) for the advancement of education or knowledge; or

(c) for the advancement of religion or the maintenance of religious rites and practices; or

(d) for the making of awards to persons who have served the nation ; or

(e) for any other purpose, which is in the opinion of the President and the Board, of benefit or interest to the public.

Investment of moneys of the Fund.

7. Any moneys belonging to the Fund may be invested by the Board in such manner as the Board may determine, subject to such directions as may be given by the President.

8. The Board shall have the power, officers and subject to the directions of the President, servants of the Fund.

(a) to appoint such officers and servants of the Fund as may be necessary for the administration and management of the affairs of the Fund,

(b) to determine the remuneration payable to the officers and servants so appointed,

(c) to pay such remuneration and the other expenses incurred in the administration of the affairs of the Fund, out of the income of the Fund.

9. (1) The Board shall cause proper Audit and accounts to be kept of the income and accounts expenditure of the Fund.

(2) The Auditor-General shall audit the accounts of the Fund every year. For the purpose of assisting him in the audit of such accounts, the Auditor-General may employ the services of any qualified auditor who shall act under his direction and control.

(3) For the purpose of meeting the expenses incurred by him in the audit of the accounts of the Fund, the Auditor-General shall be paid out of the income of the Fund, such remuneration as the Board may determine. Any remuneration received from the Fund by the Auditor-General shall, after the deduction therefrom of any sums paid by him to any qualified auditor or auditors employed by him for the purpose of such audit, be credited to the Consolidated Fund.

(4) The Auditor-General shall, as soon as practicable after the thirty-first day of December of each year, prepare a report on the administration of the affairs of the Fund during that year together with a statement of the income and expenditure of the Fund, and of the investment of the moneys belonging to the Fund, during that year.

(5) In this section, the expression "qualified auditor" means—

(a) an individual who, being a member of the Institute of Chartered

PRESIDENT'S FUND

[Cap.334

Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute ; or

- (b) a firm of Chartered Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute.

Auditor-General's report and statement to be placed before Parliament.

- 10.** The Auditor-General shall transmit the report and statement prepared by him in pursuance of subsection (4) of section 9 to

the Minister in charge of the subject of Finance, who shall cause such report and statement to be placed before Parliament.

- 11.** The Board may make such rules as it may consider necessary in relation to any matter affecting or connected with, or incidental to, the exercise, discharge and performance of its powers, functions and duties.

- 12.** All officers and servants of the Fund shall be deemed to be public servants within the meaning, and for the purposes, of the Penal Code.

- 13.** In this Act. " Central Bank " means the Central Bank of Ceylon established by the Monetary Law Act.

Power of Board to make rules.

Officers and servants of the Fund deemed to be public servants within the meaning of the Penal Code.

Interpretation.

CHAPTER 368

POOR LAW

Ordinances
Nos. 30 of 1939,
11 of 1941,
3 of 1946.

AN ORDINANCE RELATING TO THE RELIEF OF THE POOR.

[1st January. 1940.]

Short title.

1. This Ordinance may be cited as the Poor Law Ordinance.

authority and is so referred to in this Ordinance.

PART I

PRELIMINARY

Powers under Ordinance to be additional to powers conferred by other enactments.

2. The Powers conferred by this Ordinance upon any Municipal Council, Urban Council, Town Council or Village Council, shall be in addition to, and not in derogation of, any powers of any such local authority under any other enactment:

Provided that in any case in which any provision of this Ordinance is in conflict with any provision of any such other enactment, the provision of this Ordinance shall prevail.

PART II

MUNICIPALITIES, URBAN COUNCILS AND TOWN COUNCILS

Application of Part II.

3. (1) This part of this Ordinance shall apply—

- (a) within the administrative limits of any Municipal Council;
- (b) within the administrative limits of any Urban Council or Town Council in which it shall be declared from time to time to be in force by the Minister by Order published in the Gazette.

(2) Any such Municipal Council, Urban Council, or Town Council to which this Part of this Ordinance applies shall be called and known as an urban local

4. (1) It shall be the duty of an urban local authority—

Duty of urban local authority with respect to poor persons.

(a) to provide such relief as may be necessary for persons of either sex unable to support themselves owing to physical or mental infirmity or incapacity and in need of relief;

(b) to provide such relief as may be necessary for the use of, and to assist, orphans or children below a prescribed age of poor parents who are not able to keep and maintain their children in obtaining educational facilities and industrial training and to erect and maintain school buildings and orphanages for this purpose;

(c) to establish and maintain institutions for the treatment of poor persons;

(d) to make contributions in aid of any voluntary agencies which appear to render useful aid in the administration of the relief of the poor, of orphans and the children of poor persons, within the administrative limits of the urban local authority and which appear to receive support from the public, provided such agencies agree to register all cases assisted with the registrar to be appointed by the urban local authority and to allow inspection of their accounts and methods of administration by the urban local authority or its officers;

- (e) to appoint officers to investigate applications for assistance and to administer relief and to delegate to such officers the provision of relief in cases of sudden and urgent necessity;
- (f) to recover from the recipient of relief or from prescribed relatives of such recipient who are possessed of sufficient means, the whole or part of the amount expended on his or her relief;
- (g) to do and execute all other things concerning the matters aforesaid as to the urban local authority may seem convenient.

(2) The duties of the urban local authority under this section shall apply to all persons of either sex ordinarily resident within its administrative limits.

Power of urban local authority to use its funds to carry out duties under this Ordinance.

5. (1) The purposes for which an urban local authority may expend the funds at its disposal under any enactment regulating its powers and duties (including any sum which may, at any time, be voted by Parliament for the purposes of this Ordinance) shall include the fulfilment of the duties of such urban local authority prescribed by this Part of this Ordinance, and the urban local authority may for the purposes of this Ordinance levy a special rate on all property assessed for the purpose of rates over and above the rates imposed by virtue of any other enactment, and all the relevant provisions of such other enactment, including the provisions for collecting rates, shall apply to such special rate in the same manner and for the same purpose as if they had been inserted herein.

(2) Where Parliament has at any time attached conditions to the vote of any sum to any urban local authority for the purposes of this Ordinance, such conditions shall, on the acceptance of such sum by that local authority, be deemed to be incorporated in the poor law scheme of that local authority and shall have effect accordingly.

Borrowing powers of urban local authority.

6. (1) It shall be lawful for an urban local authority to borrow such sum or sums of money as may be necessary for carrying

out any work of a permanent character undertaken under the provisions of this Ordinance and for the acquisition of any lands or buildings required for the purposes of or in connexion with any such work on such terms or conditions as may be approved by the Minister,

(2) Any purpose for which an urban local authority may lawfully borrow any sum of money under subsection (1) shall be deemed to be a purpose for which that local authority is authorized to borrow money by the written law under which that local authority is constituted; and, subject as aforesaid, the provisions of that written law relating to the borrowing of money, the limitation of borrowing powers, the security to be granted for loans, the form of such security and other incidental matters and procedure shall apply accordingly.

7. Any private land or building which may be required by an urban local authority for the purposes of this Ordinance may be acquired by the State for such purposes under the provisions of the Land Acquisition Act, or of any other enactment for the time being in force providing for the acquisition of private land or buildings for public purposes. When the urban local authority has paid the compensation awarded, the Minister may vest such land in the urban local authority by writing under the hand of the prescribed officer to the effect that the same has been made over to the urban local authority and any such land or building, when no longer required for the purposes of this Ordinance, may be dealt with by the urban local authority as any other land or building vested in it.

Acquisition of land or building.

8. Separate accounts shall be kept by the urban local authority of their receipts and expenditure in respect of the functions discharged by such local authority under this Ordinance, and those accounts shall be made up and audited in like manner and subject to the same provisions as in the case of a Municipality, Urban Council or Town Council, respectively; and the enactments relating to the audit of the accounts of a Municipality, Urban Council or Town Council, as the case may be, and to all matters incidental thereto and consequential thereon, including penal provisions, if any, shall apply to such accounts.

Accounts and audit.

Poor law scheme.

9. (1) For the purpose of discharging the duties prescribed in this Part of this Ordinance, the urban local authority shall each year, when preparing the annual budget or at any other time, prepare and approve of a poor law scheme and shall vote and provide from time to time, whenever necessary, a sum sufficient from the funds at its disposal (in addition to any sum which may be voted by Parliament for the purpose) to defray the cost which will be incurred in carrying out the poor law scheme.

(2) Such sum or sums of money as may be voted or provided by an urban local authority, including any sum placed at its disposal by Parliament for the purpose, shall be spent by such urban local authority or under its direction in carrying the poor law scheme so prepared and approved into execution, subject to the provisions of this Ordinance and any rules prescribed thereunder.

Delegation.

10. The poor law scheme—

(a) shall provide for the delegation by the urban local authority to a committee (hereinafter referred to as the public assistance committee) with or without any conditions or limitations as the urban local authority thinks fit, of all the functions conferred or imposed upon or vested in it by this Ordinance except the power of voting or providing or borrowing money or levying a rate or acquiring lands or appointing officers or keeping and auditing accounts; and

(b) may provide for the discharge, on behalf of and subject to the general direction and control of the public assistance committee, of any of the functions of that committee by a sub-committee (hereinafter referred to as the local sub-committee) to be appointed for a defined area within the administrative limits of the urban local authority, within that defined area.

11. The poor law scheme shall provide for— Appointment of officers.

(a) the appointment of such paid officers as may be necessary to investigate applications for assistance and administer relief and the delegation to such officers of the provision of relief in cases of sudden and urgent necessity; and

(b) in particular, the appointment of a registrar who shall register in a prescribed book full particulars of all cases assisted by the urban local authority and by voluntary agencies who agree to co-operate in such registration.

12. (1) The public assistance committee shall be composed of the prescribed number of members for the prescribed period. Public assistance committee.

(2) One-half of the committee shall consist of members of the urban local authority nominated by such local authority and the other half of persons of either sex (not being members of the urban local authority) nominated by the Minister.

(3) The public assistance committee shall elect a chairman who shall preside at its meetings and a vice-chairman, and shall, subject to such rules as may be prescribed, exercise, perform and discharge such functions as may be delegated to it by the urban local authority.

13. (1) Where the poor law scheme provides for the appointment of local sub-committees the administrative limits of the urban local authority shall be divided into such areas as may be specified in the poor law scheme, and for every such area there shall be a local sub-committee. Local sub-committees.

(2) Every local sub-committee shall be constituted in such manner as may be provided for in the poor law scheme and shall consist of the number of members fixed in the poor law scheme for the prescribed period, provided the member or members of the urban local authority for the ward or wards or electoral division or divisions* falling wholly or partly within the

* Every member of a local authority now represents the whole electoral area of such local authority, and membership for wards and divisions has ceased to exist — vide section 28 (1) of the Local Authorities Elections Ordinance.

area shall be included in such local sub-committee.

(3) Each local sub-committee shall elect a chairman, who shall preside at its meetings, and a vice-chairman, and shall, subject to such rules as may be prescribed, exercise, perform and discharge such functions as may be delegated to it by the poor law scheme under the general direction and control of the public assistance committee.

PART III

VILLAGE COUNCILS

Application of Part III.

14. (1) This Part of this Ordinance shall apply within a divisional Assistant Government Agent's division in which it shall be declared from time to time to be in force by the Minister by Order published in the Gazette:

Provided, however, that this Part of this Ordinance shall not apply within the administrative limits or part thereof, if any, included in such divisional Assistant Government Agent's division, of any Municipal Council, Urban Council or Town Council, in which Part II of this Ordinance is in force, and such administrative limits or part, if any, shall be deemed to be excluded from such divisional Assistant Government Agent's division for the purposes of this Part of this Ordinance,

(2) All Village Councils within any area so proclaimed to which this Part of this Ordinance applies acting jointly shall be called and known as a rural local authority and are so referred to in this Ordinance.

Duty of rural local authority in respect to poor persons.

15. (1) Each Village Council shall be a unit of the rural local authority, and it shall be the duty of the rural local authority and of each such unit—

- (a) to provide such relief as may be necessary for persons unable to support themselves owing to physical or mental infirmity or incapacity and in need of relief;
- (b) to provide such relief as may be necessary for the use of, and to assist, orphans or children below a

prescribed age of poor parents who are not able to keep and maintain their children in obtaining educational facilities and industrial training and to erect and maintain school buildings and orphanages for this purpose;

- (c) to establish and maintain institutions for the treatment of poor persons ;
- (d) to make contributions in aid of any voluntary agencies which appear to render useful aid in the administration of relief of the poor, of orphans and the children of poor persons, within the administrative limits of such rural local authority or such unit and which appear to receive support from the public, provided that such agencies agree to register all cases assisted with the registrar to be appointed as hereinafter provided and to allow inspection of their accounts and methods of administration by the prescribed officers;
- (e) to do and exercise all other things concerning the matters aforesaid as to the rural local authority or each unit of the rural local authority may seem fit.

(2) The duties of the rural local authority or each unit of the rural local authority under this section shall apply to all persons of either sex ordinarily resident within its administrative limits.

16. All the functions by this Ordinance conferred or imposed upon, or vested in, the rural local authority and each unit of the rural local authority shall stand referred to and be delegated to a joint committee (as hereinafter constituted and known as the rural local committee) except the power of voting or providing or borrowing money or levying a rate or acquiring lands.

Delegation of functions of rural local authority.

17. (1) A rural local committee shall be composed—

Composition of rural local committee.

- (a) as to one-half thereof, of the Chairman of each Village Council within the divisional Assistant

Government Agent's division declared under section 14, and two members from each such Village Council nominated by such Council; and

(b) as to the other half, of such inhabitants within the said divisional Assistant Government Agent's division as the Minister shall nominate.

(2) The members of the rural local committee shall hold office for the prescribed period and shall elect a chairman, who shall preside at its meetings, and a vice-chairman, and shall, subject to such rules as may be prescribed, exercise, perform and discharge the functions delegated to such committee under the preceding section.

Poor law schemes.

18. For the purpose of performing and discharging the functions prescribed under section 16 of this Ordinance, the rural local committee shall each year within the prescribed time prepare and approve a poor law scheme which shall set forth the probable cost which will be incurred in carrying out that scheme.

Contributions for carrying out the poor law scheme.

19. (1) Each unit of the rural local authority shall from time to time contribute such prescribed proportionate amount from the funds at its disposal as will be sufficient to enable it to discharge its functions under this Ordinance as set forth in the poor law scheme, with such modifications in the scheme as may be made from time to time in the prescribed manner.

(2) All such sums contributed by each unit (in addition to any sum which may be voted by Parliament for the purpose) shall form a central fund, and it shall be the duty of the rural local committee to administer such central fund as hereinafter provided.

Appointment of officers, &c.

20. The poor law scheme shall provide—

(a) for the appointment of such paid officers as may be necessary to investigate applications for assistance and to administer relief and the delegation to such officers

of the provision of relief in cases of sudden and urgent necessity;

(b) for the recovery from the recipient of relief or from prescribed relatives of such recipient who are possessed of sufficient means either the whole or a part of the amount expended on his or her relief;

(c) for the appointment of a registrar who shall register in a prescribed form full particulars of all cases assisted by the rural local committee and by voluntary agencies who agree to co-operate in such registration.

21. (1) The purposes for which any unit of a rural local authority may expend the funds at its disposal under any enactment regulating its powers and duties (including any sum which may be voted by Parliament for the purposes of this Ordinance) shall include the fulfilment and performance of the functions of such unit prescribed by this Part of this Ordinance ; and such unit may, for the purposes of this Ordinance, levy a special rate on all property assessed for the purpose of rates over and above the rates imposed by virtue of any other enactment; and all the relevant provisions of such other enactment, including the provisions for collecting rates, shall apply to such special rate in such manner and for the same purpose as if they had been inserted herein:

Power of unit of rural local authority to use its funds to perform functions under this Ordinance.

Provided, however, that a unit of a rural local authority shall not have the power to levy a special rate for the purposes of this Ordinance, unless the power to levy a rate has been conferred on it by any other enactment for the purposes of that enactment.

(2) Where Parliament has at any time attached conditions to the vote of any sum to any rural local committee for the purposes of this Ordinance, such conditions shall, on the acceptance of such sum by that committee, be deemed to be incorporated in the poor law scheme of that committee and shall have effect accordingly.

22. (1) It shall be lawful for a unit of a rural local authority to borrow such sum or sums of money as may be necessary for carrying out any work of a permanent

Borrowing powers of a unit of rural local authority.

character undertaken under the provisions of this Ordinance and for the acquisition of any lands or buildings required for the purpose of or in connexion with any such work on such terms or conditions as may be approved by the Minister.

(2) Any purpose for which a unit of a rural local authority may lawfully borrow any sum of money under subsection (1) shall be deemed to be a purpose for which that unit is authorized to borrow money by the written law under which that unit is constituted ; and, subject as aforesaid, the provisions of that written law relating to the borrowing of money, the limitation of borrowing powers, the security to be granted for loans, the form of such security and other incidental matters and procedure shall apply accordingly.

Acquisition of lands or buildings.

23. Any private land or building which may be required by a unit of a rural local authority for the purposes of this Ordinance may be acquired by the State for such purposes under the provisions of the Land Acquisition Act or of any other enactment for the time being in force providing for the acquisition of private lands or buildings for public purposes. When the unit of the rural local authority had paid the compensation awarded, the Minister may vest such land in such unit by writing under the hand of the prescribed officer to the effect that the same had been made over to such unit; and any such land or building when no longer required for the purposes of this Ordinance may be dealt with by such unit as any other land or building vested in it.

Audit of accounts.

24. Separate accounts shall be kept by the rural local committee of the receipts and expenditure in respect of functions discharged by such committee under this Ordinance, and those accounts shall be made up and audited by the Auditor-General or an officer authorized by him in the manner prescribed by rules under this Ordinance.

Confirmation of poor law scheme.

25. (1) The poor law scheme as finally approved shall be valid only when it has been confirmed by the Minister and such confirmation has been notified by notification published in the Gazette.

(2) When a poor law scheme has been so confirmed and notified—

(a) all the functions of the rural local authority and each unit thereof under this Ordinance shall stand referred to and be delegated to the rural local committee without any restrictions or conditions except the power of voting and borrowing money or levying a rate or acquiring lands; and the rural local authority and each unit thereof shall be deemed to have discharged all their functions under this Ordinance except the function of providing funds and voting money for the due execution of the poor law scheme; and

(b) it shall be the duty of the rural local committee to discharge all the functions of the rural local authority and each unit thereof under this Ordinance with reference to such poor law scheme throughout the administrative limits of the rural local authority and of each unit of the divisional Assistant Government Agent's division in which this Part of this Ordinance is in force; and

(c) the rural local committee shall have full power to give effect to the poor law scheme and to have control of the central fund referred to in subsection (2) of section 19 and to spend from such fund subject to prescribed rules.

PART IV

GENERAL

26. This Part of this Ordinance shall apply within the administrative limits of an urban local authority in which Part II of this Ordinance is in force and within a divisional Assistant Government Agent's division in which Part III of this Ordinance is in force,

Application of Part IV to areas under urban and rural local authorities.

27. (1) It shall be the duty of the father, mother, husband, or child of a poor person or of an orphan if possessed of sufficient

Duty of family to relieve and maintain poor persona.

means, to relieve and maintain that person or orphan.

(2) The mother of an illegitimate child, so long as she is unmarried or a widow, shall be bound to maintain the child as part of her family until the child attains the age of sixteen;

Provided that, as respects any female child who is married under the age of sixteen, this subsection shall not apply after the marriage.

(3) A man who marries a woman having a child (whether legitimate or illegitimate) at the time of the marriage shall be liable to maintain the child as part of his family, and shall be chargeable with all relief granted to, or on account of, the child until the child attains the age of sixteen or until the death of the mother of the child, and the child shall, for the purposes of this Ordinance, be deemed to be part of the husband's family accordingly.

(4) A married woman having separate property shall be subject—

(a) to all such liability for the maintenance of her husband and children as her husband is by law subject to for the maintenance of herself and her children;

(b) to the same liability for the maintenance of her parent or parents as an unmarried woman :

Provided that nothing in this subsection shall relieve her husband from any liability imposed on him by law to maintain her children and grandchildren.

Relief to wife or child treated as relief to husband or parent.

28. All relief given to or on account of a wife shall be considered as given to her husband, and all relief given to or on account of any child under the age of sixteen, not being a poor person, shall be considered as given to the father of the child or to the husband of the mother, or, if the mother of the child is unmarried or a widow, to the mother of the child, as the case may be:

Provided that—

(a) nothing in this section shall discharge the father or mother of any child

from liability to relieve and maintain the child in pursuance of the provisions of this Ordinance; and

(b) where the husband of a woman is beyond the seas, or in legal custody, or in confinement in a mental hospital as a person of unsound mind or is living apart from her, all relief given to her or to her child shall, notwithstanding her coverture, be considered as given to her in the same manner and subject to the same conditions as if she were a widow, without prejudice however to the liability of her husband in respect of the relief.

29. (1) In any case in which a person in receipt of relief under this Ordinance is liable to be maintained or relieved by a member of his family by virtue of this Ordinance or of any prescribed rules, it shall be lawful for the urban local authority or the rural local committee to recover from such latter person so much as will reimburse such authority or committee for the amount expended on the relief of that person during the period of six months before the institution of the proceedings for the recovery thereof.

Reimbursement from persons liable to maintain.

(2) Any such sum may on application by the prescribed officer be recovered for the use of the urban local authority or the rural local committee from the person liable to pay such sum as if it were a fine imposed under this Ordinance by any Magistrate having jurisdiction over the place where that person may for the time being be resident; and such amount may be recovered notwithstanding that it may exceed the amount of fine which a Magistrate may in his ordinary jurisdiction impose.

(3) A certificate of chargeability in the prescribed form may be issued by an urban local authority or a rural local committee and every such certificate purporting to be signed by the prescribed officer shall, unless the contrary is shown, be sufficient evidence, of the truth of all statements contained therein, and shall, within the period of twenty-one days from the date of the certificate, be received in evidence

accordingly by all courts of law and for all purposes without proof of the signature or of the official character of the person signing it.

Reimbursement of relief out of property of person relieved.

30. (1) Where any person in receipt of relief under this Ordinance has in his possession or belonging to him any money or valuable security for money or jewellery or valuable movables, the urban local authority or the rural local committee of the administrative limits to which he is chargeable may take and appropriate or recover as a debt in the prescribed manner so much of the money or produce of the security jewellery or movables as will reimburse the urban local authority or the rural local committee for the amount expended in the relief of that person during the period of six months before the taking and appropriation or the institution of the proceedings for the recovery thereof, as the case may be.

(2) In the event of the death of any person in receipt or relief having in his possession or belonging to him any money or property, the urban local authority or the rural local committee of the area in which he dies may reimburse themselves therefrom the expenses incurred in and about his burial, and in and about his maintenance at any time during the twelve months before his death.

(3) Every person who applies for relief under this Ordinance having at the time of application in his possession and under his immediate control any money or other property of which, on inquiry made by or on behalf of an urban local authority or a rural local committee, he does not make correct and complete disclosure, shall be guilty of an offence and shall be liable on summary conviction to be punished with imprisonment of either description for a period not exceeding six months or with a fine not exceeding one hundred rupees or both.

Rules.

31. (1) The Minister may make rules for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the powers conferred by

subsection (1), the Minister may make rules for or in respect of all or any of the following matters:—

- (a) all matters stated or required in this Ordinance to be prescribed;
- (b) the management of the poor;
- (c) the government of institutions for the treatment of poor persons, of orphanages and schools, the preservation of order therein, the classification of persons to be relieved therein, the nature and amount of the relief to be given to and the labour, if any, to be exacted from, the persons relieved therein;
- (d) the guidance and control of urban and rural local authorities, public assistance committees and local sub-committees and rural local committees, and their officers, so far as relates to the management and relief of the poor, of orphans and children of poor persons, and subject to the provisions of this Ordinance, the extent of their duties;
- (e) the making and entering into contracts in all matters relating to such management or relief or to any expenditure for the relief of the poor or orphans and children of poor persons;
- (f) the keeping, examining, auditing and allowing of accounts;
- (g) the form and method and conditions subject to which contracts of service of officers and servants employed under this Ordinance may be entered into;
- (h) the method of disposal of property acquired under this Ordinance when such property is no longer required for the purposes of this Ordinance;
- (i) the composition and duration of office of public assistance committees and local sub-committees and rural local committees,

(j) the procedure and regulation of meetings of public assistance committees and local sub-committees and rural local committees;

(k) the giving of relief in cases of sudden and urgent necessity by relieving officers;

(l) the mode in which a contract for the lodging, boarding or maintenance or education of any poor person, or orphan or child of a poor person, may be entered into with the proprietor or manager of a private boarding-house or establishment or school or orphanage, the terms and duration of any such contract and the management and government of any such boarding-house, establishment, school or orphanage and the inspection and visitation of any such boarding-house, establishment, school or orphanage;

(m) the method of recovery of sums expended in relief of a poor person or of an orphan or of a child of a poor person from the property of such person or from his relative legally liable to maintain such poor person, orphan or child;

(n) the manner in which and conditions subject to which contributions may be made in aid of voluntary agencies.

(3) No rule made under this section shall have effect until it has been approved by Parliament, nor until notification of such approval has been published in the Gazette.

(4) Every rule made by the Minister shall, upon the publication of a notification of the approval of that rule as provided for in subsection (3) be as valid and effectual as if it were herein enacted.

***32.** If any person wilfully neglects or disobeys or contravenes any rule made under this Ordinance, he shall be guilty of an offence and shall be liable on summary

Penalty on persons disobeying, &c., rules.

* Primary Court has exclusive jurisdiction—See Extraordinary No. 43/4 of 1979.07.02.

conviction for the first offence to a fine not exceeding fifty rupees and for a second or subsequent offence to a fine not exceeding one hundred rupees.

33. (1) The auditor may at any time, inspect the accounts and books of account of any urban local authority or of a public assistance committee or of a local sub-committee or of a rural local committee or of any officer concerned in the relief of the poor or of orphans or children of poor persons who is liable to account.

Right of auditor to inspect.

(2) If any member of an urban local authority or of a public assistance committee or of a local sub-committee or of a rural local committee or any officer refuses to allow any such auditor when so authorized or required, to make the inspection or obstructs him in his inspection or conceals any such account or book for the purpose of preventing inspection thereof, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred rupees.

34. Every member of a public assistance committee or a local sub-committee or of a rural local committee and every officer and servant appointed under this Ordinance shall be deemed to be a public servant within the meaning of the Penal Code.

Every member and officer a public servant.

***35.** (1) Save in accordance with the provisions of this Ordinance relating to cases of sudden or urgent necessity or of any rules made under this Ordinance relating to such cases, it shall not be lawful for any relieving officer or any other person concerned with the relief of the poor or the relief of orphans or of children of poor persons to give any relief under this Ordinance to any poor person or orphan or a child of a poor person except such as may be provided under Part II or Part III of this Ordinance.

Relief not to be given save in accordance with Part II or Part III.

(2) Any relieving officer or other person acting in contravention of this section shall be guilty of an offence and shall, on summary conviction, be liable to a fine not exceeding one hundred rupees.

Power to remove difficulties.

36. (1) If any difficulty arises in connexion with the application of this Ordinance to any urban or rural local authority or in bringing into operation any of the provisions of this Ordinance, the Minister may make such order for removing the difficulty as he may judge to be necessary for that purpose, and any such order may modify the provisions of this Ordinance so far as may appear to him necessary for carrying the order into effect.

(2) Every order made under this section shall come into operation upon the date specified therein in that behalf, but shall be laid before Parliament as soon as may be after it is made and shall cease to have effect upon the expiration of a period of three months from the date upon which it came into operation, unless at some time before the expiration of that period it has been approved by a resolution passed by Parliament:

Provided that, in reckoning any such period of three months as aforesaid, no account shall be taken of any time during which Parliament is adjourned for more than seven days or the time taken for the election of new members of Parliament.

Provisions as to orders and schemes.

37. (1) Any order or scheme made under this Ordinance may contain such incidental, consequential or supplemental provisions as may appear necessary or proper for the purposes of the order or scheme.

(2) Any order or scheme made under this Ordinance may be altered or revoked by an order or scheme made in like manner and subject to the like provisions as the original order or scheme.

Interpretation.

38. In this Ordinance, unless the context otherwise requires—

" appointment", " appointing ", with its grammatical variations and cognate expressions, includes the power to dismiss or discontinue;

" functions " includes powers and duties;

" Magistrate" includes a Municipal Magistrate;

" officer " includes any clergyman, priest, schoolmaster, duly qualified medical practitioner, treasurer, master or matron or warden of an institution or school or orphanage or any other person who is for the time being employed within the administrative limits of an urban or rural local authority or unit thereof in carrying this Ordinance into execution;

" orphan" means a child below the prescribed age whose parents are dead or cannot be found, or one of whose parents is dead or cannot be found and who, in the opinion of the poor relief authority, is in need of relief under this Ordinance;

" poor", " poor persons", with its grammatical variations and cognate expressions means persons of either sex unable to maintain themselves owing to physical or mental infirmity or incapacity and in need of relief,

" poor law scheme" when used with reference to an urban local authority means the poor law scheme referred to in section 9 and when used with reference to a rural local committee means the poor law scheme referred to in section 18 ;

" poor relief authority " means an urban local authority or the public assistance committee or a rural local committee;

" prescribed " means prescribed by this Ordinance or by the rules made thereunder;

" Urban Council" means an Urban Council established under the Urban Councils Ordinance.

CHAPTER 156

PRIVILEGE LEAVE (PRIVATE SECTOR)

Law
No. 14 of 1976.

A LAW TO COMPEL EMPLOYERS IN THE PRIVATE SECTOR TO GRANT LEAVE WITH FULL PAY TO THEIR EMPLOYEES WHO HAVE BEEN ELECTED AS MEMBERS OF LOCAL AUTHORITIES IN ORDER TO ENABLE THEM TO ATTEND MEETINGS OF SUCH AUTHORITIES, AND TO PROVIDE FOR MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH.

[28 th May, 1976.]

Short title.

1. This Law may be cited as Privilege Leave (Private Sector Employees) Law.

Private sector employees to be granted leave to attend meetings of a local authority

2. Every private sector employee who is elected as a member of any local authority shall be granted leave with full pay by his employer in order to enable him to attend a meeting of such authority, whenever notice of such meeting is received by such employee.

Regulations.

3. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

(4) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the Gazette.

(5) Any regulation made by the Minister shall when approved by Parliament be as valid and effectual as if it were herein enacted. Notification of such approval shall be published in the Gazette.

Offences and penalties.

4. (1) Every person who contravenes or fails to comply with any provision of this Law or regulation made thereunder shall be guilty of an offence under this Law.

(2) Every person who commits an offence under this Law shall on conviction after trial before a Magistrate be liable to imprisonment of either description for a period not exceeding six months or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

(3) Where an offence under this Law is committed by a body of persons, whether corporate or unincorporate, every person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of such body of persons, and where such body of persons is a firm every partner of that firm shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of such offence as he ought to have exercised having regard to the nature of his functions and in all the circumstances.

5. In this Law, unless the context otherwise requires— Interpretation.

" local authority " includes any Municipal Council, Urban Council, Town Council or Village Council;

" private sector employee " means any employee other than a public officer, an employee of a local authority or an employee of a public corporation;

" public corporation " means any corporation which was or is established with capital entirely or partly provided by Government.

CHAPTER 202

PADDY MARKETING BOARD

Act
No. 14 of 1971.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A BOARD TO CARRY ON THE BUSINESS AS PURCHASER, SELLER, SUPPLIER, DISTRIBUTOR, HULLER, MILLER OR PROCESSOR OF PADDY AND RICE, AND TO PROVIDE FOR SERVICES IN CONNEXION THEREWITH AND FOR THE COMPULSORY ACQUISITION OR REQUISITION FOR SUCH BOARD OF ANY IMMOVABLE OR MOVABLE PROPERTY, TO PROVIDE THE MODE AND MANNER OF PAYMENT OF COMPENSATION, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[16th March. 1971.]

Short title. **1.** This Act may be cited as the Paddy Marketing Board Act.

(rf) to do all other things which in the opinion of the Board are necessary to facilitate the proper carrying on of its business.

PART 1

CONSTITUTION, OBJECTS. POWERS AND FUNCTIONS OF THE PADDY MARKETING BOARD

Establishment of the Paddy Marketing Board.

2. (1) There shall be established a Board which shall be called the Paddy Marketing Board (hereinafter referred to as " the Board ") and which shall consist of the persons who are for the time being members of the Board under section 14.

(2) The Board shall by the name assigned to it by subsection (1) be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

General objects of the Board.

3. The general objects of the Board shall be—

- (a) to carry on the business of purchasing, selling, supplying and distributing paddy and rice;
- (6) to carry on the business of milling, hulling and processing of paddy and rice;
- (c) to carry on any such other business as may be incidental or conducive to the attainment of the objects referred to in paragraphs (a) and (b); and

4. (1) The Minister, after consultation with the Board, may, by Order published in the Gazette, declare that with effect from such date as shall be specified in that Order the right—

Exclusive right to purchase, sell supply or transport or to carry on the business of hulling, milling or processing of paddy and rice vated in the board.

- (a) to purchase, sell, supply, transport or distribute paddy and rice ;
- (b) to carry on the business of hulling, milling or processing of paddy and ncc.

shall, save as otherwise expressly provided by or under this Act, vest exclusively in the Board within such area as may be specified in such Order. Any such Order may be amended, varied or revoked by the Minister by a like Order.

(2) Any Order made under subsection (1) may be made in respect of any or all the matters referred to in paragraph (a) or paragraph (b) or in both such paragraphs and may be made applicable to the whole or any part of Sri Lanka and the term " area " in subsection (1) shall be read and construct! accordingly.

(3) So long as an Order made by the Minister under subsection (1) is in force, no person, other than the Board, shall, save as

otherwise expressly provided by or under this Act purchase, sell, supply, transport or distribute or carry on the business of hulling, milling or processing of paddy and rice within the area specified in that Order.

(4) No person shall be entitled to compensation for any loss incurred by him whether directly or indirectly or by loss of business or otherwise by reason of the coming into operation of an Order under subsection (1).

(5) The purchase, sale, supply, transport, distribution, hulling, milling or processing of paddy and rice by any person shall be deemed not to be-

- (a) an interference with or in violation of the exclusive right vested in the Board by subsection (1), or
- (b) a contravention of the provisions of subsection (3),

if, but only if, it is done under the written authority of the Board under subsection (6) or in the exercise or performance of any power or function or the discharge of any duty under the Food Control Act.

(6) (a) (i) The Board may authorize any society registered or deemed to be registered under the Co-operative Societies Law or an Agrarian Services Committee constituted under the Agrarian Services Act or any officer of the Government who is not an officer of the Department of Agrarian Services or a person or body of persons (corporate or unincorporate) to purchase paddy.

(ii) The Board may authorize the Commissioner of Agrarian Services or any officer of the Department of Agrarian Services authorized by such Commissioner to purchase paddy on behalf of the Board.

(iii) The Commissioner, an officer of the Department of Agrarian Services or the society or the Agrarian Services Committee or the Government officer other than the officer of the Department of Agrarian

Services or the person or body of persons referred to in the preceding sub-paragraphs (i) and (ii) shall hereinafter be called the " authorized purchaser ".

(5) The Board may authorize any authorized purchaser to sell, supply, transport, distribute or carry on the business of hulling, milling or processing of paddy and rice.

(7) Where any authority has been granted under section 5 of the Agricultural Products (Guaranteed Prices and Control of Hulling and Milling) Act to the Commissioner or any officers of the Department of Agrarian Services or to a society registered or deemed to be registered under the Co-operative Societies Law or to any officer of Government, for the purchase of any scheduled agricultural product, then, so far as and so far only as that authority relates to the purchase of paddy within any area specified in an Order under subsection (1), such authority shall be deemed to be authority granted by the Board under the provisions of this Act.

5. Notwithstanding the provisions of the Agricultural products (Guaranteed Prices and Control of Hulling and Milling) Act the Board may, after consultation with the Commissioner of Agrarian Services and the Guaranteed Prices Advisory Committee and with the approval of the Minister given after consultation with the Minister in charge of the subject of Finance, fix a guaranteed price in respect of any variety of paddy or any grade of any variety of paddy.

The Board may fix guaranteed price for a variety of paddy or different grades of such variety.

6. On the dates specified by the Minister by Order made and published in the Gazette under subsection (!) of section 4 in respect of hulling and milling of paddy, all licences to carry on the business of hulling or milling of paddy in force on the day immediately preceding that date shall cease to be in force notwithstanding anything to the contrary in the Agricultural Products (Guaranteed Prices and Control of Hulling and Milling) Act.

Termination of licences for hulling or milling paddy issued under the Agrinittural Products (Guaranteed Prices and Control of Hulling and Milling) Act.

7. Where there is a guaranteed price fixed under the Agricultural Products (Guaranteed Prices and Control of Hulling and Milling) Act for paddy or for any grade of paddy, or under this Act for any variety

Authorized purchaser to pay the guaranteed price for purchase of paddy.

of paddy or any grade of any variety of paddy, the Board or the authorized purchaser shall not pay for the purchase of such paddy or such grade of paddy or such variety of paddy or any grade of any such variety of paddy a price other than such guaranteed price.

shall carry on the business of hulling, milling or processing of paddy and rice, except under the authority of a licence issued under subsection (2):

Provided, however, that it shall not be a contravention of the preceding provisions, if a person who has commenced to carry on the business of hulling or milling of paddy prior to the date of operation of an Order under section 4, and who is entitled to make an application under subsection (3) of this section, and who has applied for a licence under that subsection, continues to carry on such business until the determination of his application.

(2) The Board may issue a licence in respect of a huller or mill of a specified capacity to any person to carry on the business of hulling, milling or processing of paddy and rice, subject to such terms and conditions as may be specified in the licence.

(3) (a) Every application for a licence to carry on any business as is specified in subsection (1) shall be in the prescribed form. Every person carrying on the business of hulling or milling of paddy on the date of the coming into operation of this Act may apply to the Board for a licence within one month after that date.

(b) The Board may in its discretion issue or refuse to issue a licence to an applicant thereof.

(c) Where the Board refuses to issue a licence to an applicant thereof the Board shall cause notice of the refusal to be given to the applicant.

(d) Every licence authorizing the carrying on of any such business as is specified in subsection (1) shall be in the prescribed form.

(e) A licence issued under subsection (1) shall be subject to such conditions as may be specified in that licence.

(f) The Board may cancel the licence issued under subsection (1) if the licensee contravenes or fails to comply with any condition to which the licence is subject.

8. (1) The Board shall not purchase paddy from any person other than from an authorized purchaser or a producer of such paddy.

From whom the Board or authorized purchaser may purchase paddy.

(2) An authorized purchaser under paragraph (a) of subsection (6) of section 4, shall not purchase paddy from any person other than the producer of such paddy or purchase paddy and rice from any person other than the authorized purchaser under paragraph (b) of subsection (6) of section 4.

9. (1) Where any paddy is sold under this Act by a producer it shall be lawful for the Board or any authorized purchaser to deduct from the amount payable to such producer for the paddy so sold, such sums as may be due from such producer—

Recovery of moneys due to Government or to co-operative societies.

- (a) to the Government; or
- (b) to any society registered or deemed to be registered under the Co-operative Societies Law,

in respect of any loan or advance of moneys obtained by such producer for any purpose connected with the cultivation of such paddy.

(2) Any sum recovered under subsection (1) shall—

- (a) where such money is due to the Government, be paid to the Commissioner of Agrarian Services and such Commissioner shall credit such sum to the Consolidated Fund; and
- (b) where such sum is due to any society, be paid to that society.

10. (1) Save as otherwise provided by subsection (6) of section 4, after the coming into force of an Order made under subsection (1) of that section, no person

Control of hulling, milling or processing of paddy and rice.

(g) Where the Board cancels the licence under paragraph (f) the Board shall cause notice of the cancellation to be given to the licensee.

(h) An applicant for a licence who is aggrieved by the decision of the Board refusing to issue a licence, or the licensee who is aggrieved by the decision of the Board cancelling his licence may within one month after the date of such decision appeal in writing from such decision to the Minister,

(i) The Minister's decision on any appeal under paragraph (A) shall be final and conclusive and shall not be questioned in any court.

(4) Except under the written authority of the Board no person shall—

- (a) instal or cause to be installed in any place; or
- (b) transfer or cause to be transferred from one location to another,

a huller, or mill or plant, machinery or equipment for hulling, milling or processing of paddy and rice.

Control of the disposal of equipment and facilities intended, to be used for the sale, supply, distribution, transport, storage, hulling, milling or processing of paddy and rice.

11. On and after the coming into operation of this Act and save as otherwise expressly provided by or thereunder, no person who was carrying on the business of purchasing, selling, supplying, transporting, distributing or carrying on the business of hulling, milling, or processing of paddy and rice, shall sell, lease, transfer, hypothecate or alienate or dispose in any other manner or convert to some other use any huller, mill, plant, machinery, equipment or facilities which had been or is or are being used or is or are or was or were intended to be used by him for the purpose or in connexion with his business.

Control of the establishment and maintenance of equipment and facilities for sale, supply, transport or distribution, hulling, milling or processing of paddy and rice.

12. On and after the date of coming into operation of this Act, no person, other than the Board or any authorized purchaser, shall establish, instal or maintain any plant, machinery or equipment or facilities for the sale, supply, transport or distribution, hulling, milling or processing of paddy and rice, except with the written authority of the Board, or under the authority of a permit or licence for the time being in force issued

under any written law prior to the date of the coming into operation of this Act and in accordance with the terms and conditions subject to which such authority, permit or licence is granted.

13. (1) The Board may exercise all or any of the following powers:— Powers of the Board.

- (a) to acquire, hold, take on lease or hire, mortgage sell or otherwise dispose of any movable or immovable property;
- (b) to exercise the exclusive right of purchase, sale, supply, distribution, hulling, milling or processing of paddy and rice;
- (c) to enter into joint schemes with any Government Department or any body approved by the Minister for the purchase, sale, supply, distribution, transport, hulling, milling or processing of paddy and rice;
- (d) to grant loans and advances to authorized purchasers and agents ;
- (e) to import plant, machinery and equipment required for the business of the Board;
- (f) to instal, operate and establish plant, machinery and equipment for hulling, milling or processing of paddy and rice; a,
- (g) to establish and maintain purchasing stations and storage facilities for paddy and rice ;
- (h) to maintain shops for the display, sale, supply and distribution of rice and paddy and by-products ;
- (i) to enter and inspect any stores or other premises of an authorized purchaser, or licensee or any place where a person is carrying on the business of hulling, milling or processing of paddy or rice and any stores of such person maintained for the purpose of business ;
- (j) to fix a guaranteed price for any variety of paddy or any grade of any variety of paddy;

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- (k) to carry out investigations and record data concerning production, sale, supply, storage, purchase, distribution, hulling, milling or processing of paddy and rice;
- (l) to conduct, assist and encourage research into all aspects of the rice processing industry, and use of by-products;
- (m) to make charges for any service rendered by the Board in carrying on its business;
- (n) to enter into and perform, either directly or through any officer or agent authorized in that behalf, all such contracts as may be necessary for the performance of its duties and the exercise of its powers ;
- (o) to do anything for the purpose of advancing the skill of persons employed by the Board or the efficiency of the equipment of the Board, or the manner in which that equipment is operated including the provisions by the Board and the assistance of the provision by others of facilities for training persons required to carry out the work of the Board ;
- (p) to establish a provident fund and provide welfare and recreational facilities, houses, hostels and other like accommodation for persons employed by the Board ;
- (q) to delegate to any member or officer of the Board or to any public officer such functions as the Board may consider necessary so to delegate for the efficient transaction of its business;
- (r) to make rules in relation to its officers and servants including the appointment, promotion, remuneration, disciplinary control, conduct and grant of leave;
- (s) to make rules in respect of the administration of the affairs of the Board ;
- (0) to do all other things which in the opinion of the Board are necessary to facilitate the proper carrying on of its business.
- (2) The Minister may by Order authorize the Board, subject to such conditions as may be specified in the Order, to carry on any undertaking or business or to do any act or thing not mentioned in the preceding provisions of this section, if he is satisfied that it is expedient so to do for purposes connected with the efficient discharge and performance of the powers and duties conferred or imposed on the Board by such preceding provisions.
- (3) Every Order made under subsection (2) shall be published in the Gazette and shall come into force on the date of such publication.
- (4) Every Order made under subsection (2) shall as soon as convenient after publication in the Gazette be brought before Parliament for approval. Any Order which is not so approved shall be deemed to be revoked as from the date of disapproval, but without prejudice to anything previously done thereunder. Every Order which is not so revoked shall be as valid and effectual as though it were herein enacted.
- (5) Nothing in the preceding provisions of this section shall be construed as authorizing the disregard by the Board of any law for the time being in force.
- 14.** (1) The Board shall consist of the following members :—

Constitution of
the Board-

- (a) a Chairman appointed by the Minister;
- (b) two members appointed by the Minister from among persons who have had wide experience or shown capacity in agricultural, commercial or financial matters or in administration;
- (c) one member nominated by the Minister in charge of the subject of Finance; and

(d) three *ex officio* members, being—

- (i) the Commissioner of Food,
- (ii) the Commissioner of Co-operative Development, and
- (iii) the Commissioner of Agrarian Services.

(2) The Minister may appoint one of the members of the Board, other than the Chairman, to be the Vice-Chairman of the Board.

(3) A person shall be disqualified from being appointed or being a member of the Board, if he is a Member of Parliament.

(4) Before appointing a person to be a member of the Board, the Minister shall satisfy himself that such person will have no financial or other interest as is likely to affect prejudicially the discharge by such person of his functioning as a member of the Board; and the Minister shall also satisfy himself from time to time, with respect to every member of the Board appointed by the Minister that he has no such interest.

Any person who is appointed by the Minister, or whom the Minister proposes to appoint, as a member of the Board shall, whenever requested by the Minister to do so, furnish to the Minister such information as the Minister considers necessary for the performance of his duties under this subsection.

(5) A member of the Board who is in any way directly or indirectly interested in a contract made or proposed to be made by the Board shall disclose the nature of his interest at a meeting of the Board and such disclosure shall be recorded in the minutes of the Board and the member shall not take part in the deliberation or decision of the Board with respect to that contract.

(6) Subject to the provisions of subsection (7) every member of the Board, other than an *ex officio* member, shall—

- (a) hold office for a period of three years; and
- (b) be eligible for reappointment:

Provided that a member appointed by the Minister to fill a vacancy in the office of a member of the Board, shall hold office for the unexpired portion of the term of office of the member whom he succeeds.

(7) The Minister may in the interest and efficient performance of the functions or the discharge of the duties of the Board remove from office any appointed member.

(8) The removal of any member of the Board from office under subsection (7) shall not be called in question in any court.

(9) A member of the Board, other than an *ex officio* member, may resign from the Board by letter addressed to the Minister.

(10) Where any member of the Board becomes by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office the Minister may having regard to the provisions of subsection (1) appoint a fit person to act in his place.

(11) If the Chairman or Vice-Chairman of the Board becomes by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office the Minister may appoint a fit person to act in his place.

(12) The Chairman, Vice-Chairman and members of the Board shall be remunerated in such manner and at such rates and shall be subject to the conditions of service as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(13) The Minister may without assigning any reason terminate the appointment of the Chairman or the Vice-Chairman of the Board. The termination of appointment of the Chairman or the Vice-Chairman of the Board shall not be called in question in any court.

(14) The Chairman or Vice-Chairman of the Board may resign the office of such Chairman or Vice-Chairman by letter addressed to the Minister.

(15) The quorum for a meeting of the Board shall be three members of the Board and subject as aforesaid the Board may regulate its own procedure.

(16) The Board may act notwithstanding its vacancies amongst its members.

(17) Subject to the provisions of subsection (13), the term of office of the Chairman and the Vice-Chairman of the Board shall be the period of their membership of the Board.

General control of the Board.

15. (1) The general supervision, control and administration of the affairs and the business of the Board shall be vested in the members of the Board.

(2) The Board may delegate to any member or employee of the Board or any public officer any of its powers, functions or duties.

(3) Every person to whom any power, function or duty is delegated under subsection (2) shall exercise or perform such power, function or duty delegated to him subject to the general and special directions of the Board.

Seal of the Board.

16. (1) The seal of the Board shall be in the custody of the Board.

(2) The seal of the Board may be altered in such manner as may be determined by the Board.

(3) The seat of the Board shall not be affixed to any instrument or document except in the presence of two members of the Board both of whom shall sign the instrument in token of their presence.

Powers of the Minister in relation to the Board.

17. (1) The Minister may give such general or special directions in writing as to the performance of the duties and the exercise of the powers of the Board, and such Board shall give effect to such directions.

(2) The Minister may, from time to time, direct the Board in writing to furnish to him in such form as he may require, returns, accounts and other information

with respect to the property and business of the Board, and the Board shall carry out every such direction.

(3) The Minister may order all or any of the activities of the Board to be investigated and reported upon by such person or persons as he may specify and upon such order being made, the Board shall afford all such facilities and furnish all such information as may be necessary to carry out such order.

18. All officers and servants of the Board shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Officers and servants of Board deemed to be public servants.

19. The Board shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

Board deemed to be a scheduled institution within the meaning of the Bribery Act.

20. (1) The Minister may appoint one or more Regional Consultative Committees to advise the Minister and the Board on matters pertaining to the business of the Board.

Regional Consultative Committees.

(2) The Regional Consultative Committee or Regional Consultative Committees shall consist of such number of persons as the Minister may determine.

PART II

EMPLOYMENT OF THE BOARD

21. The Board may appoint to the staff of the Board such officers and servants as may be necessary for the efficient discharge of its functions.

Appointment of staff of the Board.

22. (1) The Board may make rules in respect of all or any of the following matters:

Powers of the Board in regard to the staff of the Board.

(a) the appointment, promotion, dismissal and disciplinary control over the staff of the Board ;

(b) the fixing of the wages or salary or other remuneration of such staff;

(c) the terms and conditions of the service of such staff; and

(d) the establishment and regulation of provident funds and schemes for the benefit of such staff.

(2) No rule made under subsection (1) shall have effect until it has been approved by the Minister.

(3) At the request of the Board, any officer in the public service may, with the consent of that officer and the Secretary to the Ministry charged with the subject of Public Administration, be temporarily appointed to the staff of the Board for such period as may be determined by the Board with like consent or be permanently appointed to such staff.

(4) Where any officer in the public service is temporarily appointed to the staff of the Board, subsection (2) of section 9 of the Motor Transport Act, No. 48 of 1957*, shall *mutatis mutandis* apply to and in relation to him.

(5) Where any officer in the public service is permanently appointed to the staff of the Board, subsection (3) of section 9 of the Motor Transport Act, No. 48 of 1957*, shall *mutatis mutandis* apply to and in relation to him.

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FINANCE

Capital of the Board.

23. (1) The initial capital of the Board shall be ten million rupees and such capital shall consist of grants or loans given or made available by the Government on such terms and conditions as may be determined by the Minister in charge of the subject of Finance.

(2) The amount of the initial capital of the Board shall be paid to the Board out of the Consolidated Fund in such instalments as the Minister in charge of the subject of Finance may in consultation with the Minister determine.

(3) The capital of the Board may be increased from time to time by such amount as may be authorized by any Appropriation Act or by resolution of Parliament and that amount shall be paid or made available to the Board by the Government by way of grant or loan on such terms and conditions as may be determined by the Minister in charge of the subject of Finance.

24. (1) The Board shall have its own Fund. The Fund of the Board.

(2) There shall be paid into the Fund of the Board—

(a) all such sums of money as may be voted from time to time by Parliament for the use of the Board;

(b) all such sums of money as may be advanced from time to time by the Minister to the Board ; and

(c) all such sums of money received by the Board in the exercise, discharge and performance of its powers and duties.

(3) There shall be paid out of the Fund of the Board all sums of money required to defray the expenditure incurred by the Board in the exercise, discharge and performance of its functions, powers and duties under this Act or any other written law and all such sums of money as are required to be paid out of such Fund by or under this Act.

25. (1) The Board may, with "the concurrence of both the Minister and the Minister in charge of the subject of Finance or in accordance with the terms of any general authority given with like concurrence, borrow, by way of overdraft or otherwise, or negotiate and obtain on credit terms, such sums as the Board may require for meeting the obligations of the Board or carrying out its objects :

Borrowing powers of the Board,

Provided that the aggregate of the amounts outstanding in respect of any loans raised by the Board under this subsection

• Repealed by Law No. 19 of 1978.

shall not at any time exceed such sum as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(2) The Board may, with the consent of the Minister given with the concurrence of the Minister in charge of the subject of Finance, borrow money otherwise than by way of temporary loan under subsection (1) for all or any of the following purposes:—

- (a) the provision of money for any expenses incurred with any work involving the initial establishment, operation and maintenance of any apparatus or equipment required for the Board;
- (b) the requisition or acquisition of any movable or immovable property required for the business of the Board,
- (c) the repayment of any money temporarily borrowed under subsection (1).

Investment of funds of the Board.

26. Any funds of the Board which are not immediately required for the purposes of the business of the Board may be invested by the Board in such manner as the Board may determine with the approval of the Minister, given after consultation with the Minister in charge of the subject of Finance.

Application of the revenue of the Board.

27. The revenue of the Board in any year shall be applied in defraying the following charges in the order of priority set out hereunder:—

- (a) the working and establishment expenses (including allocations to the insurance reserve and depreciation reserve), in connexion with the exercise and performance of the powers and duties of the Board, properly chargeable to revenue account;
- (b) the interest on any temporary loan raised by the Board ;
- (c) any sum required to be transferred to any sinking fund or redemption fund; and

(d) the interest on, and the repayment of, the principal of any Government loan to the Board.

Reserves.

28. (1) The Board—

(o) may establish and maintain an insurance reserve to cover the insurance of the movable and immovable property of the Board and to meet third-party risks and liabilities arising under the Workmen's Compensation Ordinance; and

(b) shall establish and maintain—

- (i) a depreciation reserve to cover the depreciation of the movable and immovable property of the Board, and
- (ii) a general reserve not exceeding such amount as may from time to time be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(2) Such amount out of the surplus revenue of the Board in any year remaining after the charges mentioned in section 27 have been satisfied and providing for the payment of any tax shall be applied for the following purposes in the order of priority set out hereunder :—

- (a) firstly, for the payment to the Consolidated Fund of such sum as may be determined annually by the Minister in charge of the subject of Finance acting with the concurrence of the Minister;
- (b) secondly, for such other purposes including the payment of a bonus to the members of the staff of the Board as may be determined by the Board, with the approval of the Minister;

and the balance of such surplus revenue shall be applied for payment to the general and special reserves.

Accounts and
audit of
accounts.

29. (1) The Board shall cause proper accounts of the income and expenditure of the Board and of all its other transactions to be kept and shall prepare an annual statement of accounts and statistics relating to the business of the Board in such form and containing such particulars as the Minister with the concurrence of the Minister in charge of the subject of Finance may from time to time specify.

(2) The accounts of the Board shall be audited annually by a qualified auditor (hereinafter referred to as "the auditor") appointed by the Minister on the advice of the Auditor-General. The auditor so appointed shall be—

- (a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute ; or
- (b) a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute-

The auditor shall receive such remuneration from the funds of the Board as the Minister may, with the concurrence of the Minister in charge of the subject of Finance, determine.

(3) The Auditor-General shall have power—

- (a) to direct the manner in which the accounts of the Board shall be audited by the auditor and to give the auditor instructions in regard to any matter relating to the performance of his functions as auditor, and
- (b) to conduct a supplementary or test audit of the accounts of the Board by such person or persons as the Auditor-General may authorize in that behalf and, for the purposes of such audit, to require information

or additional information to be furnished to any person or persons so authorized on such matters, by such person or persons, and in such form. as the Auditor-General may, by general or special order, direct.

(4) The auditor shall examine the accounts of the Board and furnish a report stating—

- (a) whether he has or has not obtained all the information and explanations required by him, and
- (b) whether in his opinion the accounts have been drawn up so as to exhibit a true and fair view of the affairs of the Board.

(5) The auditor shall submit a copy of his audit report to the Auditor-General who shall have the right to comment upon, or supplement, the auditor's report in such manner as the Auditor-General may think fit.

(6) The Auditor-General shall transmit the auditor's report together with his comments upon, or his supplement to, such report to the Board.

30. The Auditor-General and the auditor appointed under section 29, and any person authorized by either of them, shall have access to all such books, deeds, contracts, vouchers and other documents of the Board as the Auditor-General or such auditor considers necessary for the purposes of the audit, and shall be furnished by the Board and the officers of the Board with such information within their knowledge as may be required for such purposes.

Powers of the Auditor-General and the auditor appointed by the Minister.

31. (1) The Board shall, as soon as possible after the end of each financial year of the Board, make to the Minister a report on the exercise and performance by such Board of its powers and duties during that year and on its policy and programme. Such report for any year shall set out any direction given by the Minister to the Board during that year.

Report of the Board and copies of the auditor's report, the Auditor-General's comments and supplement and statement of accounts and statistics to be sent to the Minister and laid before Parliament.

(2) The Board shall, on receipt of the auditor's report and the Auditor-General's comments thereon and supplement thereto, if any, in each year, transmit to the Minister—

- (a) a copy of such report and such comments or supplement; and
- (6) a copy of the statement of accounts and statistics prepared under subsection (1) of section 29.

(3) The Minister shall lay copies of the report and statement referred to in subsections (1) and (2) before Parliament.

Financial year **32.** The financial year of the Board shall be the calendar year.

PART IV

ACQUISITION, REQUISITION, AND USE OF PROPERTY FOR OR BY THE BOARD

Notice of claim or disclaimer in respect of property required for the purposes of the Board.

33. (1) Any officer, of the Board or any public officer authorized by the Minister may, by notice (hereafter in this Act referred to as a "notice of claim ") published in the Gazette declare that any movable or immovable property, other than money, which had been, or is being or is or was intended to be, used for—

- (a) the purchase, sale, supply or distribution, hulling, milling or processing of paddy and rice;
- (6) the carrying on of such other business as may be incidental or conducive to the purposes referred to in paragraph (a),

is required for the purposes of the Board. Such property is hereafter in this Act referred to as " notified property ".

(2) When a notice of claim is published under subsection (1) any property contained in or found on such notified property shall be deemed to have been included in the notice of claim.

(3) The publication of a notice of claim made under subsection (1) in respect of any property shall be conclusive proof that such property is required for the purposes of the Board and shall not be questioned in any court.

(4) Where a notice of claim is published under subsection (1), any officer of the Board authorized by the Minister may from time to time, by notice (hereafter in this Act referred to as a " notice of disclaimer") published in the Gazette, disclaim the need, for the purposes of the Board, of the whole or any part of the property included in the notice of claim and specified in the notice of disclaimer.

(5) No person shall lease, hypothecate, alienate, transfer or dispose of in any manner whatsoever to any person other than the Board the whole or any part of—

- (a) any property which is included in a notice of claim and is not disclaimed by a notice of disclaimer; or
- (b) any right or interest in respect of or incidental to the property specified in paragraph (a).

(6) Any lease, hypothecation, alienation, transfer or disposal made or effected in contravention of the provisions of subsection (5) shall be null and void.

(7) Any person shall, if requested by any officer authorized by the Minister, furnish to such person as shall be specified in the request information with regard to any movable or immovable property included in a notice of claim as shall be so specified.

(8) Any person who-

- (a) leases, hypothecates, transfers or disposes of any notified property in contravention of subsection (5); or
- (b) wilfully fails to furnish the information referred to in subsection (7), or who wilfully withholds all or any part of such information, or who furnishes information knowing such information to be false; or
- (c) wilfully or negligently destroys or damages or causes to be destroyed or damaged any notified property; or

- (d) removes, changes the situation, or alters the character or causes such removal, change or alteration of any notified property,

shall be guilty of an offence under this Act.

(9) Regulations may be made under this Act—

- (a) empowering any person authorized in that behalf by the Board to inspect any notified property, and requiring the persons in whose possession or custody such property is to allow and assist the inspection thereof;
- (b) providing that a report as to the condition of any notified property may be made, and may be subsequently amended, by or under the authority of the Board ;
- (d) providing for the service of copies of such report or any amendment thereof on persons having an interest in the property to which the report relates;
- (c) requiring persons on whom copies of the report or any amendment thereof have been served to notify the Board whether or not they are in agreement with such report or amendment, and, if they are not in agreement, to specify any objections they may have and the grounds of such objections and to produce all documents relied on by them in support of such objections;
- (e) prohibiting the making of any improvements or alterations to any notified property without the prior approval of the Board ; and
- (f) providing for all matters connected with or incidental to the matters aforesaid.

notified properly as has not been disclaimed by a notice of disclaimer or any right, interest or benefit in such notified property derived under the terms of any arrangement, agreement (formal or informal), lease or notarially executed instrument subsisting on the date of publication of the notice of claim.

(2) Before a vesting Order takes effect, the Minister may from time to time alter, by Order published in the Gazette, the date on which such vesting Order takes effect.

(3) A vesting Order shall have the effect of giving the Board absolute title to any property specified in the Order with effect from the date specified therein and free from all encumbrances:

Provided, however, where any right, interest or benefit in any notified property is vested in the Board a vesting Order shall have the effect of giving the Board such right, interest or benefit with effect from the date specified in the Order.

35. (1) The Minister may, by Order (hereafter in this Act referred to as a " requisitioning Order") published in the Gazette, requisition, with effect from such date as shall be specified in the Order, any notified property as is immovable property, in order that it may be temporarily used by the Board for the purposes of its business.

Requisition of notified property and compulsory acquisition of requisitioned property.

(2) Before a requisitioning Order takes effect, the Minister may from time to time alter, by Order published in the Gazette, the date on which such requisitioning Order takes effect.

(3) A requisitioning Order shall have the effect of authorizing the Board, with effect from the date specified in the Order, to take possession of the property specified in the Order and to use such property temporarily for the purpose of the business of the Board in any manner whatsoever.

34. (1) The Minister may, by Order (hereafter in this Act referred to as a " vesting Order") published in the Gazette, vest in the Board, with effect from such date as shall be specified in the Order, any such

(4) Where any property is requisitioned by a requisitioning Order, the Minister may, by Order (hereafter in this Act referred to as " derequisitioning Order ") published in the

Compulsory transfer to the Board of certain property.

Gazette, derequisition such property with effect from such date as shall be specified in the derequisitioning Order.

(5) Before a derequisitioning Order takes effect, the Minister may from time to time alter, by Order published in the Gazette, the date on which such derequisitioning Order takes effect.

(6) Where, immediately before the date on which any property is requisitioned under this Act, a person, other than the owner of such property, was entitled to possession of or to any other right, title or interest in such property under the terms of any arrangement, agreement (formal or informal), lease or notarially executed instrument, that arrangement, agreement (formal or informal), lease or notarially executed instrument shall be deemed for all purposes to have expired on that date.

(7) Where any property is derequisitioned by a derequisitioning Order, such Order shall be deemed to have the effect of reviving any arrangement, agreement (formal or informal), lease or notarially executed instrument subsisting on the date on which the property was requisitioned, and any question which may arise as to any right, title or interest, in or over that property shall be determined accordingly.

(8) Notwithstanding anything to the contrary in this Act or in other law the provisions of subsection (7) shall not apply to any arrangement, agreement (formal or informal), lease or notarially executed instrument affecting any movable or immovable property of the State subsisting on the date on which the property was requisitioned.

(9) Where any property requisitioned for the Board is permanently required for the purpose of the business of the Board, such property may be vested in the Board by a vesting Order.

36. (1) Notwithstanding that any movable or immovable property has vested in the Board by virtue of a vesting Order,

the Minister may, at any time before an award as to compensation is made in respect of that property under section 52, by subsequent Order published in the Gazette (hereinafter in this section referred to as a "divesting Order") revoke that vesting Order.

(2) The following provisions shall apply in any case where a vesting Order in respect of any movable or immovable property is revoked by a divesting Order:—

(a) that property shall be deemed never to have vested in the Board by virtue of that vesting Order, and any question which may arise as to any right, title or interest, in or over that property shall be determined accordingly;

(b) that property shall be deemed to have been and to be property which was requisitioned by a requisitioning Order with effect from the date on which that vesting Order took effect and was derequisitioned by a derequisitioning Order with effect from the date of the revocation of that vesting Order;

(c) all claims made under this Act to the compensation payable in respect of that property and all proceedings taken under this Act hi regard to such claims before that vesting Order was revoked shall be deemed to be null and void. and fresh claims to compensation in respect of that property may be made under this Act and fresh proceedings in regard to such fresh claims may be taken under this Act.

(3) The preceding provisions of this section shall have effect notwithstanding anything in any other provision of this Act or in any other written law.

37. (1) Any person specially or generally authorized in that behalf by the Minister or the Chairman of the Board may take possession of any property vested in or requisitioned for the Board.

Taking possession of property vested in, or requisitioned for, the Board.

Revocation of vesting Order,

(2) Any officer of the Board authorized in that behalf by the Chairman of the Board shall, by notice given to the person in occupation or in possession of any property vested in or requisitioned for the Board or exhibited in some conspicuous place on or in the vicinity of such property—

- (a) inform such person that such authorized officer intends to take possession of such property for and on behalf of the Board on such date and at such time and place as shall be specified in the notice, and
- (b) require any person interested or his authorized agent to be present on the date and at the time and place so specified, and to allow and assist such authorized officer to take possession of such property for and on behalf of the Board.

Where such property is a motor vehicle, the notice aforesaid may be given to the registered owner of that vehicle within the meaning of the Motor Traffic Act instead of being given to the person in possession of that motor vehicle.

(3) Any notice required to be given to any person under the preceding provisions of this section shall be deemed to be given to him if such notice is sent to him by registered letter through the post.

(4) Any person who contravenes any requirement of any notice given to him under this section shall be guilty of an offence under this Act.

Prevention of or obstruction to taking possession of property for and on behalf of the Board.

- 38.** (1) Every person who—
- (a) prevents, obstructs or resists, or
 - (6) directly or indirectly causes anyone to prevent, obstruct or resist,

any person from or in taking possession, under section 37, of any property for and on behalf of the Board shall be guilty of an offence under this Act.

(2) Where an officer authorized by the Minister or the Chairman of the Board under section 37 to take possession of any property for and on behalf of the Board is unable or apprehends that he will be unable to take possession of such property because of any obstruction or resistance that has

been or is likely to be offered, on his making an application in that behalf to the Magistrate's Court having jurisdiction over the place where that property is kept or situated, the Magistrate shall issue an order of the Court directing the Fiscal to deliver possession of that property to him for and on behalf of the Board.

(3) Where an order under subsection (2) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute that order and shall in writing report to the Court the manner in which that order was executed.

(4) Where an order under subsection (2) is issued to the Fiscal by a Magistrate's Court, the execution of such order shall not be stayed in any manner by reason of any step taken or proposed to be commenced in any court with a view to questioning, varying or setting aside such order.

(5) For the purpose of executing an order issued by a Magistrate's Court under subsection (2), the Fiscal or any person acting under his direction may use such force as may be necessary to enter any place where any movable property to which that order relates is kept and seize such movable property, or to enter any land, building, structure or other immovable property to which that order relates and to eject any person in occupation thereof, and to deliver possession of such movable property, land, building, structure or other immovable property to the person who is authorized to take possession thereof for and on behalf of the Board.

39. (1) Where any immovable property, other than any notified property, is required to be acquired for the purpose of the business of the Board and the Minister, by Order published in the Gazette, approves of the proposed acquisition, that property shall be deemed to be required for a public purpose and may accordingly be acquired compulsorily under the Land Acquisition Act and be transferred to the Board.

Acquisition of immovable property under the Land Acquisition Act for the Board.

(2) Any sum payable for the acquisition of any immovable property under the Land Acquisition Act, for the Board, shall be paid by the Board.

State property both immovable and movable, to be made available to the Board.

40. (t) Where any immovable property of the State is required for the purpose of the business of the Board, such purpose shall be deemed to be a purpose for which a special grant or lease of such property may be made under section 6 of the State Lands Ordinance, and accordingly the provisions of that Ordinance shall apply to a special grant or lease of such property to the Board.

(2) Where any movable property of the State is required for the purpose of the business of the Board, the Minister may by Order published in the Gazette transfer to and vest in the Board the possession and use of such movable property.

Power to require information and to inspect.

41. (1) The Chairman of the Board or any person authorized in that behalf by such Chairman may—

- (a) inspect any movable or immovable property which had been, or is being or is or was intended to be, used for the purchase, sale, supply or distribution of paddy and rice or hulling, milling or processing of paddy and rice;
- (b) inspect any movable or immovable property which had been, or is being or is or was intended to be, used for the carrying on of such other business as may be incidental or conducive to the purposes referred to in paragraph (a);
- (c) request any person to furnish information with regard to any matter within his knowledge relating to any movable or immovable property referred to in paragraph (a) or paragraph (b); and
- (d) request any person to furnish information with regard to any matter with his knowledge relating to the business of purchase, sale, supply or distribution of paddy and rice or hulling, milling or processing of paddy and rice, whether carried on by himself or any other person, and the persons employed for the purposes of such business, including details of their salaries, gratuities, compensation, or other benefits accruing to them.

(2) Any person who fails, without reasonable cause, to comply with the provisions of subsection (1) (c) or subsection (1) (a) or who furnishes information knowing such information to be false or obstructs any person in the exercise of the powers conferred on him by subsection (1) (a) or subsection (!)(&) shall be guilty of an offence under this Act.

Power of Board to make use of equipment and facilities of other persons.

42. (1) Any person who carries on the business of purchase, sale, supply, transport or distribution, hulling, milling or processing of paddy and rice shall, if a written request in that behalf is made to him by the Board, make available for use by the Board any equipment or facilities maintained by him for the purpose of that business subject to such terms and conditions (including terms as to the charges to be made for such use) as may be determined by agreement between that person and the Board or, in the absence of such agreement, by arbitration as hereinafter provided.

(2) Where the terms and conditions subject to which any equipment or facilities of any person referred to in subsection (1) is or are to be used by the Board have to be determined by arbitration, the arbitration shall be conducted—

- (a) by a single arbitrator nominated by agreement between that person and the Board ; or
- (b) in default of such agreement, by two arbitrators nominated respectively by that person and the Board.

(3) Where in any case referred to in paragraph (b) of subsection (2) there is a difference of opinion among the two arbitrators in respect of any matter, the matter shall be referred for decision by an umpire chosen by them, and, if they are unable to agree, by an umpire appointed for the purpose by the District Court of Colombo on application made by any party to the arbitration proceedings.

No stamp duty shall be payable in respect of any application under this subsection.

Each party shall be liable to pay in equal shares the amount of the fee payable to an umpire chosen or appointed under this subsection.

(4) The decision of a single arbitrator or where there are two arbitrators their agreed decision, or in any case referred to in subsection (3) the decision of an umpire, shall be final and conclusive for the purposes of this section and shall be binding on the Board and on the person whose equipment or facilities is or are to be used by the Board-

(5) Regulations may be made in respect of all matters relating to or connected with the conduct of proceedings upon arbitration under this section.

Compensation for loss incurred by reason of vesting or requisition for the Board of any mill, huller, plant, machinery. Ac.

43. No person shall be entitled to compensation for any loss incurred by him whether directly or indirectly or by way of business or otherwise by reason of the vesting in the Board or requisition for the Board under this Act of any mill, huller, plant, machinery or equipment or facility used by such person or intended to be used by such person for his business.

PART V

COMPENSATION

Notices to persons entitled to make claims to the compensation payable under this Act in respect of any property vested in or requisitioned for (he Board.

44. Where any property is vested in or requisitioned for the Board, the Chairman of the Board shall, by notice published in the Gazette and in such other manner as may be determined by him, direct every person who was interested in such property immediately before the date on which such property was so vested or requisitioned to make, within a period of one month reckoned from the date specified in the notice, a written claim to the whole or any part of the compensation payable under this Act in respect of such property, and to specify in the claim—

his name and address:

- (b) the nature of his interest in such property;
(c) the particulars of his claim; and

(d) how much of such compensation is claimed by him.

45. (1) The Chairman of the Board or such other officer as may be authorized by him in that behalf shall, as soon as possible after the receipt of a claim for compensation made by any person under section 44, determine such claim.

Power of the Chairman of the Board or officer authorized by him to determine compensation payable to claimants.

(2) Where there is any dispute as to the persons entitled to compensation in respect of any property vested in or requisitioned for the Board, the Chairman of the Board or such other officer as may be authorized by him in that behalf shall defer making any determination as to the compensation payable in respect of such property and shall refer the dispute for decision to the District Court within whose jurisdiction such property, being immovable property, is situate, or being movable property, was kept at the time it was so vested or requisitioned, and shall, after such Court make its decision on such dispute, make an award in accordance with such decision.

46. (1) For the purpose of making a determination under section 45, the Chairman of the Board or such other officer as may be authorized by him in that behalf may, if such Chairman or other officer considers it necessary so to do, hold an inquiry, and such Chairman or other officer shall by notice in writing direct every claimant for compensation to be present on such date, and at such time and place, as may be specified in the notice.

Power to hold inquiries into claims for compensation.

(2) The Chairman of the Board, or such other officer as may be authorized by him in that behalf, conducting an inquiry under subsection (1) may adjourn the inquiry from time to time and on every occasion on which such Chairman or other officer adjourns the inquiry, such Chairman or other officer shall notify to every claimant for compensation the date on which, and the time and place at which, such inquiry will be resumed.

(3) The Chairman of the Board, or such other officer as may be authorized by him in that behalf, conducting an inquiry under subsection (!) may by summons under the

hand of such Chairman or other officer require—

- (a) any person whose evidence is, in the opinion of such Chairman or other officer, likely to be material for the determination of the amount of compensation, to attend and to give evidence at the inquiry on such date and at such time and place as may be mentioned in the summons ; and
- (b) any person to produce at the inquiry on such date and at such time and place as may be mentioned in the summons for examination by such Chairman or other officer any such document or book of account in the possession of such person as in the opinion of sue;; Chairman or other officer likely to contain such information as may be necessary to determine the amount of compensation.

(4) A summons to any person under subsection (3) shall be served on him in the same manner as is provided by the Civil Procedure Code for the service of summons in a civil suit.

(5) The examination of witnesses at any inquiry under subsection (1) shall be on oath or affirmation administered by the Chairman of the Board or other officer conducting the inquiry.

Assessment and payment of compensation under this Act In respect of property as is immovable vested in the Board.

47. (1) The amount of compensation payable in respect of any property, being immovable property vested in the Board, shall be a sum equal to the value which that property would have realized if sold in the open market on the date on which that property was so vested.

(2) In determining the compensation payable under subsection (1) in respect of such property vested in the Board any sum which had been paid in advance to the owner of such property as rent for such period after the date on which the property was so vested shall be deducted from the amount of compensation.

Compensation in respect of property as is immovable requisitioned for the Board.

48. (1) The amount of compensation to be paid in respect of any property, being immovable property requisitioned for the Board, shall be a sum equal to the rent which might reasonably be expected to be

payable by a tenant in occupation of such property, during the period of requisition, under a lease granted immediately before the beginning of that period whereby the tenant undertakes to pay all usual rates and taxes and to bear the cost of the repairs and insurance and other expenses, if any, necessary to maintain such property in a state to command that rent.

(2) The amount of any rent paid in advance to the owners of any property as is immovable for any period after the date on which such property was requisitioned shall be deducted from the compensation payable under subsection (1).

49. The amount of compensation payable in respect of any property, being movable property vested in the Board, shall be the actual price paid by the owners for the purchase of such property and an additional sum which is equal to the reasonable value of any additions and improvements made to such property less a reasonable amount for depreciation.

Assessment of compensation payable for property as is movable.

50. (I) The amount of compensation to be paid to any person in respect of any property requisitioned for or vested in the Board shall be proportionate to the interest such person had in such property on the date on which the property was requisitioned for or vested in the Board :

Proportionate payment of compensation, and interest on compensation, until date of payment.

Provided, however, 'where property requisitioned is subsequently vested in the Board, the apportionment of the compensation in respect of such property shall be proportionate to the interest any person had in such property on the date on which such property was requisitioned for the Board.

(2) Any compensation payable under this Act shall carry interest, as from the date on which it accrues due until payment, at such rate as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance. ~

51. The compensation payable in respect of any property vested in the Board shall be considered as accruing due from the date on which that property was so vested.

When compensation in respect of vested property accrues due.

Duty of Chairman of the Board or other officer to make an award of the compensation and to give notice of such award.

Person dissatisfied with the amount of compensation awarded may appeal therefrom to the Board of Review constituted under the Land Acquisition Act.

52. The Chairman of the Board or other such officer as may be authorized by him in that behalf shall, upon the determination of the amount of compensation payable to any person in respect of any property vested in or requisitioned for the Board, make an award under his hand of the amount of such compensation and give written notice of such award to the person or persons entitled to such compensation.

53. (1) Where any person is dissatisfied with the amount of the compensation awarded to him under section 52, such person may appeal against the award to the Board of Review constituted under the Land Acquisition Act (hereinafter referred to as " the Board of Review ").

(2) Every appeal under subsection (1) shall be in writing and be addressed to the Chairman of the Board of Review and be transmitted to, or delivered at, the office of that Board.

(3) Every appeal under subsection (1) shall—

- (a) state the name and address of the appellant;
- (b) mention as the respondent the Chairman of the Board or other officer who made the award against which the appeal is preferred ;
- (c) contain a concise statement of the description of the property in respect of which the award was made; and
- (d) state the amount of compensation claimed by the appellant and the reasons why he considers the amount awarded by the respondent to be insufficient.

(4) No appeal under subsection (1) shall be entertained by the Board of Review unless it is preferred within twenty-one days after the date on which notice of the award of the compensation under section 52 of this Act was received by the appellant.

54. (1) The provisions of section 24 of the Land Acquisition Act shall apply to proceedings before the Board of Review on any appeal to that Board under this Act.

(2) The provisions of section 25 of the Land Acquisition Act shall apply in relation to the decision of the Board of Review on any appeal to that Board under this Act subject to the following modifications ;—

- (a) subsection (3) of that section shall have effect as though the words " or reduce " were omitted;
- (b) subsection (4) of that section shall have effect as though the proviso thereto were omitted ; and
- (c) subsections (3) and (4) of that section shall have effect as though for the expression "section 17" occurring in those subsections, there were substituted the expression " section 52"

55. An award under this Act of the Chairman of the Board, or any other officer authorized by him in that behalf, or if instead of that award, a new award has on appeal to the Board of Review been made by that Board, such new award shall be final and not called in question in any court.

56. Where an award is made under section 52, the Chairman of the Board shall tender to the person who is entitled to compensation according to that award the amount of compensation allowed to him by the award or, if in lieu of that amount ^ new amount has been allowed as compensation by a decision of the Board of Review on an appeal by him to that Board, tender that new amount to him, and shall pay the tendered amount to him if he consents to receive it.

57. The Chairman of the Board may before the determination of a claim for compensation under this Act pay to a person whom he considers entitled to such compensation an advance, and any sum so paid shall be deducted from the amount of the compensation awarded to him under section 52.

Application of certain sections of the Land Acquisition Act in relation to appeals to the Board of Review under this Act.

Finality of an award made under this Act.

Tender and payment of compensation.

Power of the Chairman of the Board to pay advances on account of compensation.

Mode of payment of compensation.

58. The mode and manner of payment of compensation under this Act shall be determined by the Minister in consultation with the Minister in charge of the subject of Finance.

Provision for cases where compensation is not accepted, &c.

59. Where any compensation payable to any person under this Act is not accepted by him when it is tendered to him or where such person is dead or not in existence or not known, it shall be paid to any District Court or Primary Court, according as the amount of the compensation exceeds or does not exceed one thousand five hundred rupees, to be drawn by the person or persons entitled thereto.

(2) Within a period of fifty days after the publication in the Gazette of any Order made by the Minister under subsection (1) Parliament may by resolution revoke such Order, and in the computation of such period no account shall be taken of any period during which Parliament is prorogued or dissolved. Such revocation shall be without prejudice to anything previously done thereunder.

62. (1) The Minister may make Regulations. regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of the following matters:—

- (a) any matter required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made ;
- (b) the amendment, revocation, or replacement of the provisions of the Schedule;
- (c) the furnishing of returns and statistics relating to the purchase, sale, distribution, supply, hulling, milling or processing of paddy and rice;
- (d) the entry and inspection by authorized officers of the Board of any stores or other premises of an authorized purchaser or licensee or any place where a person is carrying on the business of hulling, milling or processing of paddy and rice and of any stores of such person mentioned for the purposes of such business;
- (e) the appointment of Regional Consultative Committees and the terms and conditions of such appointment;
- (f) prescribing the fee for the issue of any licence under this Act;

PART VI

GENERAL

Power of Minister to modify the effect of certain written laws.

60. (1) For the purpose of enabling the Board to exercise, perform or discharge any affair, duty or function under any written law for the time being specified in the Schedule hereto, regulations may be made under this Act with the concurrence of the Minister to whom the subject or function or written law has been assigned by the President under the Constitution declaring that any such written law shall in its application have effect subject to such modifications as may be specified in those regulations.

(2) Notwithstanding the provisions of subsection (3) of section 62 of this Act, no regulation made in pursuance of the provisions of this section shall come into force unless and until it has been approved by resolution of Parliament.

Power of Minister to make Orders.

61. (1) For the purpose of enabling the Board to effectively exercise or discharge or perform its powers, functions or duties under this Act or any other enactment the Minister may by Order published in the Gazette issue all such directions as may be necessary with a view to provide for unforeseen special circumstances or to determine or adjust any question or matter for the determination or adjustment of which no provision or no effective provision is made by this Act or such other enactment.

(g) all matters incidental or connected with the foregoing provisions of this subsection,

or any order or direction lawfully given under this Act shall be guilty of an offence under this Act;

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation. .

(b) aids or abets' any person or persons in the commission of an offence under this Act shall be guilty of an offence under this Act;

(4) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder. Notification of the date on which a regulation is deemed to be rescinded shall be published in the Gazette.

(c) contravenes or fails to comply with the provisions of any Order made by the Minister under this Act shall be guilty of an offence under this Act; and

(d) attempts to commit an offence under this Act shall be guilty of an offence under this Act.

(2) Every person who commits an offence under this Act shall on conviction after summary trial before a Magistrate be liable to imprisonment of either description for a period not exceeding one year or to a fine not exceeding one thousand rupees or to both such fine and imprisonment, and the Magistrate may order the forfeiture of any property in respect of which the offence was committed.

(3) Notwithstanding anything to the contrary in the First Schedule to the Code of Criminal Procedure Act, every offence under this Act shall be a cognizable offence within the meaning of that Act.

63. (1) No suit or prosecution shall lie—

(a) against the Board for any act which in good faith is done or purported to be done by the Board under this Act; or

(b) against any member, officer, servant or agent or any authorized purchaser of the Board for any act which in good faith is done or purported to be done by him under this Act or on the direction of the Board-

(2) Any expenses incurred by such person as is referred to in subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done by him under this Act or on the direction of the Board shall, if the court holds that the act was done in good faith, be paid out of the Fund of the Board.

66. Where any offence under this Act is committed by a body corporate every person who at the time of the commission of the offence was a member, general manager, secretary or other similar officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of that offence as he ought to have exercised in the circumstances having regard to the nature of the offence.

Liability of directors and certain officers of a body corporate for offences committed by that body.

64. No writ against person or property shall be issued against a member of the Board in any action brought against the Board.

65. (1) Every person who—

(a) contravenes or fails to comply with any section or provision of this Act or any regulation made thereunder

67. (1) For the purpose of the exercise, discharge or performance of its powers, functions and duties, the Board may enter into and perform all such contracts as may be necessary for that purpose.

Power of the Board to enter into contracts, &c.

Protection for action taken under this Act or on the direction of the Board.

No writ to issue against person or property of a member of the Board.

Offences.

(2) The Board shall have the power to establish its own branches or agencies for the purpose of its business or make contracts or other arrangements for such purpose with any person or body of persons (whether corporate or unincorporate) or with Government departments.

(a) in relation to any immovable property vested in or requisitioned for the Board, means a person who, immediately before the date on which such property was so vested or requisitioned, had an interest in such property as owner, co-owner, mortgagee, lessee or otherwise, whether absolutely for himself or in trust for any other person; and

(b) in relation to any movable property vested in the Board, means any person who, immediately before the date on which such property was so vested, had an interest in such property as owner, co-owner, mortgagee, pledgee, hirer or otherwise, whether absolutely for himself or in trust for any other person;

Power of companies, to enter into contracts with the Board.

68. Any company or body of persons (whether corporate or unincorporate) may, notwithstanding anything to the contrary in any other written law or instrument relating to its functions, enter and perform all such contracts with the Board as may be necessary for the exercise, discharge or performance of the powers, functions or duties of the Board.

This Act to prevail over other written law.

69. The provisions of this Act shall have effect notwithstanding anything contrary in any other written law, and accordingly in the event of any conflict or inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail.

Interpretation.

70. In this Act unless the context otherwise requires—

"immovable property " means land and includes any interest in, or any benefit to arise out of any land, and any leasehold or other interest held by any person in any State land, and also things attached to the earth or permanently fastened to anything attached to the earth;

" motor vehicle " has the same meaning as in the Motor Traffic Act;

" person who was interested "—

"producer" means any cultivator, landlord or owner cultivator within the meaning of the Agrarian Services Act.

" property requisitioned for the Board " means property requisitioned for the Board by virtue of a requisitioning Order, and any cognate expression shall be construed accordingly; an^

" property vested in the Board " means property vested in the Board by virtue of a vesting Order, and any cognate expression shall be construed accordingly.

SCHEDULE

[Sections 60 and 62.]

Food Control Act.

Control of the Possession of Food Act.

Agricultural Products (Guaranteed Prices and Control of Hulling and Milling) Act.

CHAPTER 520

POST OFFICE

Ordinances AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE POST OFFICE IN SRI LANKA.

- Nos.11 of 1908, 23 of 1909, 24 of 1912, 26 of 1914, 20 of 1917, 14 of 1926, 27 of 1932, 5 of 1933, 30 of 1933, 35 of 1933, 21 of 1934, 12 of 1936, 37 of 1938, 65 of 1938, 6 of 1940, 18 of 1941, 61 of 1946,

Acts Nos.31 of 1955, 24 of 1957,

Law No. 6 of 1973.

[1st January. 1909.]

Short title. 1. This Ordinance may be cited as the Post Office Ordinance.

Presumptions as to delivery of postal articles. 2. For the purposes of this Ordinance—

- (a) a postal article shall be deemed to be in course of transmission by post from the time of its being delivered to a post office to the time of its being delivered to the addressee, or of its being returned to the sender or otherwise disposed of under section 37;
(b) the delivery of a postal article of any description to an officer of the post office authorized to receive postal articles of that description for the post shall be deemed to be a delivery to a post office; and
(c) the delivery of a postal article at the house or office of the addressee, or to the addressee or his servant or

agent or other person considered to be authorized to receive the article according to the usual manner of delivering postal articles to the addressee, shall be deemed to be delivery to the addressee.

PRIVILEGE AND PROTECTION OF THE GOVERNMENT

3. (1) Wherever posts or postal Establishment communications are established, the of post offices. Government shall have the exclusive privilege of conveying by post, from one place to another, all letters, except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, dispatching, and delivering all letters, except in the following cases, that is to say:—

- (a) any letter entrusted to or carried or delivered by a friend or other

POST OFFICE

private agent of the sender or of the receiver, without payment or promise of any fee or reward for the collection or acceptance or the carriage or delivery thereof;

- (b) any letter entrusted to or carried or delivered by a paid agent or messenger who is specially and solely employed for the purposes of the sender or receiver and is not a person generally engaged or open to engagement by members of the public for collecting and delivering letters for fee or reward ;
- (c) any letter which relates solely to a consignment of goods and which is sent and intended to be delivered with such consignment without payment or promise of any fee or reward over and above the fee or reward payable for the carriage and delivery of such consignment;
- (d) any letter containing trade announcements, circulars, printed extracts from newspapers or advertisements, which is not addressed to any person by name and is one of a number of letters distributed to members of the public without reference to any list of names or addresses;
- (e) any letter carried by any person other than an officer of the post office either to a post office or letter box for the purpose of posting or from a post office for delivery to the addressee;
- (f) any letter which is not transmissible by post under any written law for the time being in force.

(2) Nothing contained in subsection (1) shall be deemed to authorize any person to make a collection of letters of the description set out in paragraphs (a), (b) and (c) of that subsection for the purpose of sending or dispatching such letters otherwise than by post.

Monopoly of carriage of letters.

4. Wherever posts or postal communications are established, the following persons are expressly forbidden to collect, carry, tender, or deliver letters or to receive letters for the purpose of carrying or delivering them, although they obtain no

hire, reward, or other profit or advantage for so doing, that is to say:—

- (a) common carriers of passengers or goods and their servants or agents, except as regards letters solely concerning goods in their carts, carriages or other vehicles; and
- (b) owners and masters of vessels sailing or passing on any river or canal in Sri Lanka or between any ports or places in Sri Lanka, owners, pilots or other persons in charge of aircraft flying between any places in Sri Lanka, and the servants or agents of such owners, masters, pilots or other persons, except as regards letters solely concerning goods on board, and except as regards postal articles received for conveyance under section 43.

5. For the purposes of sections 3 and 4, unless the context otherwise requires, " letter " includes a post card, a letter-card, commercial papers and any communication written or printed or otherwise recorded on any material of any description whatsoever.

Definitions for purposes of sections 3 and 4.

6. The Government shall not incur any liability by reason of the loss, misdelivery, or delay of, or damage to, any postal article in course of transmission by post, except in so far as such liability may in express terms be undertaken by the Minister as hereinafter provided ; and no officer of the post office shall incur any liability by reason of any such loss, misdelivery, delay, or damage, unless he has caused the same fraudulently or by his wilful act or default.

Government protected from liability for losses not caused by wilful act or default.

POSTAGE

7. (1) The Minister with the concurrence of the Minister in charge of the subject of Finance may by notification in the Gazette, fix the rates of postage and other sums to be charged in respect of postal articles sent by the inland post under this Ordinance.

Power to fix rates of postage.

(2) Unless and until such notification as aforesaid is issued the rates in force at the date of the passing of this Ordinance shall be the rates chargeable thereunder.

Power to make rules.
[§ 2, Law 6 of 1973.]

8. (1) The Minister may by rule-

- (a) require the prepayment of postage on inland postal articles, or any class of inland postal articles, and prescribe the manner in which prepayment should be made ;
- (b) prescribe the postage to be charged on inland postal articles when the postage is not prepaid or is insufficiently prepaid ;
- (c) provide for the redirection of postal articles and the transmission by post of articles so redirected either free of charge or subject to such further charge as may be specified in the rules;
- (d) provide for the franking of postal articles by officers of the public service and members of Parliament under such limitations as may from time to time be deemed expedient; and
- (e) prescribe the scale of weights, terms and conditions subject to which the rates fixed for postage shall be charged.

(2) Every such rule shall be published in the Gazette and shall have effect from the date of such publication. Every such rule shall, as soon as possible after such publication, be tabled before Parliament. If Parliament, within a period of three months from the date on which such rules are so tabled, disapproves of any such rule, such rule shall cease to be effective with effect from the date of such disapproval but without prejudice to anything done thereunder. In the computation of the said period of three months, any period during which Parliament is not in session shall not be reckoned.

9. (1) The Minister may make rules providing for the registration of newspapers for transmission by inland post as registered newspapers.

Power to make rules for transmission of registered newspapers.

(2) For the purpose of such registration every publication consisting wholly or in great part of political or other news or of articles relating thereto or to other current topics, with or without advertisements, shall be deemed a newspaper, subject to the following conditions, namely :—

- (a) that it is published in numbers at intervals of not more than thirty-one days; and
- (b) that it has a bona fide list of subscribers.

(3) An extra or supplement to a newspaper, bearing the same date as the newspaper and transmitted therewith, shall be deemed to be part of the newspaper:

Provided that no such extra or supplement shall be so deemed unless it consists wholly or in great part of matter like that of the newspaper, and has the title and date of publication of the newspaper printed at the top of each page.

Explanation.—Nothing in this section or in the rules made thereunder shall be construed to render it compulsory to send newspapers by post.

10. (1) The Minister may from time to time authorize the Postmaster-General to make arrangements with the postal authority of any foreign country, for all or any of the following purposes, namely :—

Arrangements with other countries for the transmission of postal articles.

- (a) for the transmission by post of postal articles between Sri Lanka and any foreign country, or through Sri Lanka or any foreign country, to or from any part of the world, as the case may be, and for the payment of the expenses thereof, not exceeding such sums as from time to time are appropriated for the purpose by Parliament;

(b) for the fixing and collection of postage or other dues upon postal articles transmitted as aforesaid ; chargeable on his accepting delivery of the postal article, unless he forthwith returns it unopened:

(c) for the prepayment in full, or otherwise, of the postage due on any such postal articles; Provided that, if any such postal article appears to the satisfaction of the Postmaster-General to have been maliciously sent for the purpose of annoying the addressee he may remit the postage.

(d) for the transmission of registered, insured, and value-payable postal articles, and the rates to be charged therefor; (2) If any postal article on which postage or any other sum chargeable under this Ordinance is due is refused or returned as aforesaid, or if the addressee is dead or cannot be found, then the sender shall be bound to pay the postage or sum due thereon under this Ordinance.

(e) for the interchange of money orders and postal orders, the manner in which and the conditions subject to which such orders may be issued and paid, and the rates of commission to be charged thereon; 12. If any person refuses to pay any postage or other sum due from him under this Ordinance in respect of any postal article, the sum so due may, on application made by an officer of the post office authorized in this behalf by the written order of the Postmaster-General, be recovered for the use of the post office from the person so refusing, as if it were a fine imposed under this Ordinance, by any Magistrate having Jurisdiction where that person may for the time being be resident; and the Postmaster-General may further direct that any other postal article, not being on State service, addressed to that person shall be withheld from him until the sum so due is paid or recovered as aforesaid.

(f) for the division and the mutual accounting for and payment of the money collected under any such arrangement; Enforcement of Payment of postage.

(g) for the granting of compensation for the loss of postal articles or their contents or for any damage caused to them in course of transmission by post, and the conditions and limitations subject to which such compensation may be granted.

(2) The rates and regulations existing under any such arrangement now in force shall continue until altered as herein provided.

(3) Where any arrangement under this section is in force, the Minister may, in conformity with the provisions of such arrangement, determine and adequately notify the terms, conditions and requirements to be observed in respect of any of the purposes specified in subsection (1) of this section.

13. When a postal article on which any duty of customs is payable has been received by post from any place beyond seas, the amount of the duty shall be recoverable as if it were postage due under this Ordinance.

14. In every proceeding for the recovery of any postage or other sum alleged to be due under this Ordinance in respect of a postal article— (a) the production of a postal article having thereon the official mark of the post office denoting that the

Enforcement of Payment of postage.

Recovery of customs duty by the post office.

Rules of evidence.

Payment of surcharged postage on insufficiently stamped articles.

11. (1) The addressee of a postal article on which postage or any other sum chargeable under this Ordinance is due shall be bound to pay the postage or sum so

article has been refused, or that the addressee is dead or cannot be found, shall be prima facie evidence of the fact so denoted ; and

(b) the person from whom the postal article purports to have come shall, until the contrary is proved, be deemed to be the sender thereof.

Further rules of evidence.

15. The official mark on a postal article denoting that any postage or other sum is due in respect thereof to the post office of Sri Lanka, or to the post office of any foreign country, shall be prima facie evidence that the sum denoted as aforesaid is so due.

POSTAGE STAMPS

Provision of postage stamps and power to make rules as to them.

16. (1) The Minister shall cause postage stamps to be provided of such kinds and denoting such values as he may think necessary for the purposes of this Ordinance and the Minister may, if he thinks fit, cause dies and franking machines for impressing postage stamps to be provided.

(2) The Minister may make rules as to the supply, sale, and use of postage stamps and dies and franking machines for impressing the same.

(3) In particular and without prejudice to the generality of the foregoing power such rules may—

- (a) fix the price at which postage stamps shall be sold and the commission, if any, to be allowed to persons selling them;
- (b) declare the classes of postal articles in respect of which postage stamps shall be used for the payment of postage or other sums chargeable under this Ordinance;
- (c) prescribe the conditions with regard to perforation, defacement, and

all other matters subject to which postage stamps may be accepted or refused in payment of postage or other sums;

- (d) regulate the custody, supply, and sale of postage stamps;
- (e) declare the persons by whom, and the terms and conditions subject to which, postage stamps may be sold; and
- (f) prescribe the duties and remuneration of persons selling postage stamps.

(4) The provisions of the Stamp Ordinance* shall not be applicable to postage stamps.

17. Postage stamps shall be deemed to be stamps issued by Government for the purpose of revenue within the meaning of the Penal Code, and, subject to the other provisions of this Ordinance, shall be used for the prepayment of postage or other sums chargeable under this Ordinance in respect of postal articles, except where the Minister directs that prepayment shall be made in some other way.

Postage stamps protected by Penal Code.

CONDITIONS OF TRANSMISSION AND DELIVERY OF POSTAL ARTICLES

18. (1) The Minister may by rule provide for the redelivery to the sender, without reference to the consent of the addressee and subject to such conditions (if any) as may be deemed fit, of any postal article in course of transmission by post.

Redelivery to sender of postal article in course of transmission by post.

(2) Save as provided by rules made under subsection (1), the sender shall not be entitled to recall a postal article in course of transmission by post.

19. (1) No person shall send by post any article or thing which is likely to injure postal articles in course of transmission by post or any officer of the post office.

Transmission by post of injurious, filthy and noxious articles prohibited.

* See also the Stamp Duty Act, No. 43 of 1982.

(2) Except as otherwise provided by rule, and subject to such conditions as may be prescribed thereby, no person shall send by post any explosive, dangerous, filthy, noxious, or deleterious substance, any sharp instrument, or any living creature.

Transmission by post of anything indecent, &c., prohibited.

20. No person shall send by post—

(a) any indecent or obscene printing, painting, photograph, lithograph, engraving, book, or card, or any other indecent or obscene article; or

(b) any circular or advertisement representing or suggesting that any publication or article therein advertised is of an indecent or obscene nature; or

(c) any postal article having thereon or on the cover thereof any words, marks, or designs of an indecent, obscene, seditious, scurrilous, threatening, or grossly offensive character; or

* (d) any proposal, circular, or ticket relating to any lottery promoted or conducted in Sri Lanka otherwise than under a lottery licence issued under the Lotteries Ordinance or to any lottery promoted or conducted outside Sri Lanka; or

(e) any circular or advertisement regarding drugs or medicines purporting to be remedies for diseases of the sexual organs or sexual stimulants; or

(f) any substance which may, by notification under the Excise Ordinance, be declared to be deemed to be cocaine, and any preparation or admixture of the same:

Provided that the Minister may, by notification in the Gazette, exempt any medicinal preparation containing cocaine from the provisions of this paragraph;

Provided further that the provisions of this section shall not apply when cocaine is sent—

(i) to a person licensed to possess or deal in cocaine, or

(ii) on the prescription of a registered and qualified medical practitioner or a qualified veterinary surgeon.

21. (1) The Minister may make rules as to the transmission by post and the delivery of postal articles.

Power to make rules as to transmission by post and delivery of postal articles.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

(a) specify articles which may not be transmitted by post;

(b) prescribe conditions on which articles may be transmitted by post;

(c) provide for the detention and disposal of articles in course of transmission by post in contravention of rules made under paragraph (a) or paragraph (b);

(d) provide for the granting of receipts for, and the granting and obtaining certificates of, posting and delivery of postal articles and the sums to be paid in addition to any other postage for such receipts and certificates;

(e) regulate covers, form, dimensions, maximum weight, and enclosures, and the use of postal articles other than letters for making communications; and

(f) prescribe the fees to be charged for locked bags, locked boxes, and postal or tappal books, and the additional postage (if any) to be paid on articles posted in contravention of the provisions of this Ordinance.

* See also section 5 (2) of the Control of Publications on Horse-racing Act.

(3) Postal articles shall be posted and delivered at such times and in such manner as the Postmaster-General may, by order, from time to time appoint.

22. (1) Where the dispatch or delivery from a post office of letters would be delayed by the dispatch or delivery therefrom at the same time of other postal articles, such postal articles or any of them may, subject to such rules as the Postmaster-General may make in this behalf, be detained so long as may be necessary.

(2) Where separate parcel posts are established, parcels may be forwarded and conveyed by them, being detained, if necessary, for that purpose.

23. (1) Any postal article sent by post in contravention of any of the provisions of this Ordinance may be detained and either returned to the sender or forwarded to destination, in each case charged with such additional postage (if any) as the Minister may by rule direct.

(2) Any officer of the post office in charge of a post office or authorized by the Postmaster-General in this behalf may open or unfasten any postal article other than a closed letter or parcel which he suspects to have been sent by post in contravention of any of the provisions of this Ordinance.

(3) Notwithstanding anything in subsection (1)—

(a) any postal article sent by post which is suspected to contravene the provisions of section 19 may, under the authority of the Postmaster-General, be detained and opened and if necessary destroyed ;

(b) whenever the Postmaster-General has reason to suspect that any postal article other than a closed letter contains anything in contravention of the provisions of

section 20, he may cause such postal article to be detained and opened, and if it is found to contain any such matter he shall cause it to be destroyed.

24. (1) Every postal article received from beyond seas shall be liable to examination for the purpose of enforcing the provisions of the Customs Ordinance.

(2) Any such postal article, except a letter not bearing a label authorizing the customs to open it, may be opened at any post office by an officer of the post office nominated by the Postmaster-General in the presence of an officer of the customs nominated by the Principal Collector of Customs.

(3) If the value and description of the contents of the postal article is found to have been truly declared, they shall be repacked by the officer of the post office in the presence of the officer of the customs, and shall be forwarded to their destination in a suitable cover secured with a seal or seals bearing the inscription “ ශ්‍රී ලංකා රේගුව විසින් විවෘත කරන ලදී ”.

(4) If the value of the contents is, in the opinion of the officer of the customs, undervalued, or the description of contents incorrect, or if the contents or articles are totally or conditionally prohibited from being imported under the Customs Ordinance, or any enactment amending the same, or under any other enactment, the postal article with its contents shall be delivered to the Principal Collector of Customs to be dealt with as provided by the Customs Ordinance.

(5) If any letter received from beyond seas not bearing a label authorizing the customs to open it is suspected to contain dutiable articles, or articles totally or conditionally prohibited from being imported as mentioned in the preceding

Examination of postal articles received from beyond seas for the purpose of customs duties.

Delivery of letters to take precedence over delivery of other postal articles.

Power to deal with articles posted in contravention of this Ordinance.

subsection, it shall be delivered to the Principal Collector of Customs to be dealt with under the Customs Ordinance, and the Postmaster-General shall cause notice in writing to be forthwith sent to the addressee advising him of the arrival of the letter and of its transmission to the Principal Collector of Customs, and requesting him to clear it personally or by agent, or to authorize the Principal Collector of Customs in writing to open the letter and assess the contents for duty.

(6) The procedure hereinbefore prescribed shall be carried out without any avoidable delay, but no person shall have any right to compensation or otherwise, nor shall any liability be imposed on the Government or on the Postmaster-General by reason of the opening or detention of any postal article dealt with under the provisions of this section.

In public emergencies the Minister may direct the interception of any postal article.

25. (1) On the occurrence of any public emergency, or in the interest of the public safety or tranquillity, the Minister with the concurrence of the Minister to whom the administration of the Police Department is assigned, may by order in writing direct that any postal article or class or description of postal articles in course of transmission by post shall be intercepted or detained, or shall be delivered to the Government or to an officer thereof mentioned in the order, to be disposed of in such manner as the Minister may direct.

(2) If any doubt arises as to the existence of a public emergency, or as to whether any act done under subsection (1) was in the interest of the public safety or tranquillity, a certificate signed by the Inspector-General of Police shall be conclusive proof on the point.

Use of fictitious and previously used stamps prohibited.

26. (1) Where a postal article is received by post at any post office—

- (a) bearing a fictitious postage stamp, that is to say, any facsimile or imitation or representation of a postage stamp; or

- (b) purporting to be prepaid with any postage stamp which has been previously used to prepay any other postal article,

the officer in charge of such post office shall send a notice to the addressee inviting him to attend, either in person or by agent, within a specified time, at the post office to receive delivery of the postal article.

(2) If the addressee or his agent attends at the post office within the time specified in the notice and consents to make known to the officer in charge of the post office the name and address of the sender of the postal article and to redeliver to the officer aforesaid the portion of the postal article which bears the address and the fictitious or previously used postage stamp, or the entire postal article if it is inseparable from the stamp, then the postal article shall be delivered to the addressee or his agent.

(3) If the addressee or his agent fails to attend at the post office within the time specified in the notice, or, having attended within that time, refuses to make known the name and address of the sender or to redeliver the postal article or portion thereof as required by subsection (2), the postal article shall not be delivered to him, but shall be disposed of in such manner as the Minister may direct.

(4) For the purposes of this section the expression "postage stamp" includes any postage stamp for denoting any rate or duty of postage of any foreign country.

REGISTRATION, INSURANCE AND
VALUE-PAYABLE POST

27. The sender of a postal article may, subject to the other provisions of this Ordinance, have such article registered at the post office at which it is posted, and require a receipt therefor; and the Minister with the concurrence of the Minister in charge of the subject of Finance may, by notification in the Gazette, direct that, in

Registration of postal articles.

addition to any postage chargeable under this Ordinance, such further fee as may be fixed by the notification shall be paid on account of the registration of postal articles.

Power to make rules as to registration.

28. (1) The Minister may make rules as to the registration of postal articles.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

- (a) declare in what cases registration shall be required;
- (b) prescribe the manner in which the fees for registration shall be paid; and
- (c) direct that twice the fee for registration shall be levied on the delivery of a postal article required to be registered on which the fee for registration has not been prepaid.

(3) Postal articles made over to the post office for the purpose of being registered shall be delivered, when registered, at such times and in such manner as the Postmaster-General may by order from time to time appoint.

Insurance of postal articles.

29. The Minister with the concurrence of the Minister in charge of the subject of Finance may, by notification in the Gazette, direct—

- (a) that any postal article may, subject to the other provisions of this Ordinance, be insured at the post office at which it is posted against the risk of loss or damage in course of transmission by post, and that a receipt therefor shall be granted to the person posting it; and
- (b) that, in addition to any postage and fees for registration chargeable under this Ordinance, such further fee as may be fixed by the notification shall be paid on account of the insurance of postal articles.

30. The Minister with the concurrence of the Minister in charge of the subject of Finance may, by notification in the Gazette, declare in what cases insurance shall be required, and direct that any postal article containing anything required to be insured, which has been posted without being insured, shall be returned to the sender or shall be delivered to the addressee, subject to the payment of such special fee as may be fixed by the notification:

Insurance when to be compulsory.

Provided that the levy of such special fee as aforesaid shall not impose any liability upon the Government in respect of the postal article.

31. (1) The Minister with the concurrence of the Minister in charge of the subject of Finance may make rules as to the insurance of postal articles.

Power to make rules as to insurance.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

- (a) declare what classes of postal articles may be insured under section 29;
- (b) fix the limit of the amount for which postal articles may be insured ; and
- (c) prescribe the manner in which the fees for insurance shall be paid.

(3) Postal articles made over to the post office for the purpose of being insured shall be delivered, when insured, at such places and times and in such manner as the Postmaster-General may by order from time to time appoint.

32. Subject to such conditions and restrictions as may be by rule prescribed, the Government shall be liable to pay compensation, not exceeding the amount for which a postal article has been insured, to the sender thereof for the loss of the postal article or its contents, or for any

Government to be liable for the amount insured.

damage caused to it in course of transmission by post:

Provided that the compensation so payable shall in no case exceed the value of the article lost or the amount of the damage caused.

Compensation may be paid on uninsured articles.

33. The Minister with the concurrence of the Minister in charge of the subject of Finance may, by notification in the Gazette, permit of the payment of compensation for loss or damage to uninsured registered postal articles, and may prescribe the conditions under which such compensation may be paid, and the limit of the amount of such compensation.

Combined rates for postage, registration, and insurance.

34. The Minister with the concurrence of the Minister in charge of the subject of Finance may, by notification in the Gazette, prescribe combined rates for postage, registration and insurance.

Value-payable postal articles.

35. The Minister with the concurrence of the Minister in charge of the subject of Finance may, by notification in the Gazette, direct that, subject to the other provisions of this Ordinance and to the payment of fees at such rates as may be fixed by the notification, a sum of money specified in writing at the time of posting by the sender of a postal article shall be recoverable on the delivery thereof from the addressee, and that the sum so recovered shall be paid to the sender:

Provided that the Government shall not incur any liability in respect of the sum specified for recovery, unless and until that sum has been received from the addressee.

Explanation.—Postal articles sent in accordance with the provisions of this section may be described as ** value-payable " postal articles.

Power to make rules as to value-payable postal articles.

36. (1) The Minister with the concurrence of the Minister in charge of the subject of Finance may make rules as to the transmission by post of value-payable postal articles.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

- (a) declare what classes of postal articles may be sent as value-payable postal articles:
- (b) limit the value to be recovered on the delivery of any value-payable postal article; and
- (c) prescribe the form of declaration to be made by the senders of value-payable postal articles and the time and manner of the payment of fees.

(3) Postal articles made over to the post office for the purpose of being sent as " value-payable " shall be delivered, when so sent, at such times and in such manner as the Postmaster-General may by order from time to time appoint.

UNDELIVERED POSTAL ARTICLES

37. (1) The Minister may make rules as to the disposal of postal articles which for any reason cannot be delivered (hereinafter referred to as " undelivered postal articles "). Power to make rules as to postal articles which cannot be delivered.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

- (a) prescribe the period during which undelivered postal articles at a post office shall remain in that office;
- (b) provide for the publication of lists of undelivered postal articles, or of any class of undelivered postal articles;
- (c) provide for the manner in which undelivered postal articles shall be finally dealt with or disposed of.

Postal article addressed to any person at any bank, shipping office, &c., deemed to be under control of Postmaster-General until delivered to addressee.

38. Every postal article addressed to any person at any bank, or at any premises licensed under the Excise Ordinance, or at any shipping office or public or private lodging-house, and delivered to or received by the manager of such bank, or the licensee of such premises, or the person apparently in charge of such office or lodging-house, or anyone acting as agent or servant of such manager, licensee or person, shall be deemed to be under the control of the Postmaster-General until delivered to the person to whom the same is addressed.

the port or place of arrival, and which is within the exclusive privilege conferred by section 3, the master of such ship or the pilot or other person in charge of such aircraft shall without delay report the fact to the officer in charge of the post office of the port or place of arrival, as the case may be, and shall act according to any directions issued by that officer; and the receipt of that officer shall discharge such master, pilot or other person from any further responsibility in respect of the postal article or mail bag referred to in the receipt.

Postal articles addressed to any person at any bank, &c., if not delivered to addressee to be returned to nearest post office.

39. (1) If the postal article is not so delivered within two months after the receipt thereof by or on behalf of such manager, licensee or other person as aforesaid, and if instructions to the contrary have not been received from the addressee, the manager, licensee, or other person as aforesaid shall return the postal article to the nearest post office, with his reasons for doing so.

41. It shall be lawful for any officer of customs at any port or place in Sri Lanka, who in the due execution of his duty as a revenue officer shall discover on board any vessel or aircraft in any port or place whatever any mail bags or postal articles in respect of which any of the provisions of this Ordinance have been infringed, to seize and forward the same to the nearest post office with a report of the circumstances of such seizure.

Customs officer may seize mail bags in respect of which the law has been infringed.

(2) Every such postal article shall on return to the nearest post office be dealt with as provided by rules made under section 37.

42. The master or agent of every vessel which is about to proceed from the port of Colombo to any port beyond seas—

Master of vessel to give notice of his intended departure.

POSTAL ARTICLES ON SHIPS
AND AIRCRAFT

Postal articles on ships or aircraft.

40. (1) The master of every ship arriving at any port in Sri Lanka and the pilot or other person in charge of every aircraft arriving at any place in Sri Lanka shall without delay cause every postal article or mail bag on board such ship or aircraft, as the case may be, which is directed to that port or place and is within the exclusive privilege conferred on the Government by section 3, to be delivered either at the post office of that port or place, or to some officer of the post office authorized in this behalf by the Postmaster-General.

(a) shall give at the General Post Office at least twenty-four hours' previous notice in writing of the intended departure of such vessel; and

(b) shall give timely written notice at the General Post Office of any alteration in the time of such departure.

(2) If there is on board any ship or aircraft, referred to in subsection (1), any postal article or mail bag which is directed to any place within Sri Lanka, other than

43. The master of a ship, not being a mail ship, about to depart from any port in Sri Lanka to any port within or any port or place beyond Sri Lanka shall receive on board any mail bag tendered to him by any officer of the post office for conveyance, granting a receipt therefor in such form as the Postmaster-General shall prescribe, and shall without delay deliver the same at the port or place of destination.

Master of ship bound to receive and convey mail bag tendered to him by officer of post office.

Gratuities to be given for the conveyance of mails.

44. The Minister with the concurrence of the Minister in charge of the subject of Finance may, by notification published in the Gazette, declare what gratuities shall be allowed to masters of ships, not being mail ships, or to pilots or other persons in charge of aircraft, not being aircraft under contract with Government for the carriage of mails, in respect of postal articles received by such masters, pilots or other persons for conveyance on behalf of the post office ; and the master of any such ship, or the pilot or other person in charge of any such aircraft, which is about to leave any port or place in Sri Lanka, who receives on board his ship or aircraft a mail bag for conveyance, shall be entitled to demand and obtain immediately the amount of the gratuity payable in respect of the mail bag and its contents.

MONEY AND POSTAL ORDERS

Issue and payment of money orders.

45. (1) The Minister may provide for the remitting of money through the post office by means of money orders, and may make rules as to the issue and payment of such money orders:

Provided that no rule under this section or under section 47 prescribing the rates of commission or the fees to be charged on money orders shall be made except with the concurrence of the Minister in charge of the subject of Finance.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

- (a) prescribe the limit of amount for which money orders may be issued ;
- (b) prescribe the period during which money orders shall remain current;
- (c) prescribe the rates of commission or the fees to be charged on money orders or in respect thereof;

(d) prohibit the issue and payment of money and postal orders in connexion with lotteries whether promoted in Sri Lanka or elsewhere;

(f) prescribe the procedure for the recovery of money overpaid or erroneously paid to a banker in respect of any money order and provide for the deduction from any money payable to a banker in respect of any money order of any money paid to that banker in excess of what ought to have been paid to him in respect of any other money order.

46. (1) Subject to such conditions as the Minister, with the concurrence of the Minister in charge of the subject of Finance as regards rates of commission, may by rules made under section 45 prescribe in respect of the levy of additional rates of commission or fees or any other matters, a person remitting money through the post office by means of a money order may require that the amount of the order, if not paid to the payee, be repaid to him, or be paid to such person other than the original payee as he may direct. Power for remitter to recall money order or alter name of payee.

(2) If neither the payee nor the remitter of a money order can be found, and if within the period of one year from the date of the issue of the order no claim is made by such payee or remitter, the amount of such order shall not be claimable from the Government.

47. The Minister, with the concurrence of the Minister in charge of the subject of Finance as regards rates of commission, may authorize the issue, in such form as may be suitable, of money orders, to be called postal orders or by such other designation as may be deemed appropriate, and may make rules as to the rates of commission to be charged thereon, and the manner in which and conditions subject to which they may be issued, paid, and cancelled. Issue of postal orders.

Provided that no such order shall be issued for an amount in excess of twenty rupees.

Moneys paid in error may be recovered.

48. (1) If any person, without reasonable excuse, the burden of proving which shall lie on him, neglects or refuses to refund—

(a) any amount paid to him in respect of a money or postal order by an officer of the post office in excess of what ought to have been paid to him in respect thereof ; or

(b) the amount of a money or postal order paid by an officer of the post office to him instead of to some other person to whom it ought to have been paid,

such amount may on application made by an officer of the post office, authorized in this behalf by the written order of the Postmaster-General, be recovered for the use of the post office from the person so refusing (as if it were a fine imposed under this Ordinance) by any Magistrate having jurisdiction where that person may for the time being be resident ; and such amount may be so recovered notwithstanding it may exceed the amount of fine which a Magistrate may in his ordinary jurisdiction impose.

(2) Where an application is made under subsection (1) for the recovery of any amount from any person who has neglected or refused to refund that amount, it shall be lawful for the Magistrate to order such person to pay, in addition to the amount specified in the application, a sum not exceeding twenty-five rupees as the costs of and incidental to such application ; and any sum so awarded as costs shall be recovered for the use of the post office as if it were a fine imposed under this Ordinance.

Matters in respect of which no suit lies against the Government or any officer of the post office.

49. No suit or other legal proceeding shall be instituted against the Government or any officer of the post office in respect of—

(a) anything done under any rule made under the provisions of sections 45 and 47 ;

(b) the wrong payment of a money or postal order ;

(c) any loss or injury occasioned by delay in payment of a money or postal order ;

(d) any other irregularity in connexion with a money or postal order.

50. A money order or postal order shall be deemed to be a document and a valuable security within the meaning of the Penal Code.

Money and postal orders to be deemed valuable securities for the purposes of the Penal Code.

51. No animal, and no motor car, carriage, jinricksha, bicycle, tricycle, or other vehicle used for the purposes of the post office being the property of the Government shall be subject, or shall be deemed at any time to have been subject to any tax or to any provision as to licence under any other enactment.

Vehicles used for the purposes of the post office immune from taxation.

51A. (1) Any prescribed officer of the post office may in the prescribed manner inscribe or cause to be inscribed on any mail bag the words “ ශ්‍රී ලංකා තැපැල් කාර්යාලය ” and the equivalent of those words in the Tamil language. Such words are, and such equivalent is, hereafter in this Ordinance referred to as the “ official inscription ”.

Official inscription on mail bags. [§ 2, 24 of 1957.]

(2) The Postmaster-General may make rules prescribing—

(a) the officers of the post office who may make or cause to be made the official inscription on mail bags, and

(b) the manner of making such inscription.

Every rule made under this subsection shall be published in the Gazette and shall take effect upon such publication.

(3) In this section, “ prescribed ” means prescribed by rule made under subsection (2).

PENALTIES AND PROCEDURE;
OFFENCES BY OFFICERS OF THE
POST OFFICE

Offences by persons employed to carry or deliver any mail bag or postal article.

52. Whoever, being employed to carry or deliver any mail bag or any postal article in course of transmission by post—

- (a) is in a state of intoxication while so employed; or
- (b) is guilty of carelessness or other misconduct, whereby the safety of any such mail bag or postal article as aforesaid is endangered ; or
- (c) loiters or makes delay in the conveyance or delivery of any such mail bag or postal article as aforesaid ; or
- (d) does not use due care and diligence safely to convey or deliver any such mail bag or postal article as aforesaid,

shall be punishable with fine which may extend to fifty rupees, and in default of payment with imprisonment of either description not exceeding three months.

Person employed to carry or deliver any mail bag or postal article prohibited from withdrawing from duties without notice.

53. Whoever, being employed to carry or deliver any mail bag or any postal article in course of transmission by post, voluntarily withdraws from the duties of his office without permission or without having given one month's previous notice in writing, shall be punishable with imprisonment of either description which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Punishment of person employed to carry or deliver any postal article for making false entry.

54. Whoever, being employed to carry or deliver any postal article in course of transmission by post and required while so employed to keep any register, makes or causes or suffers to be made any false entry in the register with intent to induce the belief that he has visited a place, or

delivered a postal article, which he has not visited or delivered, shall be punishable with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

55. Whoever, being an officer of the post office, commits theft in respect of; or dishonestly misappropriates, or for any purpose whatsoever secretes, destroys, or throws away, any postal article in course of transmission by post or anything contained therein, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be punishable with fine.

Theft by officer of the post office.

56. Whoever, being an officer of the post office, contrary to his duty, opens or causes or suffers to be opened any postal article in course of transmission by post, or wilfully detains or delays, or causes or suffers to be detained or delayed, any such postal article, shall be punishable with imprisonment of either description for a term which may extend to two years, or with fine, or with both :

Unlawful opening and detention of postal articles by officer of the post office.

Provided that nothing in this section shall extend to the opening, detaining, or delaying of any postal article under the authority of this Ordinance, or in obedience to the order in writing of the Minister, or the direction of a competent court.

57. Whoever, being an officer of the post office—

Offences in respect of official marks.

- (a) fraudulently puts any wrong official mark on a postal article ; or
- (b) fraudulently alters, removes, or causes to disappear any official mark which is on a postal article; or
- (c) being entrusted with the delivery of any postal article, knowingly demands or receives any sum of

money in respect of the postage thereof which is not chargeable under this Ordinance,

shall be punishable with imprisonment of either description for a term which may extend to two years, and shall also be punishable with fine.

Fraudulently altering or destroying a document.

58. Whoever, being an officer of the post office, entrusted with the preparing or keeping of any document, fraudulently prepares the document incorrectly, or alters or secretes or destroys the document, shall be punishable with imprisonment of either description for a term which may extend to two years, and shall also be punishable with fine.

Reissuing a postal order previously paid.

59. Whoever, being an officer of the post office, reissues a postal order previously paid shall be deemed to have issued such order with intent to defraud, and shall be punishable with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Defrauding Government of postage.

60. Whoever, being an officer of the post office, sends by post or puts into any mail bag any postal article upon which postage has not been paid or charged in the manner prescribed by this Ordinance, intending thereby to defraud the Government of the postage on such postal article, shall be punishable with imprisonment of either description for a term which may extend to two years, and shall also be punishable with fine.

OTHER OFFENCES

Other offences.

61. Whoever—

- (a) conveys, otherwise than by post, a letter within the exclusive privilege conferred on the Government by section 3; or
- (b) performs any service incidental to conveying otherwise than by post

any letter within the exclusive privilege aforesaid; or

- (c) sends or tenders or delivers in order to be sent, otherwise than by post, a letter within the exclusive privilege aforesaid ; or

- (d) makes a collection of such letters as are referred to in paragraphs (a), (b) and (c) of subsection (1) of section 3 for the purpose of sending them otherwise than by post,

shall be punishable with fine which may extend to fifty rupees for every such letter, and in default of payment with imprisonment of either description not exceeding three months.

62. Whoever, having already been convicted of an offence under section 61, is again convicted thereunder, shall, on every such subsequent conviction, be punishable with fine which may extend to five hundred rupees, and in default of payment with imprisonment of either description not exceeding six months.

Enhanced punishment on person previously convicted.

63. (1) Whoever, in contravention of the provisions of section 4, carries, receives, tenders, or delivers letters, or collects letters, shall be punishable with fine which may extend to fifty rupees for every such letter, and in default of payment with imprisonment of either description which may extend to three months.

Carrying, &c., letters in contravention of section 4 an offence.

(2) Whoever, having already been convicted of an offence under this section, is again convicted thereunder shall, on every such subsequent conviction, be punishable with fine which may extend to five hundred rupees, and in default of payment with imprisonment of either description which may extend to six months.

64. Whoever being appointed to sell postage stamps—

- (a) takes from any purchaser for any postage stamp or quantity of

Offences by vendors of postage stamps.

postage stamps a price higher than that fixed by any rule made under section 16 (3) (a) shall be punishable with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both; or

(b) commits a breach of any other rule made under section 16 shall be punishable with fine which may extend to one hundred rupees, and in default of payment with imprisonment of either description which may extend to six months,

Punishment for offences in contravention of sections 19 and 20.

65. (1) Whoever, in contravention of the provisions of section 19 or section 20, sends or tenders or makes over in order to be sent by post any postal article or anything, shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

(2) The detention in the post office of any postal article on the ground of its having been sent in contravention of the provisions of section 19 or section 20 shall not exempt the sender from any proceedings which might have been taken if the postal article had been delivered in due course of post:

Provided that no prosecution for a contravention of section 20 (c) shall be instituted without the previous sanction of the Attorney-General.

Offences relating to letter-boxes.

66. Whoever places in or against any letter-box provided by the post office for the reception of postal articles any fire, match, or light, any explosive, dangerous, filthy, noxious, or deleterious substance, or any fluid, or commits a nuisance in or against any such letter-box, or does anything likely to injure any such letter-box or its appurtenances or contents, shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

67. Whoever, without due authority, affixes any placard, advertisement, notice, list, document, board, or other thing in or on, or paints, tars, or in any way disfigures any post office or any letter-box provided by the post office for the reception of postal articles, shall be punishable with fine which may extend to fifty rupees, and in default of payment with imprisonment of either description which may extend to three months.

Punishment for disfiguring a post office or letter-box.

68. Whoever, being required by this Ordinance to make a declaration in respect of any postal article to be sent by post or the contents or value thereof, makes in his declaration any statement which he knows or has reason to believe to be false, or does not believe to be true, shall be punishable with fine which may extend to two hundred rupees, and in default of payment with imprisonment of either description which may extend to three months, and if the false declaration is made for the purpose of defrauding the Government, with fine which may extend to five hundred rupees, and in default of payment with imprisonment of either description which may extend to six months.

Punishment for making false declarations.

Whoever—

being the master of a ship, fails to comply with the provisions of section 43; or

Offences by masters of ships and pilots, &c., in charge of aircraft.

(b) being the master of a ship, or the pilot or other person in charge of an aircraft, without reasonable excuse, the burden of proving which shall lie on him, fails to deliver any postal article or mail bag or to make a report to, or to comply with the directions of, the officer in charge of the post office at a port or place of arrival as required by section 40,

shall be punishable with a fine which may extend to five hundred rupees.

Punishment of master for retaining postal articles.

70. (1) Whoever, being the master of any ship arriving at any port in Sri Lanka, or the pilot or other person in charge of any aircraft arriving at any place in Sri Lanka, or being a person on board any such ship or aircraft, knowingly has in his baggage or in his possession or custody, after all or any of the postal articles on board such ship or aircraft have been sent to the post office at the port or place of arrival, any postal article which is within the exclusive privilege conferred on the Government by section 3, shall be punishable with a fine which may extend to fifty rupees for every such postal article as aforesaid.

(2) Whoever, being such master, pilot or other person as aforesaid, detains any such postal article as aforesaid after demand made for it by an officer of the post office, shall be punishable with fine which may extend to one hundred rupees for every such postal article.

Punishment for wrongful detention of mails.

71. Whoever, except under the authority of this Ordinance or in obedience to the order in writing of the Minister or the direction of a competent court, detains any postal article in course of transmission by post or any officer of the post office or vehicle carrying mail bags or postal articles, or on any pretence opens a mail bag in course of transmission by post, shall be punishable with fine which may extend to two hundred rupees, and in default of payment with imprisonment of either description which may extend to three months:

Provided that nothing in this section shall prevent the detention of an officer of the post office carrying any mail bag or any postal article in course of transmission by post on a charge of having committed an offence declared to be cognizable by the Code of Criminal Procedure Act, or any other law for the time being in force ;

Provided, further, that any mail bag may be detained or opened under the written authority of the Postmaster-General.

Punishment for fraudulent retention of or refusal to deliver postal articles.

72. Whoever fraudulently retains, or wilfully secretes or makes away with, or keeps or detains, or when required by an officer of the post office neglects or refuses to deliver up, any postal article in course of

transmission by post which ought to have been delivered to any other person, or a mail bag containing a postal article, shall be punishable with imprisonment of either description for a term which may extend to two years, and shall also be punishable with fine.

73. Any licensee or other person referred to in section 38 who omits or fails to return any postal article as required by section 39 shall be liable to a penalty not exceeding fifty rupees, and in default of payment to imprisonment of either description which may extend to three months.

Offences by licensees, banks, &c.

74. Whoever, not being an officer of the post office, wilfully and maliciously, with intent to injure any person, either opens or causes to be opened any letter which ought to have been delivered, or does any act whereby the due delivery of a letter to any person is prevented or impeded, shall be punishable with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both :

Punishment for unlawfully opening letters.

Provided that nothing in this section shall apply to a person who does any act to which the section applies, if he is a parent, or in the position of a parent or guardian, of the addressee, and the addressee is a minor or a ward.

75. Whoever reveals, discloses, or in any way makes known the contents of any postal article opened under the authority of this Ordinance, except so far as may be necessary for the purpose of returning the same or so far as may be authorized by the Postmaster-General in writing, shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description not exceeding twelve months, or to both.

Punishment for unlawfully disclosing contents of a postal article.

76. (1) It shall not be lawful for any person to—

Manufacture and unlawful possession of fictitious postage stamps.

- (a) make, knowingly utter, deal in, or sell any fictitious stamp, or knowingly use for any purpose any fictitious stamp; or

- (h) have in his possession, unless he shows a lawful excuse, any fictitious stamp; or
- (c) make, or, unless he shows a lawful excuse, have in his possession any die, plate, instrument, or materials for making any fictitious stamp.

(2) Any person who acts in contravention of the preceding subsection shall be guilty of an offence, and liable on conviction to a fine not exceeding two hundred rupees, or to simple or rigorous imprisonment for a term not exceeding two years, or to both.

(3) Any stamp, die, plate, instrument, or materials found in the possession of any person in contravention of this section may be seized and shall be forfeited to the State.

(4) The Postmaster-General or any postmaster may detain (if necessary) any postal packet found in the post containing or bearing any fictitious stamp. Any postal packet so detained may be either returned or given up to the sender thereof, or dealt with or disposed of in such other manner as may be authorized by the Postmaster-General.

(5) Nothing in this section shall affect the enactments contained in sections 248 to 256 of the Penal Code.

(6) For the purposes of this section "fictitious stamp" means any facsimile or imitation or representation, whether on paper or otherwise, of any stamp for denoting any rate of postage, including any stamp for denoting a rate or duty of postage of any foreign country, and includes any such facsimile or imitation or representation of an international reply coupon.

Punishment for making without lawful authority the official inscription on any mail bag. [§ 3, 24 of 1957.]

76A. Whoever without lawful authority (the proof of which authority shall be on the accused) makes the official inscription on any mail bag shall be punishable with imprisonment of either description for a term not exceeding six months, or with a fine not exceeding one thousand rupees, or with both such imprisonment and fine.

76B. Whoever, with intent to conceal that any mail bag is the property of the post office, alters, defaces, obliterates or causes to disappear the official inscription on that mail bag shall be punishable with imprisonment of either description for a term not exceeding six months or with a fine not exceeding one thousand rupees, or with both such imprisonment and fine.

Punishment for alteration, defacement or obliteration of, or causing to disappear, the official inscription on any mail bag. [§ 3, 24 of 1957.]

76C. (1) Whoever without lawful excuse (the proof of which excuse shall be on the accused) receives, possesses, keeps, sells or delivers any mail bag bearing the official inscription shall be punishable with imprisonment of either description for a term not exceeding six months, or with a fine not exceeding one thousand rupees, or with both such imprisonment and fine.

Punishment for receiving, possessing, keeping, selling or delivering, without lawful excuse, any mail bag bearing official inscription. [§ 3, 24 of 1957.]

(2) For the purposes of subsection (1), a mail bag shall be deemed to be in the possession or keeping of any person if he knowingly has it in the actual possession or keeping of any other person or in any building or place whether occupied by him or not, and whether it is so had for his own use or benefit or for the use or benefit of another.

77. Whenever any person shall be guilty of an offence under this Ordinance, the punishment of which is a fine not exceeding two hundred rupees, it shall be lawful for the Postmaster-General to accept payment on behalf of the State from such offender of such sum of money as may to the Postmaster-General seem fit, not exceeding the highest amount of fine to which such offender would have been liable on conviction, and no person having made such payment shall be thereafter prosecuted for the same offence.

Power of Postmaster-General to compound certain offences.

78. It shall be lawful for any court before which an offender is convicted under this Ordinance to direct that any share, not exceeding one-half, of any fine actually recovered shall be paid to the informer.

Reward to informer.

79. Whoever abets the commission of any offence punishable under this Ordinance, or attempts to commit any offence so punishable, shall be punishable with the punishment provided for that offence.

Punishment of abetment of offences.

Description of postal articles in criminal charges.

80. In every prosecution for an offence in respect of a mail bag or of any postal article sent by post it shall be sufficient for the purpose of the charge to describe the mail bag or postal article as being the property of the post office, and it shall not be necessary to prove that the mail bag or postal article was of any value.

Penalty for breach of rules.

81. Whoever does any act in contravention of, or fails to comply with, any rule made under this Ordinance, for the breach of which no penalty is specially provided, shall be punishable with fine which may extend 10 fifty rupees, and in default of payment with imprisonment of either description which may extend to one month.

Trial of offences.

82. (1) Offences under this Ordinance which, by reason of the amount of the penalties with which they are punishable, are not within the summary jurisdiction of a Magistrate's Court, may be tried in the High Court:

Provided that if the Attorney-General certifies that any such offence may be prosecuted before a Magistrate's Court, it shall be competent for such court to take cognizance of the offence and to award in respect thereof so much of the punishment assigned thereto as Magistrates* Courts are empowered by law to award.

[§ 4, 24 of 1957.]

(2) No court shall take cognizance of an offence punishable under any of the provisions of sections 54, 56, 57 paragraphs (a) and (b), 58, 59, 60, 61, 62, 63, 65, 68, 69, 70, 71, 76, 76A, 76B, 76c and 81 of this Ordinance, unless upon complaint made by order of, or under authority from, the Postmaster-General.

GENERAL

Officers of post office to be exempt from serving on any jury.

83. No officer of the post office in receipt of any salary from the revenues of Sri Lanka shall be liable to serve on any jury or as an assessor in any criminal or civil proceedings.

Officers of the post office prohibited from taking postal contracts and from collecting postage stamps.

84. No officer of the post office in receipt of any salary from the revenues of Sri Lanka shall be a contractor, or have any interest in any contract for carrying mail bags or postal articles, or act as agent, with or without remuneration, for any contractor or person offering to become a contractor to the post office; and no such officer shall collect postage stamps, or have any interest whatever in the collection of postage stamps. Any person acting contrary to the provisions of this section shall be liable to be forthwith dismissed, and to pay to the Postmaster-General on account of the Government all such money as such person may have directly or indirectly realized by means of such contract or agency, or by means of any collection of postage stamps, and any postage stamps collected by such officer shall be forfeited to the Government.

85. The Minister may, by Notification published in the Gazette, authorize either absolutely or subject to conditions, the Postmaster-General to exercise any of the powers conferred on the Minister by this Ordinance.

Minister may delegate certain powers to the Postmaster-General.

86. In addition to the powers in this Ordinance mentioned, the Minister may make rules to carry out any of the purposes and objects of this Ordinance.

Further power of Minister to make rules.

***88.** In this Ordinance, unless there is anything repugnant in the subject or context—

interpretation.

" aircraft " includes all balloons, whether fixed or free, kites, gliders, airships, airplanes and other flying machines;

" inland " used in relation to a postal article means posted in Sri Lanka;

" mail bag " includes a bag, box, parcel, or any other envelope or covering in which postal articles in course of transmission by post are conveyed, whether it does or does not contain any such article;

" mail ship " means a ship employed for carrying mails, pursuant to contract or continuing arrangements by the

* Section 87 is omitted, as it is a transitional provision.

Government of Sri Lanka or the Government of any foreign country;

" master of a vessel" means the person for the time being having or taking the charge or command of a vessel, but does not include the pilot;

" officer of the post office " includes any person employed in any business of the post office or on behalf of the post office;

" postage " means the duty chargeable for the transmission by post of postal articles;

" postage stamp" means any stamp provided by the Minister for denoting postage or other fees or sums payable in respect of postal articles under this Ordinance, and includes adhesive postage stamps and envelopes, cards, wrappers, and other articles on which postage

stamps are printed, embossed, impressed, or otherwise indicated and any impression denoting that postage has been paid made by a stamping die or franking machine authorized by the Minister;

" postal article" includes a letter, postcard, newspaper, parcel, and every article or thing transmissible by post;

" Postmaster-General" means the Postmaster-General of Sri Lanka, and includes the Assistant Postmaster-General;

" post office" includes every house, building, room, carriage, or place used for the purposes of the post office, and every letter-box provided by the post office for the reception of postal articles;

" the post office " means the department presided over by the Postmaster-General.

CHAPTER 612

PUBLIC OFFICERS' (SECURITY)

Ordinances AN ORDINANCE RELATING TO THE GIVING OF SECURITY BY PUBLIC OFFICERS IN THE
Nos. 14 of 1890,
12 of 1897,
9 of 1903,
10 of 1928,
15 of 1935,
10 of 1939,
29 of 1943,

Acts
Nos. 5 of 1950,
19 of 1951,
27 of 1952,
4 of 1968,
30 of 1971.

[1st July, 2891.]

Short title. **1.** This Ordinance shall be called the Public Officers' (Security) Ordinance,

Different ways in which public officers may give security. **2.** Every person in the employment of the Government of Sri Lanka who is required to give security for the due discharge in any respect of any duties to be performed by him in the course of such employment, shall give security according to the provisions of this Ordinance, in one or more of the following ways as the Secretary to the Ministry or an officer authorized by him may in each case determine, and not otherwise, namely;—

By personal bond and deposit of securities or money. (a) by personal bond and deposit with the Secretary to the Ministry to the extent required of public securities or of savings certificates issued under the National Savings Bank Act, duty endorsed in favour of the said Secretary to the Ministry, or by personal bond and lodgement of moneys in the National Savings Bank, or any commercial bank approved by the Deputy Secretary to the Treasury, to such extent in the name of the said Secretary to the Ministry;

[§ 86, 30 of 1971.]

By personal bond and periodical payments. (b) by personal bond and by the deposit of moneys or the making of periodical payments in accordance with the terms of such bond ;

(c) by personal bond and the guarantee of any association of public officers for purposes of mutual guarantee, whereof the business is conducted according to rules, from time to time, approved by the Minister in charge of the subject of Finance and published in the Gazette ;

(d) by personal bond and the guarantee of the Insurance Corporation :
Provided, however, that—

- (i) any grama seva niladhari, or
- (ii) any other officer or class of officers approved by the Deputy Secretary to the Treasury, may give such security either in the manner hereinbefore provided or by the hypothecation of immovable property to the satisfaction of the Secretary to the Ministry.

***4.** All bonds and all instruments relating to security under this Ordinance shall be in such form as may be prescribed by the Secretary to the Treasury and for such amount as may be fixed by the Secretary to the Ministry or an officer authorized by him, except as to any amount which may be fixed by law. The amount of the deposit in the National Savings Bank, or any commercial bank approved by the

* Section 3 is repealed by Act No. 4 of 1968.

Deputy Secretary to the Treasury, the aggregate amount of the deposits or periodical payments made, and the value of the securities deposited under this Ordinance by any public officer, shall be the same as the amount of the bond given by such Officer-

judgment shall be recovered against the depositor on his bond, or if the depositor is absent from Sri Lanka or his residence is not known, may be applied by the order of the Deputy Secretary to the Treasury, without any legal proceedings, in payment of the amount for which judgment might be recovered against the depositor on his bond, if he were in Sri Lanka and his residence were known.

Bonds to be attested, approved, and recorded.

5. (1) Every such bond or instrument of securityship given under this Ordinance shall be attested by any District Judge, Judge of a Primary Court, or Justice of the Peace, or by two subscribing witnesses, and when endorsed by any State Counsel as being in due form shall be recorded in the office of the Secretary to the Ministry, and shall then be delivered to the Secretary to the Ministry for safe keeping.

(4) Neither depositors nor their representatives shall, in any case or under any circumstances, have any right to require the return of securities or money deposited under section 2 of this Ordinance, or of any portion thereof, until they have obtained the certificate of the Secretary to the Ministry under section 11 of this Ordinance.

Free of stamp duty.

(2) Such bond or instrument shall not be subject to stamp duty, and the production of every such bond or instrument, or the record thereof, or any attested copy of such record, shall be sufficient prima facie evidence of its execution without proof by the officer or witnesses attesting the same.

7. (1) When there shall have been a breach of the condition of any bond given under this Ordinance, and any mutual guarantee association or the Insurance Corporation which has given security under this Ordinance, shall have paid the whole amount of such bond or such lesser amount as the State may claim from such mutual guarantee association or the Insurance Corporation, such mutual guarantee association or the Insurance Corporation shall be entitled to have such bond assigned to them or to a trustee for them, and be entitled after such assignment to sue on such bond in their own names or in the name of the trustee:

On breach of bond and payment by guarantors, bond may be assigned to them. [§4,4 of 1968.]

Evidence thereof.

Receipt for deposit. [§ 86, 30 of 1971.]

6. (1) The Secretary to the Ministry shall give to any officer who deposits securities or lodges money in the National Savings Bank or any commercial bank approved by the Deputy Secretary to the Treasury under section 2 of this Ordinance, a receipt for the same in such form as may be prescribed by the Secretary to the Treasury.

Provided that they shall not recover in any such action an amount larger than the sum they have actually paid as sureties.

Limit of amount to be recovered.

Interest.

(2) The depositor shall, unless and until the condition of his bond is broken, be entitled to receive from the Secretary to the Ministry the interest on the securities or money so deposited as such interest becomes due from time to time, and shall, unless the condition of the bond is broken, be entitled to receive back from the said Secretary to the Ministry, on obtaining the certificate of the said Secretary to the Ministry under section 11 of this Ordinance, the securities or money so deposited by him.

(2) Such assignment shall be made by the Secretary to the Ministry by endorsement on the bond or otherwise as he may think fit. The assignment shall bear the stamp, to be paid for by the assignee, to which an ordinary assignment of such bond would be liable.

How bond to be assigned.

Principal of deposit when refunded.

(3) The securities and money so deposited, and any interest which may become due after a breach of the depositor's bond, may be applied by the order of the Deputy Secretary to the Treasury in payment of any sums of money for which

(3) In any action or suit on any bond assigned under this section judicial notice shall be taken of the signature of the Secretary to the Ministry.

Evidence thereof.

Promised guarantee not to entitle person to privileges of office. [§5,4 of 1968.]

8. (1) No promised guarantee of the Insurance Corporation or of any association shall entitle any public officer to any privileges of office that are dependent upon his being guaranteed, nor shall he become entitled to any such privileges until the policy of guarantee or other instrument legally binding the Insurance Corporation or association shall have been actually executed and recorded in the office of the Secretary to the Ministry.

also be entitled to have given back to him or them any deposit or portion of any deposit, as the case may be, of securities or of money in the National Savings Bank or any commercial bank approved by the Deputy Secretary to the Treasury, made by him under this Ordinance.

[§ 86, 30 of 1971.]

[§ 5, 4 of 1968.]

(2) The Secretary to the Ministry shall not give such certificate unless and until he shall be satisfied by the due auditing of accounts of such public officer, or by due inquiry otherwise, as the Deputy Secretary to the Treasury may see fit to direct, that such person and his sureties have fully performed the conditions of their bonds or other instruments, or have fully discharged all liabilities in respect of any breach thereof, and that such person is entitled to a final discharge from his office.

Office vacated if security not given within three months, or within any shorter period fixed by the Secretary to the Ministry or an officer authorized by him.

(2) If any public officer required to give security under this Ordinance shall improperly neglect to give such security for three months, or for such shorter time as may be fixed by the Secretary to the Ministry or an officer authorized by him, his office shall be deemed vacated and a fresh appointment may be made thereto.

Security under this Ordinance sufficient in all cases.

9. Security given under this Ordinance shall, so far as concerns the form and nature of the security, be deemed a sufficient security by any public officer required by law to give security for the due discharge in any respect of any duties to be performed by him in the course of his employment by the Government of Sri Lanka whether the law hitherto in force does or does not specify any particular kind of security.

(3) In the case of depositors against whom the State has a claim which may be satisfied by a portion only of the deposit, the Secretary to the Ministry may give a certificate stating that the depositor is entitled to a final discharge only after a portion of the deposit, specifying what portion, has been applied in satisfaction of such claim, and the depositor shall thereupon be entitled to have returned to him the remaining portion of the deposit.

In what cases fresh security may be required by the Secretary to the Ministry or an officer authorized by him.

10. It shall be lawful for the Secretary to the Ministry or an officer authorized by him, in any case in which security already given, either before or after the passing of this Ordinance, is, in his opinion, insufficient to secure the amount intended to be secured, to require fresh security under this Ordinance.

12. (1) In respect of the way or method, referred to in section 2, of giving security by personal bond and by the deposit of moneys or the making of periodical payments in accordance with the terms of such bond, the Secretary to the Treasury may make rules, applicable to all departments of the public service generally or to any specified department or to any specified public officer or class of public officers, for all or any of the following purposes;—

Rules relating to personal bond and deposit of moneys or periodical payments.

Bonds and guarantees, &c., may be given and deposits returned on certificate of the Secretary to the Ministry.

11. (1) Any public officer who has given security under this Ordinance, or his representatives, and the sureties of such officer, shall be entitled, on obtaining the written certificate of the Secretary to the Ministry to the effect that there is no claim against such officer in respect of any breach of his bond, to have returned to him and them, the bonds or other instruments executed by him or them, and also to have satisfaction entered on the margin of the records of the said bonds or instruments; and such person or his representatives shall

- (a) for prescribing the amount of the security to be given ;
- (b) for prescribing the form and the mode of execution and attestation of the personal bond, and the authority or officer to whom the bond is to be delivered for safe keeping ;
- (c) for prescribing the amount of the initial deposit or payment, the rates and the intervals at which further

deposits or periodical payments are to be made, the manner in which and the authority or officer with or to whom such deposits or payments are to be made, and the manner in which the receipt of such deposits or payments is to be acknowledged, and the accounts thereof are to be kept, by such authority or officer;

- (d) for authorizing the crediting of interest on the aggregate amount of the deposits or payments standing to the credit of each officer, until the full amount of the prescribed security is deposited or paid by him, and the payment to such officer of the interest accruing thereafter; and for prescribing, in any case where no express provision is made by any other written law, the mode of determining the rates and the intervals at which such interest is to be credited or paid, and the form of the interest certificate to be issued to each officer;
 - (e) for authorizing, in the case of any department of the public service in respect of which no express provision is made by any other written law, the formation of a fund to which the deposits or periodical payments made by the officers of that department may be credited; for providing for the administration of such fund; and for prescribing the form or nature of the accounts to be kept in connexion therewith and the intervals at which such accounts are to be audited;
 - (f) for prescribing the securities in which, and the conditions subject to which, the whole or any part of any fund formed under the authority of any rule made under this section, or, where no such fund has been formed, the whole or any part of the deposits or payments made by the officers, may be invested;
 - (g) for prescribing the circumstances and the manner in which the whole or any part of the deposits or payments and interest standing to the credit of any officer may be appropriated by order of the head of the department to which the officer belongs, in order to meet any loss incurred by the State by reason of any default or omission or any dishonest or negligent act on the part of the officer;
 - (h) for prescribing the circumstances in which the whole or any part of the deposits or payments and interest standing to the credit of any officer may be declared forfeit to the State;
 - (i) for prescribing the terms and conditions on which a public officer may be permitted to withdraw the amount of the deposits or payments and interest standing to his credit after his retirement, resignation or dismissal from office;
 - (j) for suspending or modifying the application of such of the provisions of sections 4 to 10, inclusive, as may relate to any of the purposes for which rules are made under this section; and
 - (k) generally for all purposes incidental to or connected with the purposes specifically mentioned in this subsection.
- (2) Every rule made by the Secretary to the Treasury under this section shall be published in the Gazette and shall come into operation upon the date of such publication.

13. In this Ordinance,—

Insurance Corporation means the Insurance Corporation of Ceylon established by the Insurance Corporation Act.

Interpretation.
[§ 6,4 of 1968.]

CHAPTER 140

POWERS OF ATTORNEY

Ordinances
Nos.4 of 1902,
9 of 1913,
33 of 1939.

AN ORDINANCE TO PROVIDE FOR THE REGISTRATION OF WRITTEN AUTHORITIES AND POWERS OF ATTORNEY.

[1st July, 1902.]

Short title.

1. This Ordinance may be cited as the Powers of Attorney Ordinance.

best of his knowledge and belief such power of attorney is genuine and still in force. And the Registrar-General shall, after satisfying himself of the correctness of such copy, register the power of attorney and file such copy and shall endorse upon it and upon the power of attorney a certificate signed by him stating the fact of such registration and the date thereof, together with a reference to the volume and folio wherein such registration is recorded and such copy is filed, and shall return the power of attorney to the person producing the same. Such registration shall be recorded in a book to be kept in the form prescribed in the Schedule.

Registration to be recorded.

Interpretation.

2. For the purposes of this Ordinance, and unless there be anything in the subject or context repugnant to such construction—

" attorney" shall include every person holding such power of attorney;

" power of attorney" shall include any written power or authority other than that given to an attorney-at-law or law agent, given by one person to another to perform any work, do any act, or carry on any trade or business, and executed before two witnesses, or executed before or attested by a notary public or by a Justice of the Peace, Registrar, Deputy Registrar, or by any Judge or Magistrate, or Ambassador, High Commissioner or other diplomatic representative of the Republic of Sri Lanka; and

4. In the event of the cancellation or revocation of any registered power of attorney, or where any attorney ceases to act under such power of attorney, the grantor or attorney, if desirous of having such cancellation or revocation registered, shall be entitled to have the same so registered, and shall for that purpose notify such cancellation or revocation to the Registrar-General, with an affidavit verifying such fact, and shall also cause publication of such notification to be made in the Gazette and in three issues of at least three daily papers published in the Sinhala, Tamil and English languages in Colombo; but until such notification and publication the grantor shall be held liable and bound by all acts of his attorney:

Cancellation or revocation may be notified to the Registrar-General and published.

Effect of non-notification.

[§§ 2 & 3, Law
23 of 1978.]

" Registrar-General" shall include the Deputy Registrar-General and an Assistant Registrar-General and any person for the time being lawfully discharging the duties of the Registrar-General or of the Deputy Registrar-General or an Assistant Registrar-General.

Power of attorney may be registered by the Registrar-General.

3. Any attorney desiring to have his power of attorney registered under this Ordinance shall be entitled to have the same so registered, and shall for that purpose produce the same to the Registrar-General, together with a copy thereof certified by a notary public to be a true copy, and shall make an affidavit to the effect that to the

Provided that nothing in this section shall be construed to affect any power of attorney which shall cease or become void by operation of law or to affect or prejudice the operation of any clause, proviso, or condition contained in any power of attorney dealing with or touching or

requiring the giving of notice by the grantor or attorney to any person dealing with such attorney, and the effects and liabilities, if any, resulting from the failure to observe and carry out the provisions of such clause, proviso, or condition.

cancellation or revocation, if any, of the power of attorney, and by whom the notification of such cancellation or revocation was given.

Registration of cancellation or revocation.

5. The Registrar-General shall register every notification of cancellation or revocation made to him under section 4, and endorse upon the copy of the power of attorney a certificate signed by him stating the fact of such cancellation or revocation and the date of such endorsement, with a reference to the volume and folio where such cancellation or revocation is recorded and the notification is filed. Such cancellation or revocation shall be recorded in a book to be kept in the form prescribed in the Schedule.

8. In any judicial proceeding every certified copy issued by the Registrar-General as provided in section 7 of this Ordinance shall be received as prima facie evidence of the execution by the person by whom it purports to have been executed of the original power of attorney and of the contents of such original power of attorney, notwithstanding that the original power of attorney be not produced :

Copies issued by Registrar-General to be received in evidence.

Provided that if in any case such person denies the execution of such power, the certified copy thereof shall not be accepted as prima facie evidence of the execution of the original.

Registrar-General shall file documents.

6. The Registrar-General shall carefully file and preserve all copies of powers of attorney and all notifications of cancellation or revocation received by him, together with the affidavits relating thereto, with convenient lists and indexes thereof.

9. The following fees shall be payable to the Registrar-General under this Ordinance, and shall be paid in stamps, to be affixed, in the case of the registration of any power of attorney or of any notification of cancellation or revocation of any power of attorney, to the copy of the power of attorney or the notification respectively filed by the Registrar-General, and in all other cases to the document in respect of which they are payable :—

Fees.

Inspection of documents.

All such records shall be open to inspection of any person on an application in writing to be made by such person to the Registrar-General for that purpose.

Copies of registered powers of attorney.

7. The Registrar-General shall, at the request of any person applying in writing for the same, issue a copy, certified by him to be a true copy, of any copy of a power of attorney filed in his office under section 3. To such certified copy shall be added a certificate signed by the Registrar-General stating the date of registration of the power of attorney and by whom the power of attorney was produced for such registration, together with the date of registration of

| | Rs. | c. |
|--|-------|----|
| For the registration of any power of attorney . . . | 3. 75 | |
| For the registration of any notification of cancellation or revocation of any registered power of attorney | 1. 00 | |
| For every application to inspect the records . . . | 1. 00 | |
| For every application for a certified copy of a registered power of attorney | 1. 00 | |
| For every certified copy issued under section 7, per folio of 120 words | 0. 50 | |

SCHEDULE

[Sections 3 and 5.]

| Serial No. | Date of Registration | Description of Power of Attorney (whether Notarial Deed, Letter, Telegram, &c.) | Grantor | Grantee | Date of Powers | By whom produced for Registration | Volume and Folio where Copy is filed | Date of Notification of Cancellation or Revocation | Notification by whom given | Date of Registration of Notification | Volume and Folio where Notification is filed |
|------------|----------------------|---|---------|---------|----------------|-----------------------------------|--------------------------------------|--|----------------------------|--------------------------------------|--|
| | | | | | | | | | | | |

CHAPTER 29

PREVENTION OF CRIMES

Ordinances Nos. 2 of 1926,
27 of 1928,
24 of 1933,
20 of 1937,
69 of 1938,
55 of 1945.

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE IDENTIFICATION AND SUPERVISION OF CRIMINALS AND THEIR MORE EFFECTIVE PUNISHMENT AND FOR THEIR PROLONGED DETENTION. AND ALSO TO PROVIDE FOR ENLARGING OF CONVICTS UPON LICENCES AND CONTROLLING THEM WHEN AT LARGE.

[1st January. 1929.]

Short title. **1.** This Ordinance may be cited as the Prevention of Crimes Ordinance.

IDENTIFICATION OF PERSONS PREVIOUSLY CONVICTED

Procedure where a person accused of a non-summary crime is suspected of having been previously convicted.

2. (1) Whenever a person accused of a crime that is not triable summarily has been committed for trial, the Magistrate may at any time after such committal and before the trial cause the accused's finger prints to be taken in court and forwarded for identification to the Registrar. For this purpose the Magistrate may delay the transmitting of the record to the court of trial until the completion of such further proceedings.

(2) The Registrar shall compare the finger prints so forwarded with his records of finger prints and shall issue to the Magistrate a certificate in the prescribed form, stating whether or not the finger prints forwarded are identical with the finger prints of a registered criminal and setting out the prescribed particulars of each conviction for a crime entered against such criminal.

(3) (a) If the certificate so issued declares that the accused's finger prints are identical with those of a registered criminal the Magistrate shall read such certificate to the accused and call upon him to admit or deny separately each of the convictions set forth therein.

(A) And—

(i) should the accused make a statement admitting all the convictions, the Magistrate shall record it in the manner provided by section 277 of the Code of Criminal Procedure Act;

(ii) should the accused not make a statement or make a statement denying all or any of the convictions, the Magistrate shall after recording the statement (if any) in the manner indicated above proceed to record in respect of such of the convictions as the accused does not admit the evidence prescribed in section 4.

(4) All proceedings recorded under this section and all documents tendered in connexion therewith shall be forwarded to the Attorney-General or to such person as the Attorney-General may direct so as to reach him before the date fixed for the trial.

(5) Any statement or evidence recorded and any document tendered under this section may be put in and read as evidence at the trial at such time after conviction as it becomes material to inquire into the past record and character of the accused.

3. (1) Where, after summary trial of any person accused of a crime, a Magistrate finds him guilty thereof or without proceeding to conviction proposes to deal with him under section 306 (1) of the Code of Criminal Procedure Act, the Magistrate shall, notwithstanding anything in section 185 of the Code of Criminal Procedure Act cause the finger prints of such person to be taken and forwarded in the manner provided in subsection (1) of section 2, and the Registrar shall issue a certificate as required by subsection (2) of that section.

(2) If the certificate so issued declares that the accused's finger prints are identical with those of a registered criminal, the Magistrate shall read such certificate to the accused and call upon him to admit or deny separately each of the convictions set forth therein.

(3) If the accused, on being called upon under subsection (2)—

- (a) admits all the convictions set forth in the certificate, the Magistrate shall pass sentence on him according to law;
- (b) declines to make any reply, or denies all or any of the convictions set forth in the certificate, the Magistrate shall, before passing sentence on him, proceed to take evidence in proof of such of the convictions as the accused does not admit.

(4)* The Magistrate may, in his discretion, remand the accused or admit him to bail until the certificate issued under subsection (1), or the evidence referred to in paragraph (b) of subsection (3), is available to the court.

Mode of proving previous conviction.

4. The fact that any person has been previously convicted of a crime may be proved by the production of a certificate purporting to be signed by the registrar of a court stating the substance and effect of the charge and conviction, and certifying—

- (a) that such person was so previously convicted before the court; or
- (b) that on an occasion when such person was convicted by the court, of another offence, he admitted that he was so previously convicted, or was proved to have been so previously convicted;

and by proof of the identity of the person against whom a previous conviction is sought to be proved, with the person named in the certificate.

ENHANCED SENTENCE ON CRIMINALS PREVIOUSLY CONVICTED

Power of court to direct supervision of previously convicted criminal after discharge from jail.

5. (1) When a person is convicted of a crime and a previous "conviction of a crime is proved against him, the court of trial may, in addition to any other punishment which it may award to him, direct that he shall on the expiration of any term of imprisonment to which he is sentenced be subject to the supervision of the police for a

period not exceeding two years if the court of trial be a Magistrate's Court and four years if such court be the High Court:

Provided that the provisions of this section shall not apply in the case of any person sentenced to preventive detention under section 7 of this Ordinance. .

(2) Every such person contravening any rule made under section 17 of this Ordinance dealing with persons subject to police supervision, shall in every case, unless he satisfies the court that he did his best to act in conformity with the said rule, be guilty of an offence under this Ordinance, and be liable on conviction to imprisonment of either description for any period not exceeding six months.

Punishment for neglect of such duty.

6. If any person who has previously twice or oftener been convicted of any crime and has been sentenced on such conviction or convictions to undergo rigorous imprisonment exceeding in the aggregate one year is again convicted of a crime before the High Court or a Magistrate's Court, such court, in any case in which it would not otherwise have jurisdiction, so to do, shall have jurisdiction, anything in the Code of Criminal Procedure Act, the Penal Code, or any other enactment to the contrary notwithstanding, to sentence him to rigorous imprisonment for a period not exceeding two years, in addition to any punishment other than imprisonment to which he may be liable.

Sentence to be passed on criminals previously convicted.

7. (1) Where any person, charged before the High Court with a crime committed after the passing of this Ordinance, is convicted by the court and sentenced to a term of not less than one year's rigorous imprisonment, and such person subsequently admits that he is, or is found by the court on indictment to be, a person habitually addicted to crime, the court, if of opinion that by reason of his criminal habits and mode of life it is expedient for the protection of the public that such person should be kept in detention for a lengthened period of years, may pass a further sentence ordering that, on the determination of the sentence of rigorous imprisonment, he be detained for such period not exceeding five nor less than three years, as the court may determine, and such detention is herein referred to as "preventive detention".

Preventive detention.

* Subsection (5) is omitted, as the criminal jurisdiction of District Courts has been removed by section 19 of the Judicature Act.

(2) A person shall not be found to be a person habitually addicted to crime unless the court finds on evidence—

- (a) (i) that since attaining the age of sixteen years he has, whether before or after the passing of this Ordinance, been convicted of a crime at least three times previously to the conviction of the crime with which he is charged ; and
- (ii) that he has on such previous convictions been sentenced to not less than three years' rigorous imprisonment in the aggregate; and
- (iii) that he is leading persistently a dishonest or criminal life; or
- (b) that he has on any of such previous convictions been found to be a person habitually addicted to crime and sentenced to preventive detention.

(3) Any statement, evidence, or document recorded or tendered under section 2, relating to any previous conviction of the person charged before the court, may be put in and used as evidence under subsection (2).

(4) No proceedings whatsoever, except service of notice under subsection (5), shall be taken under this section against any person for being a person habitually addicted to crime until he has been arraigned on an indictment charging him with a crime and unless on such arraignment he has pleaded guilty or has been found guilty by the court.

(5) In an indictment under this section against any person for being a person habitually addicted to crime, it shall be sufficient to state that such person is a person habitually addicted to crime and the court shall, unless he pleads guilty to being a person habitually addicted to crime, inquire whether he is a person habitually addicted to crime:

Provided that no person shall : be arraigned on an indictment for being a person habitually addicted to crime unless not less than seven days' notice thereof has been served on him. Such notice shall specify the previous convictions and other grounds upon which it is intended to found

the charge, and may be served on such person by the Magistrate before forwarding the proceedings under section 2 (4).

(6) A court in deciding whether an offender is a person habitually addicted to crime or not shall pay due regard to the conduct of the accused since his last release from jail, and may admit evidence as to the character and repute of the accused and the accused may tender similar evidence. For these purposes the court may postpone the case from time to time, and remand the accused or admit him to bail.

(7) A person sentenced to preventive detention by the High Court may appeal to the Court of Appeal against such sentence, and such appeal shall be subject to the conditions specified in the Code of Criminal Procedure Act.

8. Where a person has been sentenced, whether before or after the passing of this Ordinance, to rigorous imprisonment for a term of five years or upwards, and he appears to have been at the date of such sentence a person liable to a sentence of preventive detention under section 7 of this Ordinance, the President may, if he thinks fit, at any time after three years of the term of rigorous imprisonment have expired, commute the whole or part of the residue of the sentence to a sentence of preventive detention, so, however, that the total term of sentence when so commuted shall not exceed the term of rigorous imprisonment originally awarded.

President may commute rigorous imprisonment to a sentence of preventive detention.

9. Every sentence of preventive detention shall take effect immediately on the determination of the period of imprisonment to which the convict has also been sentenced, whether such determination take place by effluxion of time or by order under the last preceding section, or by a remission of any part of the sentence under the prison rules or otherwise.

Preventive detention to commence after imprisonment.

10. Persons undergoing preventive detention shall be confined in any prison or part of a prison which the Minister may set apart for the purpose, and shall be subject to the law for the time being in force with respect to rigorous imprisonment as if they were undergoing rigorous imprisonment, subject to such modifications as may be prescribed by rules framed under section 17 of this Ordinance.

Minister may set apart prison for preventive detention.

RELEASE ON LICENCE

Grant of licences to prisoners to be at large.

11. It shall be lawful for the Minister, by an Order in writing, to grant to any prisoner undergoing sentence of imprisonment or preventive detention in any prison in Sri Lanka a licence, in the prescribed form, to be at large in Sri Lanka or in any part thereof during such portion of his period of imprisonment or preventive detention and upon such conditions, as to the Minister shall seem fit. The Minister may, if he thinks fit, revoke or alter such licence or vary the conditions thereof. Every such licence may be granted and every revocation or alteration of a licence or variation of the conditions thereof may be made by an order in writing under the hand of the prescribed officer.

Consequences of conviction of crime committed while at large on licence.

12. Any person who commits a crime while he is the holder of a licence granted as aforesaid shall, on conviction of that crime, undergo—

- (a) any term of imprisonment to which he may be sentenced for that crime; and
- (b) a term of imprisonment equal to that portion, if any, of his term of imprisonment which remained unexpired at the time of the grant of the licence;

and shall thereafter, notwithstanding anything to the contrary in section 7 or section 9, further undergo—

- (c) a term of preventive detention equal to that portion, if any, of his term of preventive detention which remained unexpired at the time of the grant of the licence ; and
- (d) any term of preventive detention to which he may be sentenced in any proceedings taken under section 7 consequent on his conviction of that crime;

and the licence, if in force at the date of his conviction of that crime, shall be deemed to be forfeited by virtue of such conviction.

Non-production of licence or breach of any of the conditions of licence declared an offence.

13. If any holder of a licence granted as aforesaid—

- (a) fails to produce his licence when required to do so by any Judge or Magistrate before whom he may be brought charged with any offence, or by the police officer in whose custody he may be, and fails to make any reasonable excuse for not producing the same ; or
- (b) breaks any of the other conditions of his licence that are not of themselves punishable either upon indictment or upon summary conviction,

he shall be guilty of an offence, and be liable on conviction to imprisonment, either rigorous or simple, for any period not exceeding six months.

14. Any peace officer may without warrant take into custody any holder of a licence granted as aforesaid whom he may reasonably suspect of having committed any offence or having broken any of the conditions of his licence, and may detain him in custody until he can be taken before a competent Magistrate and dealt with according to law.

Arrest of licence holder on suspicion.

15. (1) Where any person is convicted of an offence punishable under section 13, the Magistrate convicting that person shall report such conviction to the Minister and, in any such case, it shall be lawful for the Minister by Order to direct that such person shall be dealt with as if no such licence had been granted to him, and upon the making of such Order the licence granted to such person shall, if in force, be deemed to be revoked by virtue of such Order.

Duty of Magistrate to report conviction to Minister and Order of Minister on such report.

(2) Where the Minister has made an Order under subsection (1), the person to whom that Order applies may, if at large, be arrested without a warrant by any peace officer and be committed by any Magistrate to undergo any term of imprisonment or preventive detention to which he may be liable under section 16 by reason of such Order.

(3) Where a Magistrate commits a person under subsection (2) to undergo any term of imprisonment or preventive detention, he shall forthwith report such committal to the Magistrate by whom such person was convicted of the offence under section 13 in consequence of which the Order under subsection (1) was made.

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Consequences of Order made by Minister under section 15.

16. Where the Minister has made an Order under section 15 (1), the person to whom that Order applies shall, after undergoing any term of imprisonment to which he may be sentenced for the offence under section 13 in consequence of which that Order was made, further undergo—

- (a) a term of imprisonment equal to that portion, if any, of his term of imprisonment which remained unexpired at the time he was granted a licence to be at large ; and
- (A) a term of preventive detention equal to that portion, if any, of his term of preventive detention which remained unexpired at the time of the grant of that licence.

Rules to be made by the Minister.

17. (1) The Minister may make rules—

- (a) for the registration of criminals and for the appointment of officers by the Inspector-General of Police to superintend the carrying out of such registration, the photographing of criminals, and the taking of such other measures as may be suitable to ensure the identification of criminals;
 - (b) prescribing the method of identifying criminals so registered ;•
 - (c) prescribing the measures to be taken to keep criminals under observation by peace officers and police officers;
 - (d) regulating the supervision of persons subject to police supervision under section 5 of this Ordinance;
 - (e) regulating the treatment of persons undergoing sentences of preventive detention, the conditions of their discharge, and their supervision by specially authorized supervisors after their discharge;
 - (f) prescribing the conditions on which licences may be granted to prisoners to be at targe under this Ordinance, the forms to be used for such licences and the manner in which such licences shall be authenticated.
- (2) All rules so made, repealed, or amended—
- (i) shall be published in the Gazette and laid for a period of six sitting days before Parliament, and
 - (ii) shall come into force on the day on which they are approved by a resolution of Parliament, or on such later day as may be specified in such rule or resolution :

Provided that where such resolutions are passed on different days such rules shall come into force on the later of such days unless a different date is specified in those resolutions.

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

" crime " shall mean a breach of any one of the sections of the Penal Code included in the Schedule;

"criminal" shall mean a person who has been convicted of a crime;

" peace officer " and " police officer " shall have the same meaning as in the Code of Criminal Procedure Act;

" registered criminal" shall mean a person registered under this Ordinance as a criminal;

" Registrar " shall mean the Registrar of Finger Prints.

SCHEDULE

[Section 18.]

| Section of Penal Code | Nature of Offence |
|---|---|
| 101.113A,and)13B ... | Abetting and conspiracy to commit any of the offences specified in this Schedule. |
| From 22(> to 256 (inclusive) | Offences relating to coin and Government stamps. |
| 296,297,300,301 | Culpable homicide, &c. |
| From.) 15 to 324 (inclusive) | Voluntarily causing hurt by dangerous weapons. &c. |
| From 367 to 371 (inclusive) | Theft, theft of cattle, Ac. |
| From 373 to 378 (inclusive) | Extortion, Ac. |
| From 380 to 385 (inclusive) | Robbery, &c. |
| 387 | Criminal misappropriation. |
| From 389 to 392 (inclusive) but excluding 392A and 392e | Criminal breach of trust. |
| From 394 to 397 (inclusive) | Dishonestly receiving stolen property. |
| From 400 to 403 (inclusive) | Cheating. |
| From 418 to 426 (inclusive) | Mischief, &c. |
| From 435 to 451 (inclusive) | Home-trespass, house breaking, &c. |
| From 454 to 466 (inclusive) | Forgery, &c. |
| From 478A to 478D (inclusive) | Offences relating to currency notes and bank notes. |
| 490 | Attempting the breach of any of the sections above specified in this Schedule. |

CHAPTER 84

PREVENTION OF FRAUDS

Ordinances Nos- 7 of 1840, 16 of 1852, 11 of 1896. 60 of 1947-

AN ORDINANCE TO PROVIDE MORE EFFECTUALLY FOR THE PREVENTION OF FRAUDS AND PERJURIES.

[1st February. 1840.]

Short title.

1. This Ordinance may be cited as the Prevention of Frauds Ordinance.

to time, by Order to be published in the Gazette, appoint; and it shall be lawful for the Minister, by Order, to declare that subsection (1) shall cease to have operation in any place, district, or province which may become subject thereto, in which case subsection (1) shall accordingly cease to have any operation in such place, district, or province.

Deeds affecting immovable property to be executed before a notary and witnesses.

2. No sale, purchase, transfer, assignment, or mortgage of land or other immovable property, and no promise, bargain, contract, or agreement for effecting any such object, or for establishing any security, interest, or incumbrance affecting land or other immovable property (other than a lease at will, or for any period not exceeding one month), nor any contract or agreement for the future sale or purchase of any land or other immovable property, and no notice, given under the provisions of the Thesawalamai Pre-emption Ordinance, of an intention or proposal to sell any undivided share or interest in land held in joint or common ownership, shall be of force or avail in law unless the same shall be in writing and signed by the party making the same, or by some person lawfully authorized by him or her in the presence of a licensed notary public and two or more witnesses present at the same time, and unless the execution of such writing, deed, or instrument be duly attested by such notary and witnesses.

4. No will, testament, or codicil containing any devise of land or other immovable property, or any bequest of movable property, or for any other purpose whatsoever, shall be valid unless it shall be in writing and executed in manner hereinafter mentioned; (that is to say) it shall be signed at the foot or end thereof by the testator, or by some other person in his presence and by his direction, and such signature shall be made or acknowledged by the testator in the presence of a licensed notary public and two or more witnesses, who shall be present at the same time and duly attest such execution, or if no notary shall be present, then such signature shall be made or acknowledged by the testator in presence of five or more witnesses present at the same time, and such witnesses shall subscribe the will in the presence of the testator, but no form of attestation shall be necessary.

Every will shall be in writing, and signed by the testator in the presence of two witnesses at one time.

Certain contracts or agreements for the cultivation of paddy fields and chenas for any period not exceeding twelve months need not be notarially executed.

3. (1) The provisions of section 2 shall not be taken to apply to any contract or agreement for the cultivation of paddy fields or chena lands for any period not exceeding twelve months, if the consideration for such contract or agreement shall be that the cultivator shall give to the owner of such fields or lands any share or shares of the crop or produce thereof.

5. No appointment made by will, testament, or codicil in exercise of any power shall be valid unless the same be executed in manner hereinbefore required; and every will, testament, or codicil executed in manner hereinbefore required shall, so far as respects the execution and attestation thereof be a valid execution of a power of appointment by will, testament, or codicil, notwithstanding that it shall have

Appointments by will to be executed like other wills, and to be valid although other required solemnities are not observed.

Operation.

(2) Subsection (1) shall come into operation in such places, districts, or provinces, and at such time or times, respectively, as the Minister shall from time

PREVENTION OF FRA UDS

been expressly required that a will, testament, or codicil, made in exercise of such power, should be executed with some additional or other form of execution or solemnity.

thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary be shown.

No will to be revoked but by another will or codicil, or by a writing executed like a will, or by destruction.

6. No will, testament, or codicil, or any part thereof, shall be revoked otherwise than by the marriage of the testator or testatrix, or by another will, testament, or codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will, testament, or codicil is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator or testatrix, or by some person in his or her presence, and by his or her direction, with the intention of revoking the same.

9. Every will, testament, or codicil executed in manner hereinbefore required shall be valid without any other publication thereof:

Publication not to be requisite.

Provided always that every such will, testament, or codicil shall, after the decease of the testator or testatrix, be duly proved and recorded in the District Court empowered by law to grant probate or administration in such case, according to such general rules of practice as may now or hereafter be made by the Judges of the Supreme Court.

No alteration in a will shall have any effect unless executed as a will.

7. No obliteration, interlineation, or other alteration made in any will, testament, or codicil after the execution thereof shall be valid or have any effect, except so far as the words or effect of the will, testament, or codicil before such alteration shall not be apparent, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the will, but the will, testament, or codicil, with such alteration as part thereof, shall be deemed to be duly executed if the signature of the testator or testatrix, and the subscription of the witnesses be made in the margin or some other part of the will, testament, or codicil opposite or near to such alteration, or at the foot or end of or opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to *wch* alteration, and written at the end or some other part of the will, testament, or codicil,

10; If any person who shall attest the execution of any will, testament, or codicil shall at the time of the execution thereof, or at any time afterwards, be incompetent to be admitted a witness to prove the execution thereof, such will, testament, or codicil shall not on that account be invalid.

Will not to be void on account of incompetency of attesting witness.

11. If any person shall attest the execution of any will, testament, or codicil to whom or to whose wife or husband any beneficial devise, legacy, estate, interest, gift, disposition, or appointment of or affecting any immovable or movable property (other than and except charges and directions for the payment of any debt or debts) shall be thereby given or made, such devise, legacy, estate, interest, gift, disposition, or appointment shall, so far only as concerns such person attesting the execution of such will, testament, or codicil, or the wife or husband of such person, or any person claiming under such person or wife or husband, be utterly null and void, and such person so attesting shall be admitted as witness to prove the execution, or to prove the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift, disposition, or appointment mentioned in such will, testament, or codicil.

Gifts to an attesting witness to be void.

No will revoked to be revived otherwise than by re-execution, or a codicil to revive it.

8. No will, testament, or codicil, or any part thereof, which shall be in any manner revoked shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any will, testament, or codicil which shall be partly revoked and afterwards wholly revoked shall be revived, such revival shall not extend to so much

12. In case by any will, testament, or codicil any immovable or movable property shall be charged with any debt or debts, and any creditor, or the wife or husband of any creditor whose debt is so charged, shall

Creditor attesting to be admitted a witness.

attest the execution of such will, testament, or codicil, such creditor, notwithstanding such charge, shall be admitted a witness to prove the execution of such will, testament, or codicil, or to prove the validity or invalidity thereof.

Executor to be admitted a witness.

13. No person shall, on account of his or her being an executor or executrix of a will, testament, or codicil, be incompetent to be admitted a witness to prove the execution of such will, testament, or codicil, or a witness to prove the validity or invalidity thereof; nor shall any executor or executrix, by reason of his or her attesting such will, forfeit the recompense or commission for his or her trouble payable by law, custom, or practice.

Soldiers' and mariners' wills excepted.

14. Notwithstanding anything in this Ordinance contained, any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate as he might have done before the making of this Ordinance.

Deeds executed before other than proper notary prior to passing of Ordinance.

15. No writing, deed or instrument for the purposes aforesaid, and no will, testament, or codicil which shall have been made prior to the passing of this Ordinance, shall be deemed or taken to be invalid by reason alone of the same not having been executed and acknowledged before or attested by a notary licensed to practise within the district wherein the land or property devised or to be affected by such writing, deed or instrument, will, testament, or codicil, is situated, any provision in Ordinance No. 7 of 1834* to the contrary notwithstanding:

Provided always that every such writing, deed, or instrument, will, testament, or codicil shall have been at the time of the date thereof duly executed, acknowledged before, or attested by a notary licensed to practise in some other district,

Deeds to be executed in duplicate.

16. Every deed or other instrument, except any will, testament, or codicil required by this Ordinance to be executed or acknowledged before or to be attested by a notary, shall be executed, acknowledged, or attested in duplicate.

17. None of the foregoing provisions in this Ordinance shall be taken as applying to any grants, sales, or other conveyances of land or other immovable property from or to Government, or to any mortgage of land or other immovable property made to Government, or to any deed or instrument touching land or other immovable property to which Government shall be a party, or to any certificates of sales granted by Fiscals of land or other immovable property sold under writs of execution.

Ordinance not to affect sales by Government, &c.

18. No promise, contract, bargain, or agreement, unless it be in writing and signed by the party making the same, or by some person thereto lawfully authorized by him or her, shall be of force or avail in law for any of the following purposes :—

No promise, &c., to be in force unless in writing and signed.

- (a) for charging any person with the debt, default, or miscarriage of another,
- (b) for pledging movable property, unless the same shall have been actually delivered to the person to whom it is alleged to have been pledged;
- (c) for establishing a partnership where the capital exceeds one thousand rupees:

Provided that this shall not be construed to prevent third parties from suing ""partners, or persons acting as such, and offering in evidence circumstances to prove a partnership existing between such persons, or to exclude parol testimony concerning transactions by or the settlement of any account between partners.

19. Provided always that nothing in section 18 shall be construed to exempt any deed or instrument in any manner affecting land or other immovable property from being required for that purpose to be executed and attested in manner declared by section 2 of this Ordinance.

Instruments falling under section 18 to be notarially attested if affecting land.

* Repealed by Ordinance No. 7 of 1840.

CHAPTER 162

PAYMENT OF GRATUITIES ETC. TO INDIAN REPATRIATES

Law No. 34 of 1978. A LAW TO PROVIDE FOR THE PAYMENT OF GRATUITIES AND OTHER MONETARY BENEFITS TO INDIAN REPATRIATES, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[31 st July, 1978.]

Short title. 1. This Law may be cited as the Payment of Gratuities and other Monetary Benefits to Indian Repatriates (Special Provisions) Law.

Employer's liability to pay gratuity to Indian repatriates, 2. (1) Every employer who has employed an Indian repatriate—
(a) as a labourer, or
(b) as a member of the staff,

on any estate for a period of not less than five years, shall pay such repatriate in respect of his services under that employer as a labourer or as a member of the staff, as the case may be, a gratuity computed in accordance with the rates set out in the Schedule hereto.

(2) The provisions of subsection (1), shall not apply to, or in relation to, an Indian repatriate who has been paid a gratuity in respect of such services by such employer on or before the date of commencement of this Law.

(3) Any payment of gratuity due to an Indian repatriate under subsection (1), shall, in the event of the death of such repatriate before receiving such payment, be paid to such person or persons as would have been entitled under section 24 of the Employees' Provident Fund Act to receive the amount referred to in that section, had such repatriate been a contributor to the Employees' Provident Fund.

Section 31B (1) (fc) of the Industrial Disputes Act not to apply to Indian repatriates.

3. An Indian repatriate who is a labourer or a member of the staff employed on any estate, or on his behalf, a trade union of which he is a member shall not be entitled to make an application for relief or

redress in respect of the payment of gratuity or other benefits under section 31B (1) (b) of the Industrial Disputes Act.

4. (1) Every application made to a labour tribunal under section 31B (1)(b) of the Industrial Disputes Act, on or before the date of commencement of this Law, by an Indian repatriate who is a labourer or a member of the staff employed on any estate or, on his behalf, by a trade union of which he is a member in respect of the payment of gratuity or other monetary benefits may, by motion at any time before a determination is made on that application, be withdrawn by such repatriate or such trade union and such tribunal shall make order allowing such motion.

Pending applications under section 31B (1)(b) of the Industrial Disputes Act.

(2) Where an order allowing a motion to withdraw an application has been made under subsection (1), the provisions of this Law relating to the payment of gratuity and other monetary benefits shall apply to the Indian repatriate in respect of whom such application was made to the labour tribunal, and accordingly the employer shall, within two weeks of the date of the said order, notify such repatriate the amount of gratuity and other monetary benefits due to him.

5. Every employer of an Indian repatriate to whom the provisions of section 2 apply shall—

Employer to notify the amount due and time limit within which payment is to be made.

(a) notify such repatriate the amounts of gratuity and other monetary benefits due to him within two weeks of the date on which such employer certifies a claim under section 23 of the Employees' Provident Fund Act for the

payment of benefits under that Act due to such repatriate or, where such repatriate has made such claim or has received such benefits on or before the date of commencement of this Law, within two weeks of the date of commencement of this Law; and

- (b) pay such repatriate the amount of gratuity and other monetary benefits due to such repatriate within two weeks of the date on which such repatriate produces a permit from the Controller of Exchange for the transfer of his assets or the assets of his family.

Advance Account Fund.

6. (1) For the purposes of this Law there shall be established a fund to be known as the "Advance Account Fund" into which shall be paid—

- (a) any such sums of money as may be paid into the fund, for the purposes of this Law, out of the Consolidated Fund; and
- (b) any such sum of money as may be received by the Commissioner from the Tea Commissioner and the Rubber Controller under the provisions of this Law.

(2) The Commissioner shall be responsible for the administration of the Advance Account Fund.

Certificate of the Commissioner.

7. (1) Where on an application made for the payment of gratuity or other monetary benefits by an Indian repatriate or on his behalf by a trade union, the Commissioner is satisfied after such inquiry as he deems necessary that any employer has failed or refused to notify an Indian repatriate of the amount of gratuity or other monetary benefits due to such repatriate as required by this Law, or has notified an incorrect amount, the Commissioner shall issue a certificate specifying the amount of gratuity and other monetary benefits due to such repatriate from such employer. A copy of such certificate shall be sent by post to such repatriate and his employer.

(2) The correctness of any statement in the certificate issued by the Commissioner

under subsection (1) or the authority of the Commissioner to issue such certificate shall not be called in question in any court or tribunal by writ or otherwise.

(3) Where an employer fails or refuses to pay the amount of gratuity and other monetary benefits due to any Indian repatriate under or as required by this Law, the Commissioner shall have the power to make the payment of such amount of gratuity and other monetary benefits to such repatriate from the Advance Account Fund and notify such payment to the employer of such repatriate and to the Tea Commissioner or the Rubber Controller, as the case may be.

(4) Where the Commissioner makes any payment to any Indian repatriate from the Advance Account Fund under subsection (3), the employer of such repatriate shall be liable to pay to the Commissioner a surcharge on such payment in a sum, not exceeding fifty *per centum* of the amount as paid by the Commissioner to such repatriate, as the Commissioner may determine.

(5) Where the Commissioner makes any payment to any Indian repatriate under subsection (3), he shall notify such payment and the amount of surcharge payable thereon by the employer of such repatriate to such employer and the Tea Commissioner or the Rubber Controller, as the case may be.

(6) Where a notification under subsection (5) is received from the Commissioner, the Tea Commissioner or the Rubber Controller, as the case may be, shall have the power to pay to the Commissioner the amounts specified in such notification as payment of gratuity made to an Indian repatriate and surcharge payable thereon, from any monies payable to the employer of such repatriate under the Capital Fund or the Rubber Replanting Subsidy Fund, as the case may be.

Payments due to Indian repatriates employed on estates vested in the Land Reform Commission or acquired under the Land Acquisition Act.

8. (1) Where an estate on which an Indian repatriate was employed has been vested in the Land Reform Commission under the Land Reform Law, or has been acquired under the Land Acquisition Act, the Commissioner shall, after such inquiry as he may deem necessary, issue a certificate specifying the amount of gratuity and other monetary benefits due to such repatriate from the employer in respect of his services under such employer prior to the date of such vesting or acquisition.

(2) The correctness of any statement in the certificate issued by the Commissioner under subsection (1) or the authority of the Commissioner to issue such certificate shall not be called in question in any court or tribunal by writ or otherwise.

(3) Where the Commissioner issues a certificate under subsection (1) specifying the sum due to an Indian repatriate from his employer, the Land Reform Commission or the acquiring officer, as the case may be, shall make payment to such repatriate through the Commissioner, of such sum as may be certified, after such repatriate produces a permit from the Controller of Exchange for the transfer of his assets or the assets of his family.

(4) A copy of the certificate referred to in subsection (1) shall be sent by the Commissioner to the employer of the repatriate in respect of whom such certificate is issued.

(5) The sum paid by the Land Reform Commission or the acquiring officer to an Indian repatriate under the provisions of this Law, shall be a first charge on the compensation payable to the employer of such repatriate under sections 32 and 42J of the Land Reform Law or section 17 of the Land Acquisition Act, as the case may be, and such sum shall be deducted from the amount of compensation awarded to such employer.

Commissioner's power of entry and inspection.

9. (1) The Commissioner shall have power—

- (a) to enter and inspect at all reasonable hours of the day or night, any estate in which Indian repatriates are

employed, for the purpose of examining any register or record relating to them, or of ascertaining whether the provisions of this Law are being complied with;

- (b) where any such record or register is not available for examination when he is inspecting such place, to require the production of such register or record on a specified later date for examination at such place as may be notified by the Commissioner;
- (c) to take copies of the whole or any part of any such register or record ;
- (d) to direct the employer to furnish all such information as he may require for the purpose of the exercise of the powers and the performance of the duties under this Law and it shall be the duty of such person to comply with such direction; and
- (e) to make such inquiries as he may consider necessary for the purposes of this Law.

(2) The Commissioner shall, for the purposes of any inquiry under this Law, have all the powers of a Magistrate's Court—

- (a) to summon and compel the attendance of all witnesses;
- (b) to compel the production of documents; and
- (c) to administer any oath or affirmation to witnesses.

10. (1) Every person who—

- (a) hinders or obstructs the Commissioner in the exercise of the powers conferred by section 9 ; or
- (b) makes or causes to be made any register or record which is false in any material particular, or produces or causes or knowingly allows to be produced any such register or record to the Commissioner acting

under the powers conferred by section 9 knowing the same to be false; or

- (c) furnishes any information to the Commissioner knowing the same to be false; or
- (d) fails to comply with any direction given by the Commissioner; or
- (e) contravenes any provision of this Law,

shall be guilty of an offence and shall be liable on conviction before a Magistrate to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

(2) Where an offence under this Law is committed by a body of persons then—

- (a) if the body of persons is a body corporate every director or officer of that body; or
- (b) if the body of persons is other than a body corporate every member of that body,

shall be deemed to be guilty of such offence:

Provided, however, that no such director, officer or member shall be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

11. The proceedings at any inquiry held by the Commissioner for the purposes of this Law, may be conducted by the Commissioner in any manner not inconsistent with the principles of natural justice which to the Commissioner may seem best adapted to elicit proof or information concerning matters that may arise at such inquiry.

12. Any notice which is required by this Law to be served on, or given to, any person shall, if it is not served on, or given

personally to such person, be deemed to have been duly served or given—

- (a) if it is left at the usual or last known place of residence or business of such person; or
- (b) if it is sent to him by registered post addressed to the usual or last known place of residence or business of such person.

13. The provisions of this Law shall have force and effect notwithstanding anything in any other written law or in any contract of employment whether oral, written, express or implied ; and accordingly in the event of any conflict or inconsistency between the provisions of this Law and such other law or contract, the provisions of this Law shall prevail over any such law or contract.

Provisions of this Law to prevail over any other law.

14. In this Law, unless the context otherwise requires,—

Interpretation.

"acquiring officer" shall have the same meaning as in the Land Acquisition Act;

"Capital Fund" means the Capital Fund established under the Sri Lanka Tea Board Law;

"Commissioner" means the person for the time being holding the office of the Commissioner of Labour and includes—

- (a) in respect of any power, duty or function of the Commissioner under this Law, other than sections 7 and 8, any person authorized in writing by the Commissioner to exercise such power, perform such duty or discharge such function;
- (b) in respect of any power conferred on the Commissioner by sections 7 and 8 of this Law, any person for the time being holding the office of Deputy or Senior

Conduct of proceedings by Commissioner for purposes of this Law.

Service of notice.

- Assistant or Assistant Commissioner of Labour, or any labour officer;
- " date of commencement of this Law " shall mean the 31st day of July, 1978;
- " Employees' Provident Fund " shall have the same meaning as in the Employees' Provident Fund Act;
- " employer " means—
- (a) any person who employs or on whose behalf any other person employs any labourer or any member of the staff, or
 - (b) any person who on behalf of any other person employs any labourer or any member of the staff and includes a body of employers (whether such body is a firm, company, corporation or trade union) and any person or body of employers who or which has ceased to be an employer;
- " estate " shall have the same meaning as in the Estate Labour (Indian) Ordinance •
- " Indian repatriate " means a person recognized as a citizen of India by the Government of India under the Indo-Ceylon Agreement of 1964;
- " labourer " means any labourer and kangany (commonly known as Indian coolies) whose name is borne on an estate register, and includes the Muslims commonly known as Tulicans and includes any person who has ceased to be a labourer;
- " Land Reform Commission " shall have the same meaning as in the Land Reform Law;
- " member of the staff " means any person employed on an estate in any capacity other than as a labourer and includes any person who has ceased to be a member of the staff;
- " other monetary benefits " shall include arrears of wages, provident fund contributions and annual holiday wages; and
- "Rubber Replanting Subsidy Fund" means the Rubber Replanting Subsidy Fund established under the Rubber Replanting Subsidy Act.

[Section 2.]

SCHEDULE

The gratuity payable under section 2 of this Law to an Indian repatriate shall be computed at the following rates:—

(1) Rates applicable to labourers—

- (a) for each year of employment prior to the commencement of liability to make contributions to the Employees' Provident Fund—

| | |
|-------------------|-----------|
| (i) for a male | Rs. 35.00 |
| (ii) for a female | Rs. 30.00 |

- (b) for each year of employment from the date of commencement of liability to make contributions to the Employees' Provident Fund up to December 31, 1970—

| | |
|-------------------|-----------|
| (i) for a male | Rs. 17.50 |
| (ii) for a female | Rs. 15.00 |

(2) Rates applicable to members of the staff-

One month's gross salary for each year of employment based on the terminal salary less employer's contribution to any provident fund.

CHAPTER 56

PUBLICATIONS ON HORSE-RACING

Act
No. 44 of 1961.

AN ACT TO PREVENT THE PRINTING, PUBLICATION OR COMMUNICATION OF ANY MATTER RELATING TO HORSE-RACING IN OR OUTSIDE SRI LANKA, THE IMPORTATION OF ANY NEWSPAPER, BOOK, MAGAZINE OR OTHER PUBLICATION WHICH IN THE OPINION OF THE PRINCIPAL COLLECTOR OF CUSTOMS OR OTHER OFFICER AUTHORIZED BY HIM CONTAINS WHOLLY OR MAINLY MATTERS CONNECTED WITH HORSE-RACING, AND THE SALE OR DISTRIBUTION OF ANY ARTICLE SO PRINTED, PUBLISHED, COMMUNICATED OR IMPORTED, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

{ 17th June. 1961. }

Short title.

1. This Act may be cited as the Control of Publications on Horse-racing Act.

Ordinance of any notice or advertisement relating to the promotion or conduct of any lottery in connection with a horse-race, or

Prohibition of the printing, publication or communication, or the importation, of any matter relating to horse-racing and the sale or distribution thereof.

2. No person shall—

(a) print, publish or communicate any matter connected with, or incidental to, or descriptive of, the running of racehorses in or outside Sri Lanka or any race-meeting held or to be held in or outside Sri Lanka, or

(b) the printing, publication, distribution or sale in conformity with the provisions of this Act of the official race-card of an approved racing club, or

(b) import any newspaper, book, magazine or other publication which, in the opinion of the Principal Collector of Customs or other officer authorized by him in that behalf, contains wholly or mainly any matter connected with, or incidental to, or descriptive of, the running of racehorses, or any race-meeting held or to be held, in or outside Sri Lanka, or

(c) the communication by an approved racing club to the owner or trainer of any racehorse, or by that owner or trainer to that club, of any matter connected with the running of such racehorse, or

(c) distribute or sell, or offer for sale, any article printed, published, communicated or imported in contravention of the preceding provisions of this section:

(d) the publication by an approved racing club of the finding in any inquiry or investigation by that club into the running of any racehorse or any matter connected therewith, or

(e) the printing or publication by an approved racing club—

Provided, however, that the preceding provisions of this section shall have no application to—

(i) of the programme of races for any racing season in accordance with the constitution of that club,

(a) the publication by an approved racing club in conformity with the provisions of the Lotteries

(u) of the racing calendar required to be published by that club in accordance with the rules of that club.

- (iii) of the list of entries of horses for the races to be run at any race-meeting for the purpose of distribution only to owners and trainers of such horses and to officials of that club, and
- (iv) of the lists of the handicaps allotted to horses entered, and of the acceptances of horses, for the races to be run on any day for the purpose of distribution only to the owners and trainers of such horses and to persons performing any official duties on that day, or
- (f) the printing, publication, distribution or sale at the end of each racing year by an approved racing club of the results of the race-meetings held by that club during that year, or
- (g) the importation by any person with the prior approval of the Minister of any book or other literature printed or published in any other country relating to the form of, and other matters connected with, racehorses in that country, or
- (h) the importation by an approved racing club conducting any lottery under the Lotteries Ordinance in connection with any horse-race to be run outside Sri Lanka, of any publication containing the entries for that race and the results of that race.

Every such request shall—

- (a) contain the name of the authorized printer and the place at which such printer carries on his business of printing, and
- (b) specify the number of copies of the official race-card required to be printed.

A copy of such request shall be transmitted immediately to the Secretary to the Ministry by the secretary making the request.

- (3) No authorized printer shall—
 - (a) print any copies of an official race-card in excess of the number specified in the request of the secretary, or
 - (b) communicate the contents of an official race-card required to be printed by him to any other person.
- (4) An authorized printer shall maintain at the place at which he carries on his business of printing a register of the number of copies of any official race-card which he has printed and delivered from time to time at the request of the secretary of any approved racing club. Every such register shall be open for inspection at such place to the Secretary to the Ministry or other person authorized by him to make such inspection.

4. (1) No person other than a person authorized in that behalf in writing by the secretary of an approved racing club shall sell an official race-card.

(2) An official race-card shall not be sold by an approved racing club—

- (a) except at such places as are set apart by that club for the purpose within the several enclosures of the race-course, or
- (b) to any person other than to a person who is admitted to the race-meeting to which that official race-card applies either as a member of that club or on his paying the fee charged by that club for admission to that race-meeting, or -

3. (1) No person shall print the official race-card of an approved racing club except at the request of the secretary of that club.

(2) Where an approved racing club desires to have an official race-card printed, the secretary of that club shall, not earlier than forty-eight hours before the time of commencement of the race-meeting to which that official race-card will apply, make a request in writing to a printer (hereafter in this Act referred to as the "authorized printer"), to print the official race-card.

Printing of the official race-card of an approved racing club.

(c) earlier than two hours before the time fixed for the commencement of the first race specified in that official race-card.

Application of the Customs Ordinance and Post Office Ordinance.

5. (1) The Customs Ordinance shall apply in relation to any newspaper, book, magazine or other publication the importation of which is prohibited by section 2 of this Act in like manner as that Ordinance applies in relation to articles the importation of which into Sri Lanka is prohibited by any Ordinance.

(2) The Post Office Ordinance shall in relation to the transmission by post of newspapers, books, magazines or other publications have effect as though in section 20 of that Ordinance the following new paragraph were inserted immediately after paragraph (d) of that section:—

"(dd) any newspaper, book, magazine or other publication which contains wholly or mainly any matter connected with, or incidental to, or descriptive of, the running of racehorses, or any race-meeting held or to be held, in or outside Sri Lanka • or ".

Offences.

6. (1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence under this Act.

(2) Subject as otherwise provided, where an offence under this Act is committed by a body of persons, then,—

(a) if that body of persons is a body corporate, every director and other officer of that body corporate, and

(b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence.

(3) Subject as otherwise provided, where an offence under this Act is committed by an approved racing club, the secretary and every steward of that club shall be deemed to be guilty of that offence.

(4) A director or an officer of a body corporate, or a partner of a firm, or the secretary or a steward of an approved racing club, shall not be deemed to be guilty of an offence under this Act if he proves that that offence was committed without his knowledge and that he exercised all such diligence to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions and in all the circumstances.

7. Every person who commits an offence under this Act shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Punishment for offences under this Act.

8. No suit or prosecution shall lie—

Protection for action taken under this

(a) against the Principal Collector of Customs or the Postmaster-General for any act which in good faith is done or purported to be done by any officer of the Customs or the Postmaster-General's Department on the direction of the Principal Collector of Customs or the Postmaster-General, as the case may be; or

(b) against any such officer for any act which in good faith is done or purported to be done by him under this Act or on the direction of the Principal Collector of Customs or the Postmaster-General.

9. In this Act, unless the context interpretation, otherwise requires,—

" approved racing club " means the Ceylon Turf Club or the Galle Gymkhana Club;

" official race-card " means the programme of a race-meeting to be held by an approved racing club on any day, such programmes containing the race results of previous race-meetings held by that club; and

" race-meeting " has the same meaning as in the Betting on Horse-racing Ordinance.

CHAPTER 34

PROBATION OF OFFENDERS

Ordinances Nos. 42 of 1944, 21 of 1947.
 Act No. 10 of 1948,

AN ORDINANCE TO AMEND THE LAW RELATING TO THE RELEASE OF OFFENDERS ON PROBATION AND TO THE SUPERVISION OF SUCH OFFENDERS, AND TO PROVIDE FOR THE ESTABLISHMENT AND ADMINISTRATION OF A PROBATION SERVICE.

[16th November. 1944.]

Short title. **1.** This Ordinance may be cited as the Probation of Offenders Ordinance.

Application of Ordinance. **2.** The Minister in charge of the subject of Justice may from time to time by Order published in the Gazette, declare that the provisions of this Ordinance shall be applicable in the case of persons convicted of offences committed within the limits of any judicial division specified in the Order.

Every judicial division specified in any Proclamation or Order for the time being in force under this section is hereinafter in this Ordinance referred to as a "proclaimed judicial division".

Power to make probation order. **3.** (1) Where any person is convicted by any court of any offence committed in a proclaimed Judicial division and punishable by that court, and it appears to the court, having regard to all the circumstances of the case, including the nature of the offence and the age, sex and condition of the offender, that it is expedient that the offender should be released on probation, the court may, subject to the provisions of section 4, make a probation order in respect of the offender in lieu of sentencing him to any other punishment which the court may have power to impose:

Provided that, where the offender is a child or young person within the meaning of the Children and Young Persons Ordinance, the preceding provisions of this subsection shall not affect the power of the court to make an order under section 28 (1) or 29 (1) of that Ordinance.

(2) The court which makes a probation order shall cause a certified copy of the order to be transmitted to the

Commissioner, and cause certified copies of the order to be delivered respectively to the offender and to the probation officer named in the order.

4. (1) A court, before making a probation order in respect of any offender, shall—

Circumstances in which probation order may be made.

(a) consider all such information relating to the character, antecedents, environment and mental or physical condition of the offender as may, at the instance of the court, be furnished orally or in writing by a probation officer of the probation unit for the judicial division in which the offence was committed;

(b) call for through such probation officer, and consider, a report from the Commissioner as to the suitability of the case for supervision under probation and as to the question whether the supervision of the offender can be undertaken by the probation officers of the division, having regard to the number of offenders for the time being under the supervision of such officers.

(2) No probation order shall be made by a court unless—

(a) the court has in simple language communicated to the offender the effect of the proposed order and of the conditions to be included therein, and explained that, if he fails to observe any such condition or commits another offence, he will be liable to be sentenced for the original offence; and

(b) the offender has given his written consent to the making of the order and agreed to observe the conditions thereof.

(3) For the purpose of enabling any information or report to be furnished under subsection (1) in respect of any offender, the court may postpone the determination of the case for any period not exceeding twenty-eight days, and may make order remanding the offender during such period to custody in the nearest prison established under the Prisons Ordinance or in such other place as may be appointed in that behalf by the Minister in charge of the subject of Justice and notified in the Gazette.

Where the offender is in any such case released on bail, it shall be a condition of the bail bond that the offender shall report in person to a probation officer named in the bond within twenty-four hours of the release and at such other times as such officer may require.

(4) The report required under paragraph (b) of subsection (1) may be furnished by the Commissioner or by any other officer authorized by him to act on his behalf.

(5) The court may, in any case where written representations are made by a probation officer under paragraph (a) of subsection (1) in respect of any offender, direct that a copy of such representations be furnished to the offender, and hear any such evidence as may be tendered by the offender or the probation officer in relation to any matter referred to in such representations.

conditions in probation order

5. (1) Every probation order shall contain conditions requiring that the offender—

(a) shall, within twenty-four hours of the making of the order, present himself before the probation officer appointed to undertake the supervision of the offender, at such place as may be specified in the order;

(6) shall present himself before such probation officer at such place and at such times (not being less than

once In each month) as may from time to time be specified by that officer, or shall, if required so to do by that officer in relation to any particular occasion, make a report in writing to that officer in lieu of presenting himself before him on that occasion;

(c) shall reside at premises approved in writing by such probation officer, and shall not sleep at any other premises except with the prior written approval of that officer;

(d) shall not change his place of residence or his employment, if any, except with the prior written approval of such probation officer;

(e) shall not undertake any regular employment except with the prior written approval of such probation officer;

(f) shall not associate with any such person or with persons of any such class, as such probation officer may specify in writing in that behalf;

(g) shall obey all such orders or directions as may be issued to him by such probation officer for the purpose of securing the good conduct and welfare of the offender.

(2) Without prejudice to the provisions of subsection (1), the court may insert in any probation order such conditions as the court may consider necessary, including a condition that the offender shall reside, during a specified period, in a household, home or institution approved by the Commissioner for the purpose. The period so specified shall not exceed six months, except in a case where the court considers residence for a longer period to be necessary for the purposes of the employment of the offender or of enabling the offender to seek employment.

6. The court which makes a probation order in respect of any offender may require the offender to enter into a recognizance, with or without sureties, to observe the conditions of the order and to

Power of court to require recognizance by offender.

appear before the court whenever required so to do under the provisions of this Ordinance.

Payment of costs or damages and compensation.

7. (1) The court making a probation order may in addition, either as a condition of the order or otherwise, order the offender to pay, within such time or in such instalments as the court may direct, such damages for injury or compensation for loss (not exceeding in the case of a Magistrate's Court one hundred and fifty rupees, or if a higher limit is fixed by any written law relating to the offence that higher limit), and to pay such costs of the proceedings, as the court thinks reasonable:

Provided that the court may, on application made by the offender or a probation officer, extend for such period as it may think fit the time allowed for the payment of any moneys due from the offender or vary the instalments specified under the preceding provisions of this subsection.

(2) If it is proved to the satisfaction of the court that the offender has not attained the age of sixteen years and that a parent or guardian of the offender has, by neglect or otherwise, conduced to the commission of the offence, the court may order payment by the parent or guardian of any damages and costs referred to in subsection (1).

(3) Where an order has been made under subsection (1) requiring the payment of any moneys by any offender the operation of such order shall not be affected by the expiration, before such moneys are paid, of the probation order made in respect of that offender; and such moneys shall be payable by, and may be recovered from, the offender, notwithstanding the expiration of the probation order.

(4) All moneys payable by virtue of any order made under this section shall be recoverable in like manner as a fine imposed by the court.

Duration of probation order.

8. Subject to the provisions of sections 9, 10 and 12, a probation order shall be in force for such period as may be specified by the court in the order, not being less than one year or more than three years from the date on which the order is made.

9. Where any probation order has been expressed to be in force for any period less than three years, the court by which the order was made may, if it considers it expedient so to do, whether on application made to the court for the purpose by the Commissioner or a probation officer or otherwise, summon the offender and his surety or sureties, if any, and extend the period specified in the order, so, however, that the duration of the order shall not in any case be extended beyond a period of three years from the date on which the order was made.

Extension of period of probation.

10. (1) Upon written application made for the purpose by the offender or by or on behalf of the Commissioner, and after consideration of such representations as may be made by the offender and by or on behalf of the Commissioner, the court by which a probation order was made or the Magistrate's Court having jurisdiction in the place where the offender resides—

Modification or cancellation of probation order.

(a) may, at any time while such probation order is in force, make an order amending the probation order by the deletion or modification of any condition specified in that order or by the insertion of a new condition therein; and

(b) may, after the expiry of a period which is not less than one half of the period for which the probation order is expressed to be in force, make an order cancelling such probation order or reducing the period of the duration of such order.

(2) A certified copy of any order made by the court under subsection (1) in relation to any probation order shall be transmitted to the probation officer for delivery to the offender, and where given otherwise than by the court by which the probation order had originally been made, to that court for the purpose of being filed of record in the proceedings of the case.

(3) Where an order is made under subsection (1) cancelling any probation order or reducing the period of the duration of any such order, the probation order shall cease to be in force on the date specified in that behalf in the order of cancellation or reduction.

Provision for cases where probation order is not complied with.

12.* (1) If the court by which a probation order was made, or the Magistrate's Court having jurisdiction in the place in which the offender resides, is satisfied, by information on oath or on the written report of the Commissioner or of a probation officer, that the offender has been convicted of any offence committed while the order was in force or has failed to observe any condition inserted in the order, the court may issue a warrant for the arrest of the offender, or may, if it thinks fit, instead of issuing a warrant in the first instance, issue a summons on him and his surety or sureties, if any, requiring him or them to attend before the court at such time as may be specified in the summons.

(2) Where a warrant has been issued in the first instance under subsection (1) for the arrest of an offender, he shall when arrested, if not brought forthwith before the court by which the warrant was issued, be brought before any Magistrate's Court.

(3) The court before which any offender is so brought on arrest or before which he appears in pursuance of such summons as aforesaid may, if it is not the court by which the warrant or summons was issued, remand him to custody or release him on bail until he can be brought before such court.

(4) Any offender so remanded to custody may be committed during remand to any prison to which the court before which he is to be brought has power to commit prisoners. If the offender is a person who has not attained the age of sixteen years he shall, if remanded, be dealt with wherever practicable in accordance with the provisions of section 15 (1) of the Children and Young Persons Ordinance.

(5) If it is proved to the satisfaction of the court by which a probation order was made, or of the Magistrate's Court having jurisdiction in the place in which the offender resides, that the offender has been convicted of any offence committed while the order was in force, the court may, subject to the provisions of subsection (7), cancel the probation order and pass or make any such sentence or order which it could pass or make under any other written

law if the offender had just been convicted before that court of the original offence upon his conviction of which the probation order was made.

(6) If it is proved to the satisfaction of the court by which a probation order was made, or of the Magistrate's Court having jurisdiction in the place in which the offender resides, that the offender has failed to observe any condition of the order, the court may, subject to the provisions of subsection (7)—

- (a) without prejudice to the continuance in force of the probation order, impose on the offender a fine not exceeding one hundred and fifty rupees; or
- (b) cancel the probation order and pass or make any such sentence or order which it could pass or make under any other written law if the offender had just been convicted before that court of the original offence upon his conviction of which the probation order was made.

(7) The powers conferred by subsection (5) or subsection (6) on the Magistrate's Court having jurisdiction in the place in which the offender resides shall not be exercised by that court unless—

- (a) the probation order in respect of that offender had originally been made by that Magistrate's Court; or
- (6) the court by which the probation order had originally been made, by writing under the hand of any Judge or Magistrate thereof, consents to the exercise of such powers by that Magistrate's Court.

(8) In any case where any sentence or order is passed or made in respect of any offender under subsection (5) or subsection (6), the court may, instead of condemning his surety or sureties, if any, to pay the sums for which they are respectively bound, condemn him or them or any of them to pay a part only of such sums or discharge him or them or any of them from the liability to make any such payment.

* Section 11 is omitted—Superseded by Article 24 of the Constitution.

Appeals.

13. Any person in respect of whom a probation order is made upon his conviction of any offence by the High Court or a Magistrate's Court, or a Primary Court, may, if he appeals against the conviction, appeal to the Court of Appeal against the order; and the provisions of Chapter XXVIII of the Code of Criminal Procedure Act shall apply in the case of any such appeal.

four at least must be persons who do not hold any office of emolument under the State.

(3) The Deputy Commissioner shall be the secretary of the Board.

Probation order: disqualification or disability.

14. Where a probation order is made in respect of any person upon his conviction of any offence, such conviction shall be disregarded for the purposes of any written law by or under which any disqualification or disability is imposed upon convicted persons, or by or under which provision is made for a different punishment in respect of a second or subsequent offence or in respect of an offence committed after previous conviction:

17. (1) The probation service for the purposes of this Ordinance shall consist of—

Appointment of probation officers.

(a) such number of salaried probation officers of either sex, appointed in accordance with the procedure prescribed under Article 55 (4) of the Constitution, as the Minister with the concurrence of the Minister in charge of the subject of Finance may from time to time determine; and

(b) such unsalaried probation officers of either sex as may from time to time be appointed by the Minister.

Provided that if the offender is subsequently sentenced for the original offence, the preceding provisions of this section shall cease to apply in respect of that offence, and he shall be deemed, for the purposes of any such written law imposing a disqualification or disability, to have been convicted on the date of sentence.

(2) The appointment of any unsalaried probation officer may at any time be terminated by the Minister.

Functions of" Commissioner and Deputy Commissioner.

15. (1) The Commissioner shall be in charge of the probation service and shall, subject to the general direction and control of the Minister, be responsible for the general administration and management of that service.

18. (1) There shall be for each proclaimed judicial division, a probation unit consisting of at least one salaried probation officer, and of such other probation officers, whether salaried or unsalaried, as may be necessary for the purposes of this Ordinance:

Probation units'&c-

Provided that one probation unit may, if the Minister considers it expedient, be established for two or more proclaimed judicial divisions.

(2) Any power, duty or function conferred or imposed upon or assigned to the Commissioner by any of the provisions of this Ordinance or by any rule made thereunder may, unless the Commissioner otherwise directs, be exercised, performed or discharged by the Deputy Commissioner.

(2) The Commissioner may transfer any salaried probation officer from any probation unit to any other probation unit.

Central Probation Board.

16. (1) The Minister may establish for the purposes of this Ordinance an advisory board, to be known as the "Central Probation Board", consisting of the Commissioner as chairman and of not more than seven other persons appointed by the Minister.

(3) Upon the appointment of any probation officer to any probation unit or the transfer of any such officer to or from any such unit or the termination of the appointment of any probation officer appointed to any such unit, the Commissioner shall cause notice of such appointment, transfer or termination to be published in the Gazette, and to be given to every court having jurisdiction in the division for which the probation unit is established.

(2) Of the persons appointed to be members of the Central Probation Board,

(4) The probation officer appointed by the court to undertake the supervision of an offender who is convicted of any offence shall, unless the court in the special circumstances of the case otherwise directs, be an officer appointed to the probation unit of the judicial division in which the offence was committed:

Provided, however, that the Commissioner may, if he considers it expedient or necessary so to do, direct any other probation officer, whether appointed to the same probation unit or not, to undertake the supervision of the offender in respect of whom the order was made.

(5) Where the Commissioner has, under the proviso to subsection (4), directed any probation officer, other than the officer appointed by the probation order, to undertake the supervision of the offender, the Commissioner shall cause notice of such directions to be given to the offender and to the court by which the order was made ; and in any such case the officer so directed by the Commissioner shall, for the purposes of this Ordinance, be deemed to be the probation officer appointed by the order.

(6) The Commissioner shall, where practicable, make such arrangements as may be necessary to secure that the supervision of any female offender is undertaken by a female probation officer.

Duties of probation officers, &c.

19. (1) It shall be the duty of every probation officer to undertake such preliminary investigations, as he may from time to time be required by general or special directions of the Commissioner to undertake, for the purpose of furnishing information to any court under section 4 in relation to any offender and of enabling reports to be made to any court under that section.

(2) It shall be the duty of the probation officer who is or is deemed to be appointed by any probation order made in respect of any offender—

- (a) to undertake the supervision of the offender and to see that the conditions inserted in the order are fully and strictly observed ;
- (6) to visit or receive reports from the offender at such intervals as may be

specified in the order, or, subject thereto, as the officer may think fit;

(c) to make such periodical reports to the Commissioner as the Commissioner may require relating to the behaviour and progress of the offender;

(d) to advise, assist and befriend the offender under his supervision, and where necessary, to endeavour to secure employment and lodging accommodation for him.

(3) Every probation officer shall perform all such duties as may be imposed on him by special or general directions given by the Commissioner in that behalf, or as may be prescribed by rules made under this Ordinance or by any other written law.

(4) Every probation officer shall, in the performance or discharge of the functions or duties assigned to or imposed on him by or under this Ordinance or any other written law, be subject to the general direction and control of the Commissioner.

20. All expenses incurred in the administration of this Ordinance shall be paid out of the Consolidated Fund from moneys provided by Parliament for the purpose.

21. (1) The Minister may make rules for all matters connected with or incidental to the supervision of offenders in respect of whom probation orders are made under this Ordinance, and to the discharge and performance of the functions and duties conferred or imposed upon the Commissioner and upon probation officers by this Ordinance.

(2) Without prejudice to the generality of the powers conferred by subsection (1), any rules made under that subsection may prescribe—

- (a) the allowances to be paid to unsalaried probation officers in respect of expenses incurred by them in the discharge or performance of their functions or duties under this Ordinance, and the rates, if any, according to which such allowances shall be paid ;

(b) the rates of payment to be made for the maintenance of offenders in respect of whom probation orders are made;

act as Commissioner of Probation and Child Care Services; and "Deputy Commissioner" has a corresponding meaning;

(c) the records and registers to be maintained for the purposes of this Ordinance and the inspection of such records or registers; and

"court " includes the court of a Municipal Magistrate, and any Magistrate's Court or any Primary Court sitting as a Juvenile Court;

(d) the functions and duties of the Central Probation Board.

"judicial division " has the same meaning as in the Judicature Act;

(3) No rule made by the Minister under this section shall have effect until it has been approved by Parliament, nor until notification of such approval has been published in the Gazette.

" prescribed " means prescribed by rules made by the Minister under this Ordinance;

Interpretation. **22.** In this Ordinance, unless the context otherwise requires—

" probation officer " means any probation officer, whether salaried or unsalaried, appointed under this Ordinance;

" Commissioner " means the person for the time being appointed to be or to

" probation order " means an order made under section 3 of this Ordinance.

CHAPTER 46

PROTECTION OF PRODUCE

Ordinances Nos. 38 of 1917,
12 of 1945. AN ORDINANCE TO PROVIDE FOR THE PROTECTION OF PRODUCE.

17th November. 1917.]

Shorttitle. **1.** This Ordinance may be cited as the Protection of Produce Ordinance.

Interpretation. **2.** For the purposes of this Ordinance the following terms shall have the meanings hereby assigned to them :—

" labourer " shall include all persons, except superintendents and assistant : superintendents, temporarily or permanently employed on any plantation in any capacity, whether agricultural or menial or otherwise howsoever ;

" plantation " shall include any land of not less than ten acres in extent on which coffee, tea, cacao, cardamoms, rubber, or coconuts are growing ;

" produce " shall include any plant or tree of any of the descriptions referred to in the last preceding definition and the fruit, leaf, bark, root, stem, latex, or other portion of any such plant or tree, whether in a natural or manufactured state.

Loitering or lurking in plantation to be an offence. **3.** Every person found loitering or lurking about in a plantation, unless he can give a satisfactory reason to the Magistrate before whom he is tried for such loitering or lurking, shall be guilty of an offence, and shall be liable on conviction before such Magistrate to imprisonment of either description for any term not exceeding six weeks, or to a fine not exceeding twenty-five rupees.

Possessor of certain descriptions of produce to be deemed guilty of offence till contrary be shown. **4.** Whenever anyone is found in possession of any of the following descriptions of produce, that is to say ;—

- (a) any tea plant, tea stump, tea seed, or tea leaf (whether in a natural or manufactured state) ;
- (b) any rubber plant, rubber stump, or rubber seed ;
- (c) the fruit of the coffee plant;

(d) the fruit of the cardamom plant, under such circumstances that there is reason to suspect that the same is not honestly in his possession, and he is unable to give to the court before whom he is tried a satisfactory account of his possession thereof, such person shall be guilty of an offence, and shall be liable, on summary conviction before a Magistrate, to imprisonment of either description for a period not exceeding six months, or to a fine not exceeding two hundred rupees, or to both ; and in the event of a second or subsequent offence shall be liable on conviction to imprisonment of either description for a period not exceeding one year, or to a fine not exceeding five hundred rupees, or to both.

5. (1) It shall not be lawful for anyone to purchase or take in barter or exchange or receive any produce from. any labourer employed on any plantation, except under the written authority of the owner or other person for the time being in charge of the plantation.

Restriction on purchase of produce.

(2) Any person committing a breach of the provisions of this section shall be guilty of an offence, and shall be liable on conviction before a Magistrate to rigorous or simple imprisonment for a period not exceeding six months, or to a fine not exceeding one hundred rupees.

6. In any district of Sri Lanka the Minister in charge of the subject of Justice, by Order notified in the Gazette, may direct that a Magistrate's Court shall have jurisdiction to try, or inquire into, any case in which the accused is charged with the theft of any produce, or of any particular description of produce, and which would otherwise be triable by a Primary Court, and thereupon the said Magistrate's Court shall have exclusive jurisdiction to try, or inquire into, all such cases.

Magistrates' Courts to have exclusive jurisdiction in respect of thefts of produce in certain proclaimed districts.

CHAPTER 22

PROOF OF PUBLIC DOCUMENTS

Ordinance
No. 12 of 1864.

AN ORDINANCE TO PROVIDE FOR THE PRODUCTION IN EVIDENCE OF COPIES, INSTEAD OF ORIGINALS, OF PUBLIC DOCUMENTS.

[18th November, 1964.]

Short title.

1. This Ordinance may be cited as the Proof of Public Documents Ordinance.

(upon his being satisfied that in any particular cause or inquiry such production is necessary for the ends of justice) that the original of such book or document should be produced in addition to the copy as aforesaid.

Copies must
be produced in
evidence
instead of
originals.

2. Whenever it shall be necessary for any person to adduce proof in any Court of Justice, or before any person now or hereafter having, by law or consent of parties, authority to hear, receive, and examine evidence of the contents of any book or document in any public office or in charge of any public officer, he shall only produce a copy or extract therefrom, signed and certified by the officer to whose custody the original is intrusted, and such copy or extract shall be admissible in evidence in such court, or before such person, in place of the original:

3. Public officers to whose custody the originals of such books or documents are intrusted are hereby required to furnish certified copies or extracts therefrom on payment, by the party applying therefor, of a fee of thirty-six cents for every folio of one hundred and twenty words, or of one rupee for each copy of a title deed plan on tracing cloth, and three rupees for each copy on drawing paper, such fees to be appropriated in such manner as the Minister in charge of the subject of Finance shall from time to time appoint.

Charges for
such copies.

Provided that it shall be lawful for the Judge, or person presiding in such court, or such other person as aforesaid, to require

CHAPTER 33

PREVENTION OF SOCIAL DISABILITIES

Acts Nos. 21 of 1957, 18 of 1971 AN ACT TO PREVENT THE IMPOSITION OF SOCIAL DISABILITIES ON ANY PERSONS BY REASON OF THEIR CASTE. [13th April, 1957.]

Short title. 1. This Act may be cited as the Prevention of Social Disabilities Act.

Imposition of social disabilities on persons by reason of their caste to be an offence. (§2, 18 of 1971.)

2. (1) Any person who imposes any social disability on any other person by reason of such other person's caste shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding three years with or without a fine not exceeding three thousand rupees.

[§2,18 of 1971.] (2) Where an offence under this Act is committed on, or in relation to, any premises where any business is carried on under the authority of a licence and the person who is the proprietor or the manager of such business is convicted of such offence, the court by which such person is convicted may, in addition to any other punishment it may lawfully impose for that offence, cancel such licence:

Provided, however, that upon the conviction of the manager of such business an order cancelling such licence shall not be made unless the proprietor of such business by notice in writing has been given an opportunity of showing cause, within such period as may be specified in the notice, why such order should not be made and unless such proprietor has failed to show cause within such period or has failed to show sufficient cause-

[§2,18 of 1971.] (3) Where the licence of a person carrying on any business is cancelled under subsection (2), such person shall not carry on such business for a period of three years from the date of cancellation and any person who in contravention of the preceding provisions of this subsection carries on such business shall be guilty of an offence under this Act and shall be liable to imprisonment of either description for a term not less than one month and not

exceeding two years or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

(4) In any prosecution under this Act it shall be presumed that a social disability was imposed on any person by reason of such person's caste and the burden of proving that the social disability was imposed on that person for any other reason shall lie on the person charged.. [§2, 18 of 1971.]

(5) Notwithstanding anything in the First Schedule to the Code of Criminal Procedure Act an offence under this Act shall be a cognizable offence within the meaning of that Act. [§2,18 of 1971.]

3. For the purpose of section 2, a person shall be deemed to impose a social disability on any other person— Interpretation.

- (a) if he prevents or obstructs such other person from or in—
- (i) being admitted as a student to, or being employed as a teacher in, any educational institution,
 - (ii) entering, or purchasing any article at, any shop, market or fair,
 - (iii) entering, or being served at, any public hotel, resthouse, eating house, restaurant or any other place where articles of food or drink are sold to the public,
 - (iv) obtaining any room for residence in a public hotel, resthouse, or lodging-house,
 - (v) obtaining or using water from any public well, spring, water-pipe or any other source of supply of water to the public,

[§3,18 of 1971.]

(vi) entering, or obtaining the service provided at, a hairdressing saloon or laundry,

(vii) entering any public cemetery and attending or taking part in any burial or cremation therein,

(viii) wearing any kind of clothes, head-covering or foot-covering at any place to which the public have access whether on payment or otherwise, or at the place of such other person's employment, or in the course of such other person's trade, business or employment,

(ix) being carried as a passenger in any public vehicle or vessel,

(x) entering, or being present in, any place to which the public have access whether on payment or otherwise, other than a temple, *devale*, *kovila*, church, mosque or other place of any religious worship, or

(xi) being engaged in any lawful employment or activity, or

(b) if he prevents or obstructs such other person, being the follower of any religion, from or in entering, being present in, or worshipping at any place of worship, or any portion thereof, to which followers of that religion have or have had access, or

[§3,18 of 1971.]

(c) if he, being a public officer, does not perform or exercise any duty or power which he is legally bound to perform or exercise for the benefit of such other person, or

(d) if he, being the proprietor of, or a person having control over, or a person employed as a worker in, a place to which the public have access whether on payment or otherwise, subjects such other person to any discrimination, or

(e) if he corrupts or fouls the water of [§3,18 of 1971.] any public well, spring, tank or reservoir so as to make it less fit or unfit for the purpose for which it is ordinarily used by such other person, or

(f) if he prevents or obstructs such other [§3,18 of 1971.] person, being a teacher or a student or an employee in any educational institution, from or in obtaining or using water from any well, spring, tank, reservoir or water-pipe in that institution or in the precincts of that institution, or

(g) if he prevents or obstructs such other [§3,18 of 1971.] person, being a teacher or a student or an employee in any educational institution, from or in participating in any activity in that institution.

4. (1) A police officer may—

remove, or cause to be removed, any barricade or obstruction erected or placed-in any place if such police officer has reasonable ground to believe that the barricade or obstruction was so erected or placed in order to be used for the purpose of committing an offence under this Act; or

Powers conferred on police officers to prevent the imposition of social disabilities on persons by reason of their caste. [§ 4,18 of 1971.]

open or cause to be opened any gate or door if such police officer has reasonable ground to believe that such gate or door was closed for the purpose of committing an offence under this Act.

(2) Whenever a police officer has reasonable ground to believe that any person is likely to commit an offence under this Act, he may arrest such person without a warrant and deliver him into the custody of the officer in charge of a police station who may either release the person arrested on his executing a bond with or without a surety for his appearance before a Magistrate's Court or within twenty-four hours after the arrest, take or cause to be taken the person arrested before a Magistrate.

(3) When any person appears before a Magistrate in compliance with a bond executed by him under subsection (2) or is brought before a Magistrate under that subsection, the Magistrate may require such person to show cause why he should not be ordered to execute a bond with or without sureties for his good behaviour for such period not exceeding three years as the Magistrate thinks fit. If after due inquiry the Magistrate is satisfied that such person should execute a bond with or without sureties, the Magistrate shall make an order accordingly and the provisions of sections 89 to 94 (both inclusive) of the Code of Criminal Procedure Act shall apply to or in relation to all orders to furnish security made under this subsection.

CHAPTER 473

POST OFFICE SECURITY FUND

Ordinances AN ORDINANCE FOR THE INCORPORATION OF THE BOARD OF MANAGEMENT OF THE
 Nos. 1 of 1931, CEYLON POST OFFICE SECURITY FUND AND FOR REGULATING THE ISSUE OF
 9 of 1939, LOANS FROM THE FUND.
 28 of 1943,
Acts
 Nos. 36 of 1952,
 46 of 1958.

[1st October, 1931.]

Short title. 1. This Ordinance may be cited as the Post Office Security Fund Ordinance.

Interpretation. 2. In this Ordinance, unless the context otherwise requires—

"officer " means an officer or employee of the Post Office;

"Post Office" means the Posts and Telecommunications Departments of the Government of Sri Lanka;

"the fund" means the Post Office Security Fund.

Validation and continuation of the Post Office Security Fund.

3. (1) The Post Office Security Fund shall be deemed for all purposes to have been lawfully constituted and established; and all moneys deposited with or paid periodically to the Postmaster-General by officers, before the date on which this Ordinance comes into operation, as security for the due performance of their respective duties, and paid by the Postmaster-General or caused by him to be paid into the fund, shall be deemed to have been lawfully collected or received by him on behalf of the State and to have been lawfully so paid into the fund, and all moneys paid out therefrom in connexion with any such security shall be deemed to have been lawfully so paid.

(2) All investments made by the Colonial Treasurer from time to time of moneys standing to the credit of the fund before the date on which this Ordinance comes into operation shall be deemed to have been lawfully made, and shall continue as heretofore to be part of the fund.

(3) After the date on which this Ordinance comes into operation, all moneys deposited with or paid periodically to the Postmaster-General by officers, under any written law for the time being in force as to the security to be given for the due performance of their duties, shall be paid by the Postmaster-General or caused by him to be paid to the board.

4. (1) For the purposes of this Ordinance, the Minister may appoint a board of management of the Post Office Security Fund (hereinafter called "the board"), which shall administer the fund in accordance with the provisions of this Ordinance and any regulations made or deemed to be made thereunder.

Constitution and incorporation of board of management.

(2) The board shall consist of five members including the Postmaster-General for the time being, who shall be the chairman of the board, and the Minister may from time to time appoint persons to fill any vacancies that may occur among the members of the board.

(3) The members of the board for the time being shall be a body corporate and shall have the name of "The Post Office Security Fund Board of Management", and in that name shall have perpetual succession and shall and may sue and be sued in all courts in Sri Lanka, and may have and use a common seal.

5. (1) Any minute made of proceedings at meetings of the board, if signed by any person purporting to be the chairman or acting chairman, either of the meeting of the board at which such proceedings took place, or of the next subsequent meeting of the board, shall be receivable in evidence in all

Minutes and proceedings.

legal proceedings without further proof, and until the contrary is proved every meeting of the board, in respect of the proceedings of which minutes have been so made, shall be deemed to have been duly convened and held, and all the members thereof to have been duly qualified to act.

(2) An act or proceeding of the board shall not be questioned on account of any vacancy or vacancies in its body.

Appointment of secretary and clerical officers.

6. (1) The board may, with the consent of the Minister, appoint or employ a secretary and any other such clerical officers as it may deem necessary, at such rates of salary as the Minister with the concurrence of the Minister in charge of the subject of Finance may determine, and their salaries shall be paid out of the fund.

(2) But no member of the board shall receive any remuneration in consideration of the discharge of his duties, save in respect of travelling and subsistence allowances which shall be the same as those laid down in the Financial Regulations of the Sri Lanka Government and shall be paid out of the fund.

Powers of the board in administration of the fund.

7. It shall be lawful for the board, in the administration of the fund—

- (a) to place all moneys received or collected by the Postmaster-General and paid by him to the board under section 3 (3) to the credit of the fund in an account to be called the Post Office Security Fund Account at a bank or banks to be approved by the Postmaster-General, and to allow interest thereon at such rates as the board may think fit;
- (b) to make investments of any such moneys, or any part thereof, in such securities as may be approved by the Postmaster-General or prescribed by regulation made under this Ordinance ; and
- (c) to pay out of the fund, in addition to the salaries and allowances for which express provision is made by this Ordinance, such other sums of money as may be payable, under

any written law for the time being in force—

- (i) to the Postmaster-General on behalf of the State, whenever the whole or any part of the amount of the deposits or payments and interest standing to the credit of any officer is appropriated by order of the Postmaster-General in order to meet any loss incurred by the State by reason of any default or omission or any negligent or dishonest act on the part of the officer, or is declared forfeit to the State, under such written law; or
- (ii) to any officer who is permitted in accordance with such written law to withdraw the amount of the deposits or payments and interest standing to his credit, after his retirement, resignation or dismissal from office.

8. (1) It shall be lawful for the board from time to time to make loans from the fund to officers, and to accept mortgages of immovable property as security therefor, and any such loan shall be subject to the following general terms and conditions and to such special terms and conditions as may be or are prescribed by regulations made or deemed to be made under this Ordinance, and to any other terms and conditions which the board may think fit to impose in particular cases:—

Issue of loans by the board and conditions thereof.

- (a) no loan shall be made to an officer unless he has completed ten years' service and holds a pensionable appointment;
- (b) the amount advanced to any one officer by way of a loan shall not exceed fifteen thousand rupees ;
- (c) full security to the satisfaction of the board shall be given before a loan is made, and when a mortgage is taken as security, a primary mortgage only shall be accepted ;

(d) when security has been given for a loan and, in the opinion of the board, the security becomes worthless, or depreciates so as to be worth less than two-thirds of the amount outstanding on the loan, the officer concerned shall, on being required to do so, furnish other security to the satisfaction of the board.

(j) the payment of legal expenses and fees in connexion with loans; and.

(k) all such other matters not hereinbefore specifically mentioned as may be necessary for carrying out the provisions of this Ordinance or for the exercise of the powers of the board and the discharge of its duties under this Ordinance.

(2) No loan which is made shall be applied by the borrower except for the purpose of building or purchasing a house.

(2) The regulations contained in the Schedule* shall be deemed to have been made under this Ordinance, and may be altered, amended, added to, or rescinded by regulations made under this Ordinance.

Regulations in Schedule.

[§ 2, 46 of 1958.]

Regulations.

9. (1) It shall be lawful for the board, subject to the approval of the Minister, to make regulations in relation to all or any of the following matters:—

10. The board may postpone for any time not exceeding five years the payment of any sum in respect of principal and interest, or either, due or to become due in respect of any loan made under this Ordinance, upon such terms and conditions as it may deem expedient.

Suspension of payment of principal and interest.

(a) the proceedings of the board and the transaction of its business;

(b) the custody and use of its common seal;

(c) the duties of its staff;

(d) the manner in which moneys lodged in the fund may be invested otherwise than in loans;

11. The board may, if it thinks fit, at any time accept payment of the whole or any part of the principal and interest of any loan made under this Ordinance before the time when the same is due and may release or convey to the officer making such payment the property mortgaged or other security given by him upon such terms and conditions as it may deem expedient.

Payment of loan before

(e) the applications for loans, the procedure to be followed on such applications, the powers of the board in relation thereto, and the priority of such applications;

(f) the special terms and conditions on which loans may be made to officers and repaid by them, and mortgages accepted as security therefor, and the payment of interest thereon;

12. The board may, if it thinks fit, accept any security in lieu of the security previously given for a loan made under this Ordinance, subject to such terms and conditions as it shall direct.

Change of security.

(g) the securities required by the board for the advance of loans, and the realization thereof;

13. The board may extend the period for the repayment of any loan or any instalment thereof and may compound or release any loan or part thereof, subject to such terms and conditions as it may think fit.

Power to extend time, compound, or release.

(h) the valuation of property submitted as security for loans;

(i) the manner in which documents which are necessary in connexion with loans made by the board shall be prepared, attested, signed or executed;

14. (1) The board may from time to time appoint appraisers for the purpose of making valuations of property submitted as security for any proposed loans, and the names of persons so appointed shall be recorded by the secretary in a register to be kept for that purpose.

Appointment of appraisers and valuation of property

• Schedule omitted.—Private enactment.

(2) Any such register shall be open at all reasonable times for inspection by any officer who has made application for a loan.

(3) The board may remove the name of any appraiser which has been recorded in the said register without assigning cause for doing so.

(4) The board may at any time, if it deems it expedient, cause an inspection and valuation of all house and other property mortgaged to the board to be made by an appraiser appointed under this section and a report of such inspection and valuation shall be submitted to the board by the appraiser.

(5) The expenses incurred on any such inspection and valuation shall be considered as forming part of the working of the fund, and shall be paid out of the fund.

Appointment of notaries.

15. The board may appoint a notary or notaries for the purpose of preparing and attesting all mortgages and other legal documents which are necessary in connexion with loans made by the board.

Wrongful application of loans.

16. If any loan or part thereof which has been made by the board under this Ordinance is applied to any purpose other than the purpose for which it was made, or if any officer to whom any loan has been made commits a breach of any of the terms and conditions applicable thereto, the board may, without prejudice to any other remedy, by notice in writing addressed to the officer concerned, recall the said loan or any part thereof, and may require the same or such part thereof to be repaid on such date as may be specified in the notice, and any security given for the purpose of the loan shall be enforceable accordingly.

Purchase, &c., of property by the board on realization of security.

17. When any immovable property mortgaged to the board as security for a loan is sold for the purpose of enforcing the security, the board may purchase any such property at the sale and manage the same, and may sell or otherwise dispose of the same in such manner as it thinks fit.

18. (1) The board shall cause true Accounts. accounts to be kept with regard to all sums of money received and expended by it, and of the matters in respect of which such sums were received and expended, and of the assets, credits, and liabilities of the board, and generally of all its transactions and all other matters necessary for showing the true financial state of the fund. The accounts shall be kept at the office of the Postmaster-General in such books and in such manner as the board shall think fit.

(2) As soon as may be after the thirty-first day of December in each year, the board shall—

(a) prepare a statement of its income and expenditure for the previous financial year, which shall show the amount of gross income and of gross expenditure, and a balance sheet containing a statement of the property and liabilities of the board made up to the end of the same period; and

(b) cause the accounts of the fund to be audited by an auditor appointed by the board for the purpose, and forward the report of the auditor to Government, together with the statement and balance sheet referred to in paragraph (a).

19. Such portion as the board may Reserve fund. determine of the balance remaining over in the Post Office Security Fund Account on the thirty-first day of December in any year, after the payment of interest due to depositors, shall be set aside and transferred to a reserve fund.

20. No civil or criminal proceeding shall be instituted against any member of the board in respect of any act bona fide done or omitted to be done for the purpose of carrying out the provisions of this Ordinance or of any of the regulations made or deemed to be made thereunder. Protection for Members of the board.

21. Nothing in this Ordinance shall affect or be deemed to affect the rights of the Republic, or of any body politic or corporate, or of any other person, except such as are mentioned in this Ordinance, and those claiming by, from, or under them. Saving of rights of the Republic and of certain other rights

CHAPTER 442

PROVINCIAL OF THE OBLATES IN CEYLON

Act No. 10 of 1952. AN ACT TO INCORPORATE THE PROVINCIAL OF THE OBLATES OF MARY IMMACULATE IN CEYLON.

[8th March, 1952.]

Short title. 1. This Act may be cited as the Provincial of the Oblates in Ceylon Act.

Incorporation. 2. The Provincial of the Oblates of Mary Immaculate in Ceylon (who is also called the Vicar of Missions) to wit:—The Very Revd. Father F. M. Bizien, O.M.I., and his respective successor or successors duly appointed according to the laws and usages of the Roman Catholic Church shall be and become a corporation under the name and style of "The Provincial of the Oblates of Mary Immaculate in Ceylon" and shall have perpetual succession and shall have the full power to acquire by purchase, gift, devise, bequest or otherwise, and to hold and enjoy, movable and immovable property of every description, and to sell or otherwise dispose of the same, and by that name shall and may sue and be sued in respect of such property in all courts.

Property vested in corporation. 3. All property both movable and immovable already acquired, held or possessed by the present trustees of the Oblates of Mary Immaculate in Ceylon to

wit:— Very Revd. Father F. M. Bizien, O.M.I., Very Revd. Fr. D. J. Anthony, O.M.I., and Revd. Fr. G. Marthourey, O.M.I., in their capacity as such trustees is hereby transferred to the corporation and shall vest in the corporation, subject to the like trusts, conditions or restrictions affecting the same immediately prior to the passing of this Act.

4. In the event of the death of the Provincial of the Oblates of Mary Immaculate in Ceylon, or in the event of his inability to attend to his duties either through infirmity or prolonged absence or any other cause, his first Consultor shall be deemed to be the Provincial for all the purposes of this Act until the appointment of a new Provincial or, as the case may be, until the resumption of the duties by the Provincial. Filling of vacancies.

5. Nothing in this Act contained shall prejudice or affect the rights of the Republic or of any body politic or corporate, or of any other persons except such as are mentioned in this Act and those claiming by, from, or under them. Saving of the rights of the Republic and other rights.

CHAPTER 598

PROTECTION OF TENANTS (SPECIAL PROVISIONS)

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| <p><i>Act</i> No. 28 of 1970. <i>Laws</i> Nos. 7 of 1972, 31 of 1974, 9 of 1978.</p> | <p>AN ACT TO MAKE SPECIAL PROVISION TO PREVENT LANDLORDS FROM EJECTING TENANTS BY RESORT TO THREATS, VIOLENCE AND HARASSMENT, BY DISCONTINUING OR WITHHOLDING AMENITIES, BY INTERFERING IN THE USE AND OCCUPATION OF PREMISES OR BY OTHER MEANS, AND TO PROVIDE FOR MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH.</p> |
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*[18th November, 1970, except sections 5 and 6. *]*

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| <p>Short title.</p> | <p>1. This Act may be cited as the Protection of Tenants (Special Provisions) Act.</p> | <p>4. No landlord of any premises or other person shall, either by himself or through any other person, interfere or attempt to interfere in any manner in the occupation or use of any premises by the tenant of, or the person in occupation of, such premises or in any manner prevent access to such premises by such tenant or person.</p> | <p>Interference with occupation by tenants.</p> |
| <p>Use of force on tenants and causing damage to premises.</p> | <p>2. No landlord of any premises or other person shall, either by himself or through any other person, directly or indirectly, make use of, or threaten to make use of, any force, violence, or restraint, or inflict or threaten to inflict, any harm, damage or loss upon or against the tenant of, or any person in occupation of, such premises, or damage, remove or tamper with any part of such premises, in order to induce, compel or prevail upon, such tenant or person to vacate such premises, or to make any payment of money in excess of the authorized rent of such premises.</p> | <p>5. (1) No landlord of any premises or other person shall, by himself or through any other person, eject or cause to be ejected from such premises, otherwise than on an order of a competent Court, the tenant of, or the person in occupation of, such premises notwithstanding anything to the contrary in any oral or written agreement by which such premises were let.</p> | <p>Prohibition of ejection other than by an order of Court.</p> |
| <p>Withholding amenities provided to tenants.</p> | <p>3. (1) No landlord of any premises or other person shall, either by himself or through any other person, without reasonable cause, discontinue or withhold any amenities or facilities previously provided for the tenant of, or the person in occupation of, such premises, or deprive, withhold or fail to repair or maintain in proper condition any essential supply or service previously provided to such tenant or person.</p> <p>(2) In this section "essential supply or service" includes supply of water, gas, electricity and lights including lights in passages and on staircases, lifts and conservancy or sanitary service.</p> | <p>(2) (o) Where the tenant of, or the person in occupation of, any premises notifies the Commissioner that he has been ejected from such premises in contravention of the provisions of subsection (1), the Commissioner may hold an inquiry for the purpose of deciding the question whether or not such tenant or person has been ejected from such premises.</p> <p>(b) The landlord of such premises and the person ejected shall be given an opportunity of being heard in person or through a representative at such inquiry. The Commissioner's decision on such question shall, notwithstanding anything in any other law, be final and conclusive and shall</p> | |

* Sections 5 and 6 shall be deemed to have come into operation on 27th May, 1970.—See section 11 of this Act.

PROTECTION OF TENANTS (SPECIAL PROVISIONS)

not be called in question in any court, whether by way of writ, order, mandate or otherwise.

(c) Where the Commissioner decides that such tenant or person has been ejected, then,—

- (i) such tenant or person shall be entitled to have the use and occupation of such premises restored to him ; and
- (ii) the Commissioner shall in writing order that every person in occupation of such premises shall, on such date as shall be specified in the order, vacate such premises and deliver possession thereof to the person ejected, and if any person ordered to vacate and deliver possession fails to comply with such order, he shall be ejected from such premises in accordance with the provisions of section 6.

Every order made under this paragraph shall be communicated by registered post to every person in occupation of such premises.

Procedure for
ejectment.

6. (1) Where any person who has been ordered under section 5 by the Commissioner to vacate any premises and to deliver possession thereof fails to comply with such order, the Commissioner or any person authorized in that behalf by the Commissioner, may present to the Magistrate's Court within whose local jurisdiction such premises are situated, a written report specifying the nature of such order and the person to whom it was issued, specifying the premises to which such order relates, stating that such person has failed-as required by such order to vacate and deliver possession of such premises, praying for an Order to eject from such premises such person and all other persons in occupation of such premises, and mentioning the person to whom delivery of possession of such premises should be made.

(2) Where a written report is presented to the Magistrate's Court under subsection (1), such Court shall issue an Order directing the person specified in such report and all other persons in occupation of the premises specified in the order to be ejected forthwith

from such premises. After making such Order, the Court shall give notice of such Order through the Fiscal or a peace officer to the person against whom the Order is made.

(3) Where any person fails to comply with an Order made under subsection (2), the Magistrate's Court shall, notwithstanding anything in any other law, on the application of the person by whom the written report under subsection (1) was presented, direct the Fiscal or a peace officer to eject from the premises to which the Order relates, all persons bound by the Order and to deliver possession of such premises to the person mentioned in such report as the person to whom delivery of possession of such premises should be made.

(4) The Fiscal or the peace officer entrusted with the execution of the Order of ejectment shall comply with the directions of the Magistrate's Court by which such Order was made and shall make a due return of the manner in which he executed such Order.

(5) In executing an Order of ejectment the Fiscal or the peace officer or any person authorized by the Fiscal or the peace officer may use such force as may be necessary to enter the premises to which the Order relates and to eject any person bound by the Order and to deliver possession of such premises in accordance with the directions of the Magistrate's Court which issued the Order.

7. It shall be lawful for the Commissioner or any officer authorized by him in writing in that behalf,— Powers of the Commissioner.

- (a) to institute a prosecution in respect of any offence under this Act;
- (b) to make such inquiry as may be necessary in the event of any complaint being made of any contravention of the provisions of this Act; and
- (c) for the purposes of such inquiry—
 - (i) to examine any witness on oath, if he thinks fit to do, and to summon any person to appear before him, and to

require any person to produce any document including a document of title which may in his opinion be relevant; and

(ii) to enter upon any premises at any reasonable time of the day for the purpose of inspecting such premises or of obtaining information with respect to the matter of the complaint.

Prosecution to be with sanction of Commissioner.

8. No prosecution in respect of an offence under this Act may be commenced except at the instance of or with the sanction of the Commissioner.

Punishment for offences.

9. (1) Every person who acts in contravention of the provisions of section 2 or section 3 or section 4 of this Act shall be guilty of an offence under this Act, and shall be liable on conviction after summary trial before a Magistrate to imprisonment of either description for a period which shall be not less than one month and not more than six months.

(2) Every person who, on or after the date of commencement of this Act, acts in contravention of the provisions of section 5 of this Act shall be guilty of an offence under this Act, and shall be liable on conviction after summary trial before a Magistrate to imprisonment of either description for a period which shall be not less than one month and not more than six months.

Offences by bodies corporate, associations, clubs or firms.

10. Where a person committing an offence under this Act is a company or other body corporate, or an association of persons (whether incorporated or not) or a firm, or a club, every director, manager, secretary, agent or other officer or person concerned with the management thereof, and every partner of the firm shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Retrospective operation of sections 5 and 6.

11. The provisions of sections 5 and 6 of this Act shall for all purposes be deemed to have come into operation on May 27, 1970.

* "Thirteen years" has been subsequently replaced by "eighteen years" by the Protection of Tenants (Special Provisions) (Amendment) Act, No. 16 of 1984,

+ Repealed by the Constitution of Sri Lanka adopted and enacted on 22nd May, 1972.

12. The provisions of this Act shall cease to be operative on the expiry of a period of thirteen years* after the date of commencement of this Act.

Operation of this Act. [§ 2, Law 7 of 1972.] [§ 2, Law 31 of 1974.] [§ 3, Law 9 of 1978.]

13. The provisions of this Act shall, for all purposes and in all respects, be as valid and effectual as though such provisions were in an Act for the amendment of the Ceylon (Constitution) Order-in-Council, 1946,1 enacted by Parliament after compliance with the requirement imposed by the proviso to subsection (4) of section 29 of that Order-in-Council.

The provisions of this Act to be regarded as an amendment of the Ceylon (Constitution) Order-in-Council. 1946.

14. In this Act, unless the context interpretation otherwise requires—

" authorized rent " shall have the same meaning as in the Rent Act;

" Commissioner " means the Commissioner for National Housing and includes the Deputy Commissioner for National Housing or an Assistant Commissioner for National Housing;

" eject " means in relation to the tenant of, or the person in occupation of, any premises, to deprive, by using direct or indirect methods, such tenant or person of his right to use and occupy the whole or any part of such premises;

" landlord " means the person for the time being entitled to receive the rent of any premises;

" person in occupation " in relation to any premises means any person in lawful occupation of such premises, and includes—

(a) any person who is in occupation of such premises or part thereof with the consent of the tenant or landlord of such premises; and

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(b) any person to whom such premises or part thereof have been lawfully sublet by the tenant thereof; and

" premises " means any building or part of
3 building together with the land
appertaining thereto.

CHAPTER 41

PROFANE PUBLICATIONS

Act No. 41 of 1958.

AN ACT TO PREVENT THE WRITING, PRODUCTION, PRINTING, PUBLICATION, SALE, DISTRIBUTION OR EXHIBITION OF ANY PROFANE PUBLICATION.

[3rd November, 1958.]

Short title.

1. This Act may be cited as the Profane Publications Act.

distributed or exhibited, and any police officer may seize any such publication found with any person or in any place.

Writing, production, printing, publication, sale, distribution or exhibition of a profane publication to be an offence-

2. Any person who writes, produces, prints, publishes, sells, distributes or exhibits any profane publication shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding one year or to a fine not exceeding two thousand rupees or to both such imprisonment and such fine :

(2) All profane publications seized under subsection (1), together with a list thereof, shall be taken forthwith before the Magistrate's Court having jurisdiction in the place of seizure and shall be dealt with in such manner as that Court may order.

Provided that it shall not be an offence under the preceding provisions of this section to write, print, publish, sell, distribute or exhibit any fair comments on, or any fair criticism of, any religion or religious belief.

5. In this Act, " profane publication " interpretation. means any newspaper, book, picture, film or other visible representation containing—

Sanction of the Attorney-General required for prosecution.

3. Except with the sanction of the Attorney-General, no person shall be prosecuted for an offence under section 2.

(a) any insult to—

(i) the founder of any religion,

(ii) any deity, saint or person, whether alive or dead, venerated by the followers of any religion, or

(iii) any religion or religious belief, or

Powers of the police in regard to profane publications.

4. (1) A police officer of any rank not below that of an Inspector may, with or without any assistants, enter and search any premises where he reasonably suspects that any profane publication is written, produced, printed, published, sold,

(b) any ridicule of any figure, picture, emblem, device or other thing associated with, or sacred to the followers of, any religion.

CHAPTER 276

PLANT PROTECTION

Ordinance
No. 10 of 1924,
Acts
Nos. 6 of 1950,
22 of 1955,
50 of 1957.

AN ORDINANCE TO MAKE BETTER PROVISION AGAINST THE INTRODUCTION INTO SRI LANKA AND AGAINST THE SPREAD THEREIN OF WEEDS, AND OF PESTS, AND DISEASES INJURIOUS TO, OR DESTRUCTIVE OF, PLANTS, AND FOR THE SANITATION OF PLANTS IN SRI LANKA.

[27 th June, 1924.]

| | | | |
|--------------------|---|---|--|
| Short title. | 1. This Ordinance may be cited as the Plant Protection Ordinance. | 3. There may be appointed, for the purposes of this Ordinance, such officers and servants as may be necessary for carrying out or giving effect to the provisions of this Ordinance. | Appointment of officers and servants. [§ 3, 50 of 1957.] |
| Interpretation. | 2. In this Ordinance and any regulations made thereunder, unless the context otherwise requires— | 3A. The powers or duties of the Director may be exercised or performed by any public officer either generally or specially authorized in writing in that behalf by the Director. | Director may delegate powers and duties. [§ 4,50 of 1957] |
| [§ 2, 50 of 1957.] | " Director" means the Director of Agriculture and includes any Deputy Director of Agriculture or any Assistant Director of Agriculture; | 4. It shall be lawful for the Director, with or without assistants, to enter, at all reasonable times, upon any land for the purpose of inspecting and examining whether plant pests, diseases, or weeds exist thereon, and the owner or occupier of such land shall afford all reasonable facilities for such inspection and examination. | Entry on land for purposes of inspection. [§ 5, 50 of 1957.] |
| | " disease" shall include any fungus or other agent which shall injure, destroy, or be parasitic upon any plant; | 5. The Director, or any person assisting the Director, or any public officer, shall not be deemed to be a trespasser by reason of any entry or destruction or action taken or thing done under this Ordinance or any regulation made thereunder, and shall not be liable for any damage occasioned by carrying out any of the provisions of this Ordinance or of any regulation made thereunder, unless the same was occasioned maliciously and without reasonable and probable cause. | Director or person assisting him or public officer not to be deemed trespasser by reason of entry, &c. [§ 6, 50 of 1957.] |
| | " owner " or " occupier " shall include the proprietor, lessee, superintendent, or other person in actual charge of any cultivated or uncultivated land ; | *6. If any person, without lawful authority or excuse (proof whereof shall lie on him), contravenes any regulation made under this Ordinance, or does or omits to do anything which under the provisions of | Penalty for contravention of Ordinance or regulation thereunder. |
| | " pest " shall include any insect or animal which shall in any stage of its development eat, destroy, or otherwise injure any plant; | | |
| | " plant " shall include all members of the vegetable kingdom, whether living or dead, or any part or parts of such, but shall not include canned or preserved fruits or canned or preserved vegetables; | | |
| | " weed " shall include any plant which is declared by the Minister to be a weed for the purposes of this Ordinance. | | |

* Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979.07.02.

this Ordinance or of any regulations made thereunder he ought not to do or omit, or if he molests, obstructs, or impedes, or assists in molesting, obstructing, or impeding, the Director, or any public officer, in the execution of any provisions of this Ordinance or any regulation made thereunder, he shall be guilty of an offence against this Ordinance.

[§ 7, 50 of 1957.]

Punishment for offences.

7. If any person is guilty of an offence against this Ordinance or any regulation made thereunder, he shall be liable on conviction before a Magistrate to imprisonment of either description to a term not exceeding three months, or to a fine not exceeding five hundred rupees, or to both.

Penalty on person guilty of unnecessary violence or annoyance.

8. Every person who shall, under pretence of performing any act under the authority of this Ordinance or of any regulation made thereunder, be guilty of any unnecessary violence or cause any unnecessary annoyance to any person, shall be guilty of an offence against this Ordinance.

Power of Director to carry out measures or execute work and recover the expenses thereof.
[§ 8, 50 of 1957.]

8A. (1) Where any person is required or directed under this Ordinance to carry out any measures or to execute any work in or upon any land, the Director may, if such person fails to comply with such requirement or direction, cause such measures to be carried out or such work to be executed; and any person or persons acting under the authority of the Director may enter such land and do all such acts as may be necessary for the purpose of carrying out such measures or executing such work.

(2) All expenses incurred by the Director for the purpose of carrying out any measures or executing any work in or upon any land under subsection (1) shall be payable by the person who was required or directed under this Ordinance to carry out such measures or execute such work, and shall be recoverable from that person in the manner hereafter provided.

(3) Any expenses payable by any person under subsection (2) may be recovered, upon application made by the Director to the Magistrate's Court having jurisdiction in the place where such person is resident, in

like manner as a fine imposed by the court, notwithstanding that the amount of such expenses may exceed the amount of the fine which the court may in the exercise of its ordinary jurisdiction impose.

Regulations.

9. (1) The regulations set forth in the Schedule* shall have effect as if the same were contained in this Ordinance, but may be added to, amended, or revoked in the manner, and subject to the conditions, provided for the making of regulations in this section.

(2) The Minister may make regulations for the purpose of preventing the introduction into Sri Lanka and for the purpose of eradicating, or preventing the spreading therein of weeds, or of pests and diseases injurious to, or destructive of, plants.

(3) Such regulations may provide, but without detracting from the generality of the powers hereinbefore conferred—

- (a) for prohibiting the importation into Sri Lanka from places beyond sea of any plants, invertebrate animals and insects, and for restricting the sea and air ports at which plants may be landed;
- (b) for prohibiting the landing of plants from vessels or boats or aircraft either absolutely or conditionally;
- (c) for providing for the importation of plants under special licence and conditions;
- (d) for inspecting plants at, before 01 after the time of landing;
- (e) for cleansing, fumigating, 01 disinfecting, at the expense of the consignee, and, if expedient, destroying at, before or after landing and without compensation all plants, or the packages, cases pots, or covering in which they may be packed, which shall be found 01 suspected to be infected with an pest or disease, and for the recover) of prescribed fees from th(consignee;

* Schedule omitted.—See List of Enactments omitted from the Revised Edition.

- (f) for requiring the quarantine of imported plants in special areas, and for fixing the conditions of such quarantine and the fees to be charged therefor;
 - (g) for preventing the outbreak or dissemination of any pest, disease, or weed within Sri Lanka;
 - (h) for declaring any area to be an infested area, and for the proper quarantine of any area declared as being infested with any pest, disease, or weed;
 - (i) for the spraying or other treatment of any weed or of any plants within Sri Lanka affected with any pest or disease;
 - (j) for the destruction and proper disposal of any weed or of any plants within Sri Lanka affected or likely to be affected with any pest or disease;
 - (k) for regulating the transfer of plants from one locality to another;
 - (l) for prescribing the officers who are to carry out regulations under this Ordinance, and the powers conferred, and duties imposed, upon them for the purpose aforesaid;
 - (m) for the constitution of committees to advise the Director and officers appointed for the purposes of this Ordinance, and to take such other action as may be necessary to ensure its effective administration. [§ 9, 50 of 1957.]
- (4) All regulations made under this Ordinance shall be published in the Gazette, and shall, subject to the provisions of the next following subsection, from the date of such publication have the same force as if they had been enacted in this Ordinance.
- (5) All regulations published as aforesaid shall be laid as soon as conveniently may be before Parliament, and may at any time within forty days after the date of their being so laid before Parliament, or at any of the three meetings of Parliament succeeding such date, by resolution of Parliament be disallowed, amended, or otherwise dealt with as may be directed by the said resolution, but without prejudice to anything that may have been done thereunder.

CHAPTER 363

PUBLIC PERFORMANCES

Ordinances AN ORDINANCE TO MAKE PROVISION FOR THE BETTER REGULATION OF PUBLIC
Nos. 7 of 1912, PERFORMANCES AND CARNIVALS, AND FOR MATTERS CONNECTED THEREWITH
7 of 1919, OR INCIDENTAL THERETO.

Acts
Nos.23of1951,
40 of 1961,
26 of 1964,
11 of 1969.

[24th May, 1912.]

Short title. 1. This Ordinance may be cited as the Public Performances Ordinance. boxing contest, circus, concert, or other stage entertainment,

Interpretation. 2. In this Ordinance, unless the context otherwise requires— but does not include any carnival or any performance on private premises to which the public are not admitted whether on payment or otherwise.
[§ 3, 40 of 1961.] "carnival" includes any fete, fancy fair, and any other similar entertainment to which the public are admitted, whether on payment or otherwise, but does not include any public performance;

[§ 3, 11 of 1969.] "cinema" means any place ordinarily used for the exhibition of pictures or optical effects by means of a cinematograph, magic lantern, or other similar apparatus;

[§ 3, 11 of 1969.] "club" means any body of persons, whether corporate or unincorporate, associated together for a common purpose ;

[§ 3, 40 of 1961.] "local authority" includes any Urban Council, Town Council, or Village Council; and

[§3, 40 of 1961.] "public performance " includes—
(a) every public dramatic representation;
(b) every exhibition of pictures or optical effects by means of a cinematograph, magic lantern, or other similar apparatus;
(c) every exhibition of dancing, conjuring, juggling, or acrobatic performances, every
3. (1) The Minister may make rules for the regulation of public performances, and in particular, without prejudice to the generality of the power so granted, for the following purposes;—
(a) for the issue of licences for buildings or erections to be used for public performances, or for any particular public performance, and for the withdrawal, suspension, or modification of the conditions of such licences;
(b) for the payment of fees for such licences;
(c) for the regulation of the character of public performances;
(d) for the submission to the prescribed authority of a description of any public performance intended to be exhibited, and in such cases as such authority thinks fit to require, for the exhibition before such authority of any such performance before the same shall be advertised or exhibited ;
(e) for the issue of permits for the exhibition of such performances, and for the withdrawal, suspension, and modification of the conditions of such permits;

Power of Minister to make rules for the regulation of public performances.

(f) for the regulation of the structural condition of licensed buildings or erections, and for the protection of the public against fire, overcrowding, disorder, or other dangers;

(g) for the inspection of licensed buildings and erections and of performances therein;

(h) for the prohibition and prevention of public performances in unlicensed buildings and erections, or of unauthorized performances in licensed buildings or erections.

(2) All rules when made as aforesaid shall be laid as soon as conveniently may be before Parliament; and if a resolution is passed by Parliament within forty days of their being so laid praying that any rule shall be annulled, such rule shall thenceforth be void, but without prejudice to anything done thereunder.

Prohibition of holding of carnival without licence. [§4.40 of 1961.]

3A. (1) No person shall hold any carnival in any area within the administrative limits of any local authority except under a licence issued in that behalf by that authority.

(2) A licence under subsection (1) shall not be issued by a local authority except with the concurrence of the Inspector-General of Police.

(3) It shall be a condition of every such licence that the licensee shall not promote or permit gambling of any kind whatsoever within the premises in which the carnival is held, and that he shall not conduct or promote any lottery within such premises or in connexion with such carnival.

(4) A licence issued by a local authority to any person may be suspended or cancelled by such authority if it is satisfied that such person has contravened any condition of such licence or any provision of this Ordinance or of any by-law made thereunder.

3B. No person shall promote, or participate in, gambling of any kind whatsoever within the premises in which any carnival is held, or conduct or promote any lottery within such premises or in connexion with such carnival.

Prohibition of gambling in premises where carnivals are held, and of lotteries in connexion with such carnivals. [§ 4, 40 of 1961.]

3C. (1) A local authority may make by-laws for the regulation, inspection, and control of carnivals, and in particular, without prejudice to the generality of the power so conferred, in respect of all or any of the following matters :—

Power of focal authority to make by-laws for the regulation of carnivals. [§ 4, 40 of 1961.]

(a) the fees to be paid for the issue of licences relating to carnivals ;

(b) the conditions of such licences ; and

(c) the protection of the public against fire, overcrowding, disorder, or other dangers.

(2) Every by-law made by a local authority shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the by-law.

(3) Every by-law made by a local authority shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any by-law which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything done thereunder.

4. Any person contravening the provisions of section 3A or section 3B or of any rule or by-law made under this Ordinance shall be guilty of an offence, and liable to a fine not exceeding one thousand rupees, or to simple imprisonment for any period not exceeding six months-

Penally for offences against Ordinance. [§ 5, 40 of 1961.]

5. (1) Sections 3 and 4 of this Ordinance shall not apply in any Municipal area in respect of which by-laws for the regulation of public performances or carnivals have been or shall hereafter be made under the powers granted to Municipal Councils by paragraph 18 of section 272 of the Municipal Councils Ordinance, but the by-law-making powers

Sections 3 and 4 not to apply in Municipal areas. [§ 6, 40 of 1961.]

granted to Municipal Councils by the said paragraph shall be deemed to include all the powers conferred upon the Minister by this Ordinance, and any person committing any offence against any by-law under the said paragraph shall be liable to the same punishment as if the said by-law had been a rule made under this Ordinance, and may be tried before a Municipal Magistrate.

[§ 2, 26 of 1964.]

(2) Notwithstanding the provisions of paragraph (18) of section 272 of the Municipal Councils Ordinance read with subsection (1), or of any by-laws made thereunder for the regulation of carnivals, no Municipal Council shall issue a licence for the conduct of a carnival within the administrative limits of such Council, except with the concurrence of the Inspector-General of Police.

Certification of performances as suitable for public exhibition. [§4,11 of 1969.]

6. (1) (a) Subject to the provisions of subsection (9), no public performance shall, unless it has been certified by a certifying authority as suitable for public exhibition and such certificate remains unrevoked, be exhibited or presented either—

- (i) to the public in any premises, whether public or private; or
- (ii) to the members of any club in any cinema, building, erection or other premises authorized, for the time being, to be used for public performances under a licence or permit issued by a Municipal Council or other local authority.

(b) No exhibition of pictures or optical effects, by means of a cinematograph, magic lantern or other similar apparatus, which has not been submitted to or viewed by a certifying authority, shall be exhibited or presented either—

- (i) to the public in any premises, whether public or private; or
- (ii) to the members of any club in any cinema, building, erection or other premises authorized, for the time being, to be used for public performances under a licence or permit issued by a Municipal Council or other local authority.

(2) The Minister may by Order published in the Gazette appoint any person or persons, by name or by office, to be for the purposes of this section the certifying authority for the whole of Sri Lanka or for any specified area in Sri Lanka; and in the exercise of the powers and functions under this section, a certifying authority shall act in accordance with such directions as may be issued in that behalf by the Minister.

(3) A certifying authority shall have the discretion—

- (a) to grant or refuse a certificate to the effect that any proposed public performance is suitable for public exhibition; and
- (b) by order to revoke any such certificate previously granted under paragraph (a).

Every such order of revocation shall be served in the prescribed manner upon the person on whose application the certificate was granted, and shall take effect upon the date of such service.

(4) Where a certifying authority refuses to grant a certificate under subsection (3) in respect of any public performance or makes order revoking any such certificate, any person aggrieved by the refusal or revocation may, in the prescribed manner, appeal against such refusal or revocation to the Minister; and the decision of the Minister upon such appeal shall be final and conclusive.

(5) For the purposes of the exercise of the powers and functions conferred or imposed by this section, a certifying authority or the Minister may require the exhibition or presentation, before it or him or before any other specified persons, of any proposed public performance.

(6) Where any film is certified under the preceding provisions of this section as suitable for public exhibition, the certifying authority may cause the film to be marked in the prescribed manner; and no film which has been so certified shall be exhibited or presented with any alterations or additions made after being so marked.

(7) The preceding provisions of this section shall have effect in addition to and notwithstanding anything in any rules made under section 3 or any by-laws referred to in section 5 ; and the certification under this section of any proposed public performance as being suitable for public exhibition shall not be deemed or construed to authorize its exhibition or presentation in contravention of such rules or by-laws.

(8) Where any public performance is exhibited or presented in contravention of the provisions of this section, the person for the time being entitled to occupy the premises at which the performance is exhibited or presented and every other person responsible for, or participating or otherwise concerned in, the presentation or exhibition of that performance, shall be guilty of an offence and liable, after summary trial before a Magistrate, to a fine not exceeding one thousand rupees or to imprisonment of either description for any period not exceeding six months.

(9) The preceding provisions of this section shall not apply—

- (a) to any exhibition of conjuring or juggling or to any boxing contests; or
- (b) to any other performance of any class or description of performances which may be exempted from those provisions by Order made under subsection (10).

(10) The Minister may by Order published in the Gazette—

[§4,11 of 1969.]

- (a) prescribe a fee or charge to be paid in respect of any public performance submitted to and viewed by the certifying authority;
- (b) provide for the collection or recovery of such fee or charge and the disposal thereof upon collection or recovery;
- (c) make such provision as he may consider necessary for carrying out or giving effect to the principles and purposes of this section, including provision for or in respect of any matter authorized or required by this section to be prescribed.

(11) In this section, "Minister" means the Minister in charge of the subject of Defence.

7. Any person who, without the previous sanction of a certifying authority, prints, publishes, distributes or posts up, or causes to be printed, published, distributed or posted up, any newspaper advertisement, handbill, placard or poster which contains any reference to any order or decision of such certifying authority or any part thereof in respect of any public performance, shall be guilty of an offence, and shall be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding one thousand rupees or to imprisonment of either description for any period not exceeding six months.

Reference to the order of a certifying authority in advertisements relating to a film. [§5,11 of 1969.]

PETROLEUM PRODUCTS (REGULATION AND CONTROL OF SUPPLIES)

CHAPTER 221

PETROLEUM PRODUCTS (REGULATION AND CONTROL OF SUPPLIES)

Act No. 34 of 1979.

AN ACT TO PROVIDE FOR THE REGULATION AND CONTROL OF THE DISTRIBUTION AND USE OF PETROLEUM PRODUCTS WITH A VIEW TO ENSURING THE FAIR DISTRIBUTION OF SUCH PRODUCTS, AND TO THE CONSERVATION OF SUPPLIES THEREOF; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Section 1 and Parts I and IX—31st May. 1979.]

Short title and dates of operation.

1. (t) This Act may be cited as the Petroleum Products (Regulation and Control of Supplies) Act.

(2) The provisions of this Act shall come into operation as follows:—

(a) the provisions of this section and the provisions of Parts I and IX of this Act shall come into operation on the 31st day of May, 1979;

(b) the provisions of Parts II, III, IV, V, VI, VII and VIII of this Act shall come into operation on such date or dates as the Minister may appoint by Order published in the Gazette. Different dates may be appointed in respect of different Parts of this Act.

(3) Where any Part of this Act is brought into operation by an Order made under paragraph (b) of subsection (2), the provisions of that Part shall continue to be in operation until such Order is revoked by the Minister by a like Order published in the Gazette.

(4) The revocation of an Order made under paragraph (b) of subsection (2) bringing any Part of this Act into operation shall be deemed not to prejudice the power of the Minister to bring such Part into operation at any time after such revocation by a subsequent Order made under that paragraph.

PART I

ADMINISTRATION

2. (1) There may be appointed, for the purposes of this Act—

Appointment of officers and servants.

(a) by name or by office, a Competent Authority for Petroleum Products (in this Act referred to as "the Authority") and such number of Petroleum Controllers, Deputy Petroleum Controllers and Assistant Petroleum Controllers as may be necessary for the purpose of carrying out or giving effect to the provisions of this Act;

(b) such other officers and servants as may be necessary to assist the officers referred to in paragraph (a), in the administration of this Act.

(2) The Authority may, in writing, delegate to any Petroleum Controller, Deputy Petroleum Controller or Assistant Petroleum Controller any power, duty or function conferred or imposed on, or assigned to, such Authority by this Act.

PART II

RESTRICTION ON SALES, &C., OF PETROL

3. From and after the date of coming into operation of this Part of this Act, no person other than a vendor shall purchase or obtain petrol unless he is an approved Purchase of petrol.

**PETROLEUM PRODUCTS (REGULATION AND CONTROL
OF SUPPLIES)** **[Cap. 221]**

consumer of petrol and is the holder of a valid permit issued by the Authority in respect of petrol.

Certain persons deemed to have been approved as consumers of petrol.

4. (1) Every person who is registered under the Motor Traffic Act as the owner of a petrol-driven motor vehicle and holds—

- (a) a certificate of registration ;
- (b) a valid revenue licence ; and
- (c) a valid certificate of insurance,

issued, under that Act, in respect of that vehicle, shall, so long and so long only as he continues to be so registered, be deemed to have been approved by the Authority under this Act as a consumer of petrol.

(2) The Authority may require any person who is deemed by virtue of the preceding provisions of this section, to have been approved under this Act as a consumer of petrol, to furnish such information as the Authority may require to enable him to determine the quantity of petrol which such person should be authorized to obtain during any period.

(3) Nothing in this Act shall be read or construed as requiring any person who is deemed by virtue of the preceding provisions of this section to have been approved under this Act as a consumer of petrol to apply under section 5 for approval as a consumer of petrol.

Application for approval as consumer of petrol.

5. (1) Every application for the approval of a person as a consumer of petrol shall be made to the Authority and shall set out—

- (a) a description of the vehicle, vessel, aircraft, plant or machinery for which petrol is required by that person, and in the case of a vehicle, the registered number, make and horse-power thereof;
- (b) the purpose for which such vehicle, vessel, aircraft, plant or machinery is intended to be employed ;
- (c) the monthly average quantity of petrol purchased by the applicant

during the twelve months immediately preceding the date on which the application is made;

- (d) the estimated monthly average quantity of petrol required by the applicant after such date; and
- (e) particulars of such other matters may be prescribed.

(2) Every applicant who desires to take delivery of any petrol otherwise than in the tank of a vehicle, vessel or aircraft shall specify in his application the manner in which he proposes to take delivery of the petrol and his reasons for requiring delivery in such manner.

(3) The Authority may provide forms of application for the purposes of this section and where such forms are provided, application shall be made in the form so provided.

6. (1) The Authority may refuse to approve any person as a consumer of petrol, if having regard to—

Power of Authority to refuse approval of person as consumer of petrol.

- (a) the stocks of petrol in Sri Lanka;
- (b) the necessity for conserving such stocks for use for public purposes and the maintenance of essential services; and
- (c) the purposes for which petrol is required by such person,

the Authority is satisfied that such person should not be authorized to obtain supplies of petrol.

(2) Where the Authority refuses to approve any person as a consumer of petrol—

- (a) the Authority shall give notice of such refusal by registered letter sent through the post to such person at the address specified by him in his application;
- (b) that person may, within two weeks of the receipt of such notice, prefer an appeal to the Secretary to the Ministry against such refusal.

PETROLEUM PRODUCTS (REGULATION AND CONTROL OF SUPPLIES)

(3) The decision of the Secretary on any appeal preferred under subsection (2) shall be final.

Issue of permits to approved consumers.

7. (1) Where a person is approved, or is deemed to have been approved, as a consumer of petrol, the Authority' may, from time to time and having regard to—

- (a) the stocks of petrol currently available in Sri Lanka;
- (b) the necessity for conserving such stocks for use for public purposes and the maintenance of essential services; and
- (c) the purpose for which such petrol is required by such person,

determine the quantity of petrol which that person may be authorized to obtain during any period, and may issue to him one or more permits to which shall be attached such number of coupons as may be necessary to enable him to obtain that quantity of petrol during that period.

(2) Where the Authority has determined, under subsection (1), the quantity of petrol that an approved consumer may be authorized to obtain during any period, he may, having regard to the matters set out in paragraphs (a), (b) and (c) of subsection (1), vary such determination at any time during that period.

(3) No permit issued under subsection (1) and no coupon attached to any such permit shall be valid except during the period in respect of which such permit or coupon is issued.

(4) No permit shall authorize any person to purchase or obtain petrol at any place other than at a retail depot:

Provided, however, that the Authority may by entry made in a permit issued to an approved consumer of petrol authorize such consumer to purchase or obtain petrol direct from the Corporation.

Prohibition of sale and transfer of permits, &c.

8. No approved consumer of petrol shall—

- (a) sell or transfer to any other person any permit issued to that consumer or any coupon attached to any such permit; or

(b) deliver such permit or coupon to any other person except for the purpose of enabling that person to purchase or obtain petrol for the use of that consumer; or

(c) deliver any such coupon to a vendor or to the Corporation except for the purpose of purchasing or obtaining petrol from the vendor or the Corporation, in accordance with the terms of the permit to which that coupon is attached ; or

(d) sell or deliver to any other person petrol purchased or obtained under the authority of a permit issued to that consumer.

9. (I) Where any person has been approved, or is deemed to have been approved, under this Act, as a consumer of petrol, the Authority may revoke such approval—

Revocation of approval as a consumer of petrol.

(a) if he is satisfied that such person has contravened any of the provisions of this Act or has failed to comply with any directions issued or given by the Authority under this Act or has knowingly made a false statement in any application or return made or furnished thereunder; or

(b) if, having regard to—

- (i) the stocks of petrol currently available in Sri Lanka;
- (ii) the necessity of conserving such stocks for use for public purposes and the maintenance of essential services;
- (iii) the purposes for which petrol is required by that person,

the Authority is satisfied that such person should not be authorized to obtain supplies of petrol.

(2) Where the approval of any person as a consumer of petrol is revoked by the Authority under subsection (I)—

- (a) the Authority shall give notice of such revocation by registered letter sent through the post to that person at the address specified by him in his

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application for approval as a consumer or in the case of a person deemed to have been approved as a consumer of petrol by virtue of his being the registered owner of a motor vehicle, at the address specified in the certificate of registration issued under the Motor Traffic Act, in respect of that vehicle;

(b) that person may, within two weeks of the date of receipt by him of the notice and on payment of a fee of five rupees, prefer an appeal to the Secretary to the Ministry against such revocation.

(3) The decision of the Secretary on any appeal preferred under subsection (2) shall be final.

(4) Where the approval of any person as a consumer of petrol is revoked by the Authority under subsection (1) or where any person ceases to be an approved consumer of petrol, such person shall surrender to the Authority, every permit issued to him by the Authority under section 7.

Provision as to sale or delivery of petrol.

10. (1) From and after the coming into operation of this Part of this Act, no person shall sell or deliver any quantity of petrol to any other person unless—

(a) such sale or delivery takes place at a retail depot or at the Corporation, and a valid permit is produced by that other person to the vendor in respect of that depot, or to an agent or servant of the Corporation; and

(b) a valid coupon or valid coupons representing that quantity of that product is or are detached by that vendor or that agent or servant from that permit.

Nothing in this subsection shall apply to the sale or delivery of petrol to a vendor by the Corporation or an authorized agent of the Corporation.

(2) Where any person (in this subsection referred to as the "buyer") produces to a person working at a retail depot, a permit authorizing the buyer to purchase or obtain petrol and such permit bears an entry to the effect that the buyer is authorized to purchase or obtain petrol for the purposes of a motor vehicle, then, such person working at such retail depot—

(a) shall not, except in the case referred to in paragraph (b) of this subsection, deliver such petrol to the buyer otherwise than in the tank of a vehicle;

(b) shall, if so required by the buyer, deliver such petrol to the buyer otherwise than in the tank of a vehicle if the permit produced by the buyer authorizes the delivery of petrol in such manner as the buyer may require; and

(c) shall, except in the case referred to in paragraph (b) of this subsection, deliver such petrol to the buyer by pouring or discharging it into the tank of the vehicle which bears, as the distinctive number (in this Act sometimes referred to as the "registered number") assigned to that vehicle upon its registration under the Motor Traffic Act, the number specified in the permit produced by the buyer as the number of the vehicle for the purpose of which the buyer is authorized to purchase or obtain petrol:

Provided, however, that nothing in the provisions of paragraph (c) of this subsection shall be deemed to prevent the delivery of petrol in any manner other than that prescribed by these provisions, if the permit so authorizes.

(3) Where at any time at any retail depot any person, other than the vendor in respect of that depot at that time, sells or delivers any petrol to any other person in contravention of any of the preceding provisions of this section, that vendor shall also be guilty of the offence constituted by such contravention.

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(4) The preceding provisions of this section shall apply in the case of the sale or delivery of any petrol at a retail depot to the vendor in respect of that depot or into the tank of any vehicle belonging to that vendor, in like manner as those provisions apply in the case of the sale or delivery of petrol to any other person or into the tank of any vehicle belonging to any other person.

(2) From and after the date of coming into operation of this Part of this Act, where the aggregate of—

- (a) the quantity of petrol in stock at a retail depot OR any date (in this subsection referred to as the "relevant date"); and
- (b) the quantity of petrol represented by such of the coupons issued by the Authority as have been surrendered at that depot between the date on which the stocks of petrol at that depot were last ascertained by the Authority and the relevant date,

Deficiency or excess of stocks at retail depots..

11. (1) From and after the date of coming into operation of this Part of this Act, where the aggregate of—

- (a) the quantity of petrol in stock at a retail depot on any date (in this subsection referred to as the "relevant date"), and
- (b) the quantity of petrol represented by such of the coupons issued by the Authority as have been surrendered at that depot between the date on which the stocks of petrol at that depot were last ascertained by the Authority and the relevant date,

is more than the aggregate of—

- (i) the quantity of petrol in stock at that depot on the date on which stocks of petrol at that depot were last ascertained by the Authority; and
- (ii) the quantity of petrol, if any, supplied to that depot by the Corporation or an authorized dealer of the Corporation between the date on which stocks of petrol at that depot were last ascertained by the Authority and the relevant date,

is less than the aggregate of—

- (i) the quantity of petrol in stock at the depot on the date on which stocks of petrol at that depot were last ascertained by the Authority, and
- (ii) the quantity of petrol, if any, supplied to that depot by the Corporation or an authorized dealer of the Corporation between the date on which stocks of petrol at that depot were last ascertained by the Authority and the relevant date,

the vendor in respect of that depot shall be guilty of an offence unless he proves to the satisfaction of the court that the excess in the stocks of petrol was due to any unavoidable cause or was obtained by lawful means.

12. From and after the date of coming into operation of this Part of this Act, every vendor shall, from time to time, in accordance with such directions as the Authority may issue, transmit to such officer as the Authority may specify in those directions or to the Corporation, all coupons surrendered to him under section 10, upon the sale or delivery of petrol.

Duties of vendor upon sale of petrol.

it shall be presumed that petrol has been sold at that depot in contravention of subsection (1) of section 10 and that the vendor in respect of that depot is guilty of the offence constituted by such contravention unless he proves to the satisfaction of the court that that deficiency in the stocks of petrol was due to any unavoidable cause.

13. From and after the date of coming into operation of this Part of this Act, every person, other than a vendor or the Corporation, who on that date has in his possession, otherwise than in the tank of a vehicle, vessel or aircraft, any quantity of petrol in excess of ten gallons, shall, before the expiry period of two weeks from that date, furnish to the Authority a return specifying the quantity of petrol which is in his possession; and the Authority may,

Returns by persons other than vendors.

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notwithstanding that that person has been approved or deemed to have been approved under this Act as a consumer of petrol, refuse to issue any permit to him in respect of the period during which the quantity so specified will, in the opinion of the Authority, be sufficient for the purposes for which petrol is required by that person.

petrol is stored or suspected to be stored, for the purpose of ascertaining the quantity of petrol stored therein;

(b) to inspect and test any measuring instrument at any retail depot for the purpose of ascertaining whether the instrument is false.

Restrictions as to sale, &c. of petrol by the Corporation.

14. From and after the date of coming into operation of this Part of this Act—

(1) the Corporation shall not sell or deliver petrol to any vendor except in accordance with such directions as the Authority may from time to time issue in regard to the quantity of petrol which may be sold or delivered to that vendor and the time at which such delivery may be made;

(2) the Corporation shall not sell or deliver any quantity of petrol to any person other than a vendor except upon production, by or on behalf of that person, of a valid permit bearing an entry authorizing that person to purchase or obtain that quantity of petrol direct from the Corporation.

Restriction of possession, powers of search, &c.

15. (1) From and after the date of coming into operation of this Part of this Act, no person other than the Corporation or a vendor shall—

(a) if such person is an approved consumer of petrol, stock or have in his possession any quantity of petrol in excess of the quantity which he is authorized to purchase or obtain under the authority of a permit issued under this Act for the period in respect of which such permit is issued ; or

(b) if such person is not an approved consumer of petrol, stock or have in his possession any quantity, of petrol,

(2) It shall be lawful for any authorized officer—

(a) to enter and search any premises, vehicle, vessel or aircraft in which

PART III
RESTRICTION ON SALES, &C., OF
KEROSENE

16. From and after the date of coming into operation of this Part of this Act, no person other than a vendor shall purchase or obtain kerosene unless he is an approved consumer of kerosene and is the holder of a valid permit issued by the Authority in respect of kerosene.

Restriction on purchase of kerosene

17. (1) Every person whose name is entered in a householders' list and who is designated therein, as the chief householder shall, so long and so long only as such person continues to be so designated, be deemed to have been approved by the Authority under this Act as a consumer of kerosene.

Certain persons deemed to have been approved of as consumers of kerosene.

In this section, "householders' list" means the list prepared and maintained by the Food Controller for the purposes of the system of rationing administered by him.

(2) The Authority may require any person who is deemed by virtue of subsection (1) to have been approved as-a consumer of kerosene, to furnish such information as the Authority may require to enable him to determine the quantity of kerosene which such person should be authorized to obtain during any period.

(3) Nothing in this Act shall be read or construed as requiring any person who is deemed by virtue of subsection (1) to have been approved under this Act as a consumer of kerosene to apply under this Act for approval as a consumer of kerosene.

18. The provisions of sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 shall, *mutatis mutandis*, apply to applications for approval as consumers of kerosene, the power of the

Application of certain provisions of Part 11.

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Authority to refuse approval of a person as a consumer of kerosene, issue of permits to approved consumers of kerosene, prohibition of sale and transfer of permits issued to approved consumers of kerosene, revocation of approval as a consumer of kerosene, the sale and delivery of kerosene, the deficiency or excess of stocks of kerosene at retail depots, duties of vendors upon sale of kerosene, returns to be furnished by persons in possession of kerosene, restriction of sale of kerosene by the Corporation and the restriction on possession of kerosene.

deemed by virtue of subsection (1) to have been approved as a consumer of auto-diesel to apply under this Act for approval as a consumer of auto-diesel.

21. The provisions of sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 shall, *mutatis mutandis*, apply to applications for approval as consumers of auto-diesel, the power of the Authority to refuse approval of a person as a consumer of auto-diesel, issue of permits to approved consumers of auto-diesel, prohibition of sale and transfer of permits issued to approved consumers of auto-diesel, revocation of approval as a consumer of auto-diesel, the sale and delivery of auto-diesel, the deficiency or excess of stocks of auto-diesel at retail depots, duties of vendors upon sale of auto-diesel, returns to be furnished by persons in possession of auto-diesel, restriction of sale of auto-diesel by the Corporation and the restriction on possession of auto-diesel.

Application of certain provisions of Part II.

PART IV

RESTRICTION ON SALE, &C., OF AUTO-DIESEL

Restriction on purchase of auto-diesel,

19. From and after the date of coming into operation of this Part of this Act, no person other than a vendor shall purchase or obtain auto-diesel unless he is an approved consumer of auto-diesel and is the holder of a valid permit issued by the Authority in respect of auto-diesel.

Certain persons deemed to be approved consumers of auto-diesel.

20. (1) Every person who is registered under the Motor Traffic Act as the owner of a diesel-driven motor vehicle and holds—

- (a) a certificate of registration ;
- (b) a valid revenue licence ; and
- (c) a valid certificate of insurance,

issued under that Act, in respect of that vehicle shall, so long and so long only as he continues to be so registered, be deemed to have been approved by the Authority under this Act as a consumer of auto-diesel.

(2) The Authority may require any person who is deemed by virtue of subsection (1) to have been approved under this Act as a consumer of auto-diesel to furnish such information as the Authority may require to enable him to determine the quantity of auto-diesel which such person should be authorized to obtain during any period.

(3) Nothing in this Act shall be read or construed as requiring any person who is

PART V
RESTRICTION ON SALES, &C., OF HEAVY DIESEL

22. From and after the date of coming into operation of this Part of this Act, no person other than a vendor shall purchase or obtain any heavy diesel unless he is an approved consumer of heavy diesel and is the holder of a valid permit issued by the Authority in respect of heavy diesel.

Restriction on purchase of heavy diesel.

23. The provisions of sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 shall, *mutatis mutandis*, apply to applications for approval as consumers of heavy diesel, the power of the Authority to refuse approval of a person as a consumer of heavy diesel, issue of permits to approved consumers of heavy diesel, revocation of approval as a consumer of heavy diesel, prohibition of sale and transfer of permits issued to approved consumers of heavy diesel, the sale and delivery of heavy diesel, the deficiency or excess of stocks of heavy diesel at retail depots, duties of vendors upon sale of heavy diesel, returns to be furnished by persons in possession of heavy diesel, restriction of sale of heavy diesel by the Corporation and the restriction on possession of heavy diesel.

Application of certain provisions of Part II.

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PART VI

RESTRICTION ON SALES, &C., OF FURNACE OIL

Restriction on purchase of furnace oil,

24. From and after the date of coming into operation of this Part of this Act, no person other than a vendor shall purchase or obtain any furnace oil unless he is an approved consumer of furnace oil and is the holder of a valid permit issued by the Authority in respect of furnace oil.

Application of certain provisions of Part 11.

25. The provisions of sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 shall, *mutatis mutandis*, apply to applications for approval as consumers of furnace oil, the power of the Authority to refuse approval of a person as a consumer of furnace oil, issue of permits to approved consumers of furnace oil, prohibition of sale and transfer of permits issued to approved consumers of furnace oil, revocation of approval as a consumer of furnace oil, the sale and delivery of furnace oil, the deficiency or excess of stocks of furnace oil at retail depots, duties of vendors upon sale of furnace oil, returns to be furnished by persons in possession of furnace oil, restriction of sale of furnace oil by the Corporation and the restriction on possession of furnace oil,

issued to approved consumers of liquid petroleum gas, revocation of approval as a consumer of liquid petroleum gas, the sale and delivery of liquid petroleum gas, the deficiency or excess of stocks of liquid petroleum gas, returns to be furnished by persons in possession of liquid petroleum gas, restriction on sale of liquid petroleum gas by the Corporation and the restriction on possession of liquid petroleum gas.

PART III

RESTRICTION ON SALES, &C., OF AVIATION TURBINE FUEL

28. From and after the date of coming into operation of this Part of this Act, no person other than a vendor shall purchase or obtain any aviation turbine fuel unless he is an approved consumer of aviation turbine fuel and is the holder of a valid permit issued by the Authority in respect of aviation turbine fuel.

Restriction on purchase of aviation turbine fuel.

29. The provisions of sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 shall, *mutatis mutandis*, apply to applications for approval as consumers of aviation turbine fuel. the power of the Authority to refuse approval of a person as a consumer of aviation turbine fuel, issue of permits to approved consumers of aviation turbine fuel, prohibition of sale and transfer of permits issued to approved consumers of aviation turbine fuel, revocation of approval as a consumer of aviation turbine fuel, the sale and delivery of aviation turbine fuel, the deficiency or excess of stocks of aviation turbine fuel at retail depots, duties of vendors upon sale of aviation turbine fuel, returns to be furnished by persons in possession of aviation turbine fuel, restriction of sale of aviation turbine fuel by the Corporation and the restriction on possession of aviation turbine fuel.

Application of certain provisions of Part 11.

PART VII

RESTRICTION ON SALES, &C., OF LIQUID PETROLEUM GAS

Restriction on purchase of liquid petroleum gas.

26. From and after the date of coming into operation of this Part of this Act, no person other than a vendor shall purchase or obtain any liquid petroleum gas unless he is an approved consumer of liquid petroleum gas and is the holder of a valid permit issued by the Authority in respect of liquid petroleum gas.

PART IX

GENERAL

Application of certain provisions of Part 11.

27. The provisions of sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 shall, *mutatis mutandis*, apply to applications for approval as consumers of liquid petroleum gas, the power of the Authority to refuse approval of a person as a consumer of liquid petroleum gas, issue of permits to approved consumers of liquid petroleum gas, prohibition of sale and transfer of permits

30. (1) Every vendor shall furnish to the Authority such returns and other information as the Authority may from time to time require relating to the quantity of any petroleum product in his possession and to the sale or delivery of any petroleum product to approved consumers and other persons and to the coupons surrendered to him for the purpose of such sale or delivery.

Returns. &c. by vendors and suppliers.

(2) The Corporation—

(a) shall, before the expiry of a period of two weeks from the date of coming into operation of this Part of this Act, furnish to the Authority a statement setting out the name of every vendor to whom any petroleum product is sold or delivered by the Corporation for the purpose of sale and the address of the depot at which that product is sold by that vendor;

(b) shall furnish to the Authority such returns and other information as the Authority may from time to time require relating to the stocks of any petroleum product in its possession or under its control or expected to arrive in Sri Lanka, and to the sale or delivery of any petroleum product to vendors and other persons.

31. The Authority may, having regard to—

(a) the stocks of any petroleum product in Sri Lanka;

(b) the necessity for conserving such "stocks for use for public purposes and the maintenance of essential services;

(c) the coupons transmitted under section 12 or section 12 read with section 18 or section 21 or section 23 or section 25 or section 27 or section 29 in respect of that product,

issue directions to the Corporation as to the quantities of such product that may be supplied or delivered to vendors and the times at which deliveries of such quantities may be made.

32. (^1) Any person who has any forged coupon in his possession or tenders any forged coupon for the purpose of obtaining any petroleum product, shall be guilty of an offence, unless he proves to the satisfaction of the court—

(a) that the coupon was attached to a permit issued to him by the Authority, or by any other officer or person acting on behalf of the Authority, or by any person purporting to act and reasonably believed to have been acting on behalf of the Authority at the place at which permits are ordinarily issued to him ; or

(b) that the coupon was delivered to him by some other person, of whom he was the agent or servant, for the purpose of enabling him to obtain that product from a vendor for the use of such other person; or

(c) that, at the time of the commission of the alleged offence, he was a vendor, and the coupon was detached by him from a permit in accordance with the provisions of section 10 or section 10 read with section 18 or section 21 or section 23 or section 25 or section 27 or section 29 upon the sale or delivery of a petroleum product to another person at a retail depot of such vendor, and the coupon could not reasonably have been suspected to be a forged coupon; or

(d) that, at the time of the commission of the alleged offence, he was the agent or servant of the Corporation and—

(i) the coupon was transmitted to him by a vendor in accordance with the provisions of section 12 or section 12 read with section 18 or section 21 or section 23 or section 25 or section 27 or section 29 ; or

(ii) the coupon was detached by him from a permit in accordance with the provisions of section 10 or section 10 read with section 18 or section 21 or section 23 or section 25 or section 27 or section 29 upon the sale or delivery of a petroleum product to another person at the Corporation.

Power of Authority to regulate supplies to vendors.

Possession of forged, invalid or cancelled coupons, &c-

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- (2) Any person who—
- (a) has in his possession a coupon that has been surrendered to the vendor in respect of a retail depot for the purpose of obtaining any petroleum product, or tenders any invalid coupon for the purpose of obtaining any petroleum product; or
 - (ii) the coupon was detached by him from a permit in accordance with the provisions of section 10 or section 10 read with section 18 or section 21 or section 23 or section 25 or section 27 or section 29 upon the sale or delivery of a petroleum product to another person at the Corporation.

- (b) has in his possession or tenders for the purpose of obtaining any petroleum product, any coupon that has been cancelled by or under the direction of the Authority,

33. (1) Any person who makes or counterfeits, or has in his possession, any plate, die or stamp or other instrument or material used or capable of being used for forging permits or coupons shall be guilty of an offence. Possession. &c. of instruments for forging coupons

shall be guilty of an offence:

Provided, however, that no person shall be deemed to be guilty of an offence by reason only of the possession of any coupon referred to in paragraph (a) of this subsection if he proves to the satisfaction of the court—

(2) A prosecution for an offence under subsection (1) shall not be instituted except by, or with the sanction of, the Attorney-General.

- (a) that, at the time of the commission of the alleged offence, he was a vendor or the agent or servant of a vendor and the coupon was detached from a permit in accordance with the provisions of section 10 or section 10 read with section 18 or section 21 or section 23 or section 25 or section 27 or section 29 and was in his possession in his capacity as such vendor, agent or servant; or

34. (1) It shall be lawful for any police officer of a rank not below that of Sergeant in charge of a police station to seize any permits or coupons which he has reasonable grounds to believe to be forged permits or forged coupons- Seizure of forged coupons, &c.

- (b) that, at the time of the commission of the alleged offence, he was the agent or servant of the Corporation and—

(2) If any police officer of a rank not below that of Assistant Superintendent has reasonable grounds for suspicion that any forged permits- or forged coupons or any instruments or materials used for forging permits or coupons are concealed, kept or deposited in any place and is satisfied that it is expedient that such place should be searched for the purpose of seizing such permits, coupons, instruments or materials and that by reason of urgency or other good cause it is impracticable to apply for a search warrant under the law relating to criminal procedure, such officer may, after recording the grounds of his suspicion—

- (i) the coupon had been transmitted to the Corporation in accordance with the provisions of section 12 or section 12 read with section 18 or section 21 or section 23 or section 25 or section 27 or section 29 and was in his possession in his capacity as such agent or servant; or

- (a) enter and search such place and seize any permits, coupons, instruments or materials found therein and reasonably believed to be forged permits or forged coupons or to be used for forging permits or coupons; or

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(b) by written order authorize any other police officer to exercise the powers referred to in paragraph (a) of this subsection.

(3) All documents or articles seized under subsection (1) or subsection (2), together with a list of such articles, shall be taken forthwith before the Magistrate's Court having jurisdiction in the place of seizure and shall be dealt with in such manner as the court may by order direct.

Power of Authority to give directions.

35. Where the Authority is satisfied that any consumer or vendor of any petroleum product is storing or using such product in a wasteful manner, the Authority may give such directions to such consumer or vendor as the Authority may consider necessary for the prevention, avoidance or elimination of such waste, and it shall be the duty of such consumer or vendor to comply with every such direction.

Certificate issued by Corporation to be conclusive evidence of certain facts stated therein.

36. Where in any prosecution instituted under this Act, any question arises as to whether any liquid or gas is a petroleum product, or as to the category to which a petroleum product belongs, a certificate purporting to be under the hand of the Chairman of the Board of Directors of the corporation or any person authorized in that behalf by such Chairman to the effect that such liquid or gas is a petroleum product or assigning the category to which such petroleum product belongs shall be received in evidence as conclusive proof of the facts stated therein.

Offences and penalties

37. (1) Any person who acts in contravention of any provision of this Act shall be guilty of an offence.

(2) Every person guilty of an offence under this Act other than an offence specified in subsection (3) or subsection (4) or subsection (5) shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two thousand five hundred rupees or to imprisonment of either description for a period not exceeding two years, or to both such fine and such imprisonment.

(3) Any person who—

(a) resists or obstructs the Authority or any Petroleum Controller, Deputy

or Assistant Petroleum Controller or any authorized officer, acting under any provision of this Act; or

(b) falls or refuses to furnish any return required by or under this Act to be furnished by him, or makes in any return or in any application made under this Act, any entry or statement which is to his knowledge false or incorrect; or

(c) having obtained a permit upon the representation that the petroleum product to be purchased or obtained thereunder is required for any specified purpose, uses such product for any other purpose ; or

(d) falls or refuses to comply with any direction issued by the Authority acting under any provision of this Act.

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a period not exceeding one year, or to both such fine and such imprisonment.

(4) Any person who acts in contravention of any regulation made under this Act or of the terms of any permit issued under this Act shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding five hundred rupees.

(5) (a) Where any measuring instrument kept or maintained at any retail depot is found at any time upon inspection and testing under section 15 or section 15 read with section 18 or section 21 or section 23 or section 25 or section 27 or section 29 to be false, the person for the time being in charge of the retail depot shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding three months, or to both such fine and imprisonment.

(b) For the purposes of paragraph (a), a measuring instrument

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shall be deemed to be false if it does not deliver correctly within such limits of error as may be prescribed by regulation.

Offences by
bodies of
persons.

38. Where an offence under this Act is committed by a body of persons then—

(a) if that body is a body corporate, every person who at the time of the commission of the offence was a director, secretary or other similar officer of that body ; or

(b) if that body is not a body corporate, every person who at the time of the commission of that offence was a member of that body,

shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions and in all the circumstances.

Restrictions as
to actions
against the
Corporation or
vendors.

39. No civil action shall be instituted or maintained against the Corporation or any vendor for any act done or omitted to be done by such Corporation or vendor, if such act was done or omitted to be done, as the case may be, for the purpose of complying with any of the provisions of this Act-

Regulations.

40. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred on him by subsection (1), the Minister may make regulations for or in respect of all matters slated or required in this Act to be prescribed.

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

(5) Notification of the date on which any regulation shall be deemed to be so rescinded shall be published in the Gazette.

41. The provisions of this Act shall apply to, and in relation to, the Government in its capacity as a consumer of any petroleum product. Application of
Act to the
Government.

***43.** The provisions of this Act shall have effect notwithstanding anything contained in any other written law, and accordingly, in the event of any conflict or inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail. This Act to
prevail over
other written
law

44. (1) In this Act unless the context otherwise requires— interpretation.

" aircraft " includes a helicopter ;

" approved consumer " means a person approved or deemed to be approved under this Act as a consumer of any petroleum product;

" authorized officer " means any police officer not below the rank of Inspector and includes any other person acting under the written authority of the Authority ;

" the Corporation " means the Ceylon Petroleum Corporation established by the Ceylon Petroleum Corporation Act ;

" motor vehicle " means a motor vehicle as defined in the Motor Traffic Act ;

" measuring instrument " includes any vessel, pump or other device used or maintained for the measurement of any petroleum product ;

* Section 42, repealing the Petrol (Control of Supplies) Ordinance, is omitted.

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- "permit "means a permit issued by the Authority under this Act ;
- " petroleum product " means petrol, kerosene, auto-diesel, heavy diesel, furnace oil, liquid petroleum gas or aviation turbine fuel ;
- " plant or machinery " includes any lamp, stove or other device used for the purpose of lighting or cooking ;
- " regulation " means a regulation made under section 40 by the Minister ;
- " retail depot " means a service or filling station, and includes any other premises at which any petroleum product is sold by a vendor ;
- " vendor " means any person to whom any petroleum product is sold or delivered by the Corporation or by an authorized dealer of the Corporation, for the purpose of sale by retail.
- (2) A permit shall be deemed to be a valid permit for the purposes of this Act—
- (a) if any coupon which was attached to the permit when the permit was issued remains unsurrendered for the purpose of purchasing or obtaining the petroleum product in respect of which the permit was issued ; and
- (b) if the period in respect of which the permit was issued has not expired.
- (3) A coupon shall be deemed to be a valid coupon for the purposes of this Act—
- (a) if it is attached to a valid permit;
- (b) if the coupon has not been surrendered for the purpose of purchasing or obtaining from a retail depot, the petroleum product in respect of which the permit is issued ; and
- (c) the period in respect of which such coupon was issued has not expired.

CHAPTER 415

PANADURA PUBLIC AND LOCAL GOVERNMENT SERVICE
BUDDHIST ASSOCIATION

Act No. 22 of 1970. AN ACT TO INCORPORATE THE PANADURA PUBLIC AND LOCAL GOVERNMENT SERVICE BUDDHIST ASSOCIATION.

[24th March, 1970.]

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|---|---|--|
| Short title. | 1. This Act may be cited as the Panadura Public and Local Government Service Buddhist Association Act. | Treasurer and the Honorary Assistant Secretary and twelve other members, to be elected in accordance with the rules for the time being of the Corporation. |
| Incorporation of the Panadura Public and Local Government Service Buddhist Association. | 2. From and after the passing of this Act, such and so many persons as now are members of the Panadura Public and Local Government Service Buddhist Association (hereinafter referred to as "the Association"), or shall hereafter be admitted members of the Corporation hereby constituted, shall be and become a Corporation with continuance for ever under the style and name of "The Panadura Public and Local Government Service Buddhist Association" (hereinafter referred to as "the Corporation"), and by that name shall and may sue and be sued in all courts, with full power and authority to have and use a common seal and alter the same at its pleasure. | (2) The first Committee of Management shall consist of Mr. P. C. M. Dias, J.P., President; Mr. P. O. Fernando, Vice-President; Mr. P. C. de Silva, Vice-President; Mr. H. Y. Soysa, Vice-President; Mr. Piyadasa Wijesuriya, Honorary Secretary; Mr. Luxman Heiyantuduwa, Honorary Treasurer; Mr. U. G. Rodrigo, Honorary Assistant Secretary; Mr. Lionel Panditharatna, Mr. S. R. Fernando, Mr. Newton Perera, Mr. H. A. Peiris, Mr. K. P. Malalasekera, Mr. D. Leslie Wijesekera, Mr. Nanda Perera, Mr. H. O. Soysa, Mr. Amarawansa Perera, Mr. Gerald Soysa, Mr. A. Abeywardena and Mr. H. B.-Peiris. |
| General objects of the Corporation. | 3. The general objects for which the Corporation is constituted are hereby declared to be— (a) to encourage the study and practice of Buddhism and aid its propagation; (b) to engage in educational, cultural and social activities; (c) to promote the moral, intellectual and physical development of members; and (d) to assist the poor and the destitute. | 5. (1) There shall be a Board of Directors consisting of the President, the three Vice-Presidents, the Honorary Secretary, the Honorary Treasurer and the Honorary Assistant Secretary for the time being of the Corporation and two members of the Committee of Management to be elected each year at the first meeting of the Committee of Management. (2) The first Board of Directors shall consist of the persons who on the date of commencement of this Act hold the offices specified in subsection (1) and Mr. Lionel Panditharatna and Mr. S. R. Fernando. |
| Committee of Management. | 4. (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation made as hereinafter provided, be administered by a Committee of Management consisting of the President, the three Vice-Presidents, the Honorary Secretary, the Honorary | (3) The Board of Directors shall exercise the powers and discharge the duties conferred and imposed on the Board by this Act and the rules of the Corporation. |

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Rules of the Corporation.

6. The rules set out in the Schedule* shall for all purposes be the rules of the Corporation:

Provided, however, that nothing in this section contained shall be held or construed to prevent the Corporation at all times hereafter, at any duly constituted general meeting of the Corporation from making fresh rules, or from altering, amending, adding to or cancelling any of the rules set out in the Schedule* or which may hereafter be made by the Corporation.

Amendment of rules.

7. No rule set out in the Schedule*, and no rule which may hereafter be made at a general meeting, shall be altered, added to, amended, or cancelled, except by the votes of two-thirds of the members present and voting at a general meeting of the Corporation and unless such alteration, addition, amendment or cancellation shall have been previously approved by the Committee of Management.

Members to be subject to rules.

8. All members of the Corporation shall be subject to the rules in force for the time being of the Corporation.

Debts due by and payable to the Association.

9. All debts and liabilities of the Association existing at the time of the coming into operation of this Act shall be paid by the Corporation hereby constituted,

and all debts due to and subscriptions and contributions payable to the Association shall be paid to the Corporation for the purposes of this Act.

10. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of three of the members of the Board of Directors, who shall sign their names on the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

Procedure for affixing the seal of the Corporation.

11. The Corporation shall be capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise, and all such property shall be held by the Corporation for the purposes of this Act and subject to the rules for the time being of the Corporation, with full power to sell, mortgage, lease, exchange, or otherwise dispose of the same.

Corporation may hold property movable and immovable

12. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Act, and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

* Schedule omitted.—Private enactment.

CHAPTER 204

PADDY PRODUCERS' SAVINGS

Law
No. 9 of 1973.

A LAW TO AUTHORIZE THE PADDY MARKETING BOARD OR AN AUTHORIZED PURCHASER THEREOF TO MAKE A CERTAIN PRESCRIBED DEDUCTION FROM THE PRICE PAYABLE TO A PRODUCER FOR THE PADDY SOLD TO SUCH BOARD OR AUTHORIZED PURCHASER AND TO CREDIT SUCH DEDUCTION TO AN INDIVIDUAL SAVINGS ACCOUNT IN THE NAME OF SUCH PRODUCER ; TO PRESCRIBE THE CONDITIONS UNDER WHICH SUCH ACCOUNTS MAY BE HELD ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Not in operation on 31st December, 1980.]

Short title and
dale of
operation.

1. This Law may be cited as the Paddy Producers' Savings Law and shall come into operation on such date as may be appointed by the Minister by Order published in the Gazette.*

4. A producer shall be paid the amount lying to the credit of his individual savings account as soon as may be practicable—

Time of
repayment of
savings.

- (a) after such producer, being a male, attains the age of sixty years, or, being a female, attains the age of fifty-five years:

Deduction
from sale price
of paddy.

2. (1) Notwithstanding anything in the Paddy Marketing Board Act or any other written law, it shall be lawful for the Paddy Marketing Board or any authorized purchaser thereof to deduct from the amount payable to a producer for the paddy sold to such Board or authorized purchaser an amount as shall be prescribed by the Minister in respect of the paddy so sold-

Provided, however, that where such producer, being a male, has attained the age of sixty years, or, being a female, has attained the age of fifty-five years on the date of commencement of this Law, the deductions made under section 2 shall be payable only after the expiry of one calendar year from the date of the first deposit made in respect of such producer; or

(2) The amount- so deducted under subsection (1) from moneys payable to a producer shall be deposited by such Board or authorized purchaser in a prescribed bank in the area within which such producer resides to be credited to a savings account in the name of such producer.

- (b) after such producer ceases to be a producer within the meaning of this Law by reason of change of occupation; or

(3) Interest at the prescribed rate shall be paid on such sums deposited in accordance with the provisions of subsection (2) and lying to the credit of the savings account of each producer.

- (c) after such producer ceases to be employed in that capacity by reason of a permanent and total incapacity for work and is certified by a registered medical practitioner to be unfit for that work any longer for, that reason; or

Appointment
of agents.

3. For the purposes of giving effect to the provisions of section 2, any prescribed bank may appoint any Corporation or rural bank or any other banking institution as its agent.

- (d) before the date of such producer's departure from Sri Lanka if such

*Not in operation on 31st December, 1980,

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producer declares in writing that such departure is with the intention of not returning to Sh Lanka.

notwithstanding the provisions of the Insolvency Ordinance.

In this section, "registered medical practitioner" means a registered medical practitioner under the Medical Ordinance.

9. (1) The Minister may make Regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law.

Persons to whom moneys lying to the credit of a producer's savings account may be paid in certain circumstances.

5. Where a producer dies before he becomes entitled to the amount standing to his credit in his individual savings account or where he dies after becoming entitled thereto but before receiving such amount or where no nominee has been appointed by such producer to whom such amount should be paid in the event of the death of such producer or where one nominee has been appointed and that nominee is dead or where more than one nominee is appointed and any one of them is dead, then such amount shall be paid to the person who is legally entitled to such amount.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

Application for refund of savings.

6. It shall be a condition of any producer's right to a refund of the amount lying to the credit of such producer's savings account that he or any person on his behalf makes an application thereto in the prescribed manner.

10. In this Law, unless the context interpretation otherwise requires—

"authorized purchaser" means an authorized purchaser of paddy within the meaning of the Paddy Marketing Board Act;

Form*.

7. The Minister may from time to time prescribe the forms to be used for the purposes of this Law and any form so prescribed may from time to time be amended or varied.

"Paddy Marketing Board" means the Paddy Marketing Board established under the Paddy Marketing Board Act;

"prescribed" means prescribed by regulations made under this Law;

Money lying to the credit of any individual savings account of a producer to be inalienable.

8. Every assignment of, or charge on, any sum lying to the credit of the individual savings account of a producer and every agreement to assign or charge any such sum shall be void, and, *wh&ic* that producer is adjudged insolvent by a competent court, any such sum shall pass to any assignee acting on behalf of that producer's creditors

"producer" means a tenant cultivator, an owner cultivator or a landlord within the meaning of the Agrarian Services Act but shall exclude any bodies of persons, corporate or unincorporate, except those prescribed by the Minister.

CHAPTER 51

PUBLIC SECURITY

Ordinance No. 25 of 1947,
Acts Nos. 22 of 1949,
34 of 1953,
8 of 1959,
Law No. 6 of 1978.

[16th June, 1947.]

AN ORDINANCE TO PROVIDE FOR THE ENACTMENT OF EMERGENCY REGULATIONS OR THE ADOPTION OF OTHER MEASURES IN THE INTERESTS OF THE PUBLIC SECURITY AND THE PRESERVATION OF PUBLIC ORDER AND FOR THE MAINTENANCE OF SUPPLIES AND SERVICES ESSENTIAL TO THE LIFE OF THE COMMUNITY.

PART I

GENERAL

Short title. **1.** This Ordinance may be cited as the Public Security Ordinance.

within ten days, and Parliament shall accordingly meet and sit upon the day appointed by that Proclamation, and shall continue to sit and act in like manner as if it had stood adjourned or prorogued to the same day.

Power of President to bring Part II into operation.

2. (1) Where, in view of the existence or imminence of a state of public emergency, the President is of opinion that it is expedient so to do in the interests of public security and the preservation of public order or for the maintenance of supplies and services essential to the life of the community, the President may, by Proclamation published in the Gazette, declare that the provisions of Part II of this Ordinance shall, forthwith or on such date as may be specified in the Proclamation, come into operation throughout Sri Lanka or in such part or parts of Sri Lanka as may be so specified.

The fact that the occasion of the making of a Proclamation under subsection (1) cannot be communicated to Parliament by reason that Parliament does not meet when summoned to meet as provided by this subsection shall not in any way affect the validity or operation of that Proclamation or of the provisions of Part II of this Ordinance or anything done under that Part:

[§3,8 of 1959.]

Provided that in such event. Parliament shall again be summoned to meet as early as possible thereafter.

[§2, Law 6 of 1978.]

(2) Where the provisions of Part II of this Ordinance have come into operation on any date by virtue of a Proclamation under subsection (1), those provisions shall, subject to the succeeding provisions of this section, be in operation for a period of one month from that date, but without prejudice to the earlier revocation of the Proclamation or to the making of a further Proclamation at or before the end of that period.

(4) Where the provisions of Part II of this (§2, Law 6 of 1978) Ordinance have come into operation on any date by virtue of a Proclamation made under subsection (1), such Proclamation shall expire after a period of fourteen days from the date on which the provisions of that Part shall have come into operation, unless such Proclamation is approved by a resolution of Parliament:

Provided that if—

(3) Where a Proclamation is made under the preceding provisions of this section, the occasion thereof shall forthwith be communicated to Parliament, and, if Parliament is then separated by any such adjournment or prorogation as will not expire within ten days» a Proclamation shall be issued for the meeting of Parliament

- (a) Parliament stands dissolved at the time the provisions of that Part come into operation, or
- (b) Parliament is at such time separated by any such adjournment or prorogation as is referred to in subsection (3), or

(c) Parliament does not meet when summoned to meet as provided by subsection (3) of this section or Article 155 of the Constitution,

then such Proclamation shall expire at the end of a period of ten days from the date on which Parliament shall next meet and sit, unless approved by a resolution of Parliament at such meeting.

[§2, Law 6 of 1978.]

(5) Upon the revocation of a Proclamation under subsection (1) at any time within a period of fourteen days from the date on which the provisions of Part II of this Ordinance shall have come into operation or upon the expiry of such a Proclamation in accordance with the provisions of subsection (4), any further Proclamation made under subsection (1) before the end of a period of fourteen days from the date of such revocation or expiry, as the case may be, shall not come into operation until the making thereof shall have been approved by a resolution of Parliament at its next meeting.

[§2, Law 6 of 1978.]

(6) Notwithstanding anything to the contrary in any other provision of this Ordinance, where the provisions of Part II of this Ordinance shall have been in operation for a period of ninety consecutive days, or a period of ninety days in the aggregate during six consecutive calendar months, no Proclamation made under subsection (1) bringing the provisions of Part II of this Ordinance into operation shall, if made at any time during the succeeding six calendar months, be in operation for more than ten days from the date on which the provisions of that Part are brought into operation by such Proclamation, unless such Proclamation is approved by a resolution of Parliament passed by at least two-thirds of the whole number of members of Parliament (including those not present) voting in favour of such resolution:

• Provided that if—

(a) Parliament stands dissolved at the date of the making of such , Proclamation, or

(b) Parliament is at such date separated by any such adjournment or

prorogation as is referred to in subsection (3), or

(c) Parliament does not meet when summoned to meet as provided by subsection (3) of this section or Article 155 of the Constitution,

then such Proclamation shall expire at the end of ten days after the date on which Parliament shall next meet and sit unless approved by Parliament by a resolution passed by at least two-thirds of the whole number of members of Parliament (including those not present) voting in favour of such resolution.

(7) Notice of the approval of a Proclamation by Parliament shall, as soon as may be convenient, be published in the Gazette. [§2, Law 6 of 1978]

3. Where the provisions of Part II of this Ordinance are or have been in operation during any period by virtue of a Proclamation under section 2, the fact of the existence or imminence, during that period, of a state of public emergency shall not be called in question in any court. Presumption as to existence or imminence of public emergency.

4. The expiry or revocation of any Proclamation under section 2 shall not affect or be deemed to have affected— Saving provisions applicable on cessation of operation of Part II

(a) the past operation of anything duly done or suffered to be done under Part II of this Ordinance while that Part was in operation;

(b) any offence committed, or any right, liberty or penalty acquired or incurred while that Part was in operation;

(c) the institution, maintenance or enforcement of any action, proceeding or remedy under that Part in respect of any such offence, right, liberty or penalty.

PART II

EMERGENCY REGULATIONS

Power of President to make emergency regulations, [§3, Law 6 of 1978.]

5. (1) The President may make such regulations (hereinafter referred to as emergency regulations ") as appear to him to be necessary or expedient in the interests of public security and the preservation of public order and the suppression of mutiny, riot or civil commotion, or for the maintenance of supplies and -services essential to the life of the community.

(2) Without prejudice to the generality of the powers conferred by the preceding subsection, emergency regulations may, so far as appears to the President to be necessary or expedient for any of the purposes mentioned in that subsection—

- (a) authorize and provide for the detention of persons;
- (b) authorize—
 - (i) the taking of possession ^or control, on behalf of the State, of any property or undertaking;
 - (ii) the acquisition on behalf of the State of any property other than land;
- (c) authorize the entering and search of any premises;
- (d) provide for amending any law, for suspending the operation of any law and for applying any law with or without modification;
- (e) provide for charging, in respect of the grant or issue of any licence, permit, certificate or other document for the purposes of the regulations, such fee as may be prescribed by or under the regulations;
- (f) provide for payment of compensation and remuneration to persons affected by the regulations;
- (g) make provision for the apprehension and punishment of offenders and

for their trial by such courts, not being courts martial, and in accordance with such procedure, as may be provided for by the regulations, and for appeals from the orders or decisions of such courts and the hearing and disposal of such appeals.

(3) Any emergency regulation may be added to, or altered or revoked by resolution of Parliament or by regulation made under the preceding provisions -of this section.

6. Emergency regulations may provide for empowering such authorities or persons as may be specified in the regulations to make orders and rules for any of the purposes for which such regulations are authorized by this Ordinance to be made, and may contain such incidental and supplementary provisions as appear to the President to be necessary or expedient for the purposes of the regulations. Delegation of powers

7. An emergency regulation or any order or rule made in pursuance of such a regulation shall have effect notwithstanding anything inconsistent therewith contained in any law ; and any provision of a law which may be inconsistent with any such regulation or any such order or rule shall, whether that provision shall or shall not have been amended, modified or suspended in its operation under section 5 of this Ordinance, to the extent of such inconsistency have no effect so long as such regulation, order or rule shall remain in force. Emergency regulations to prevail over other law.

8. No emergency regulation, and no order, rule or direction made or given thereunder shall be called in question in any court. Regulations, orders, &c., not to be called in question in any court.

9. No prosecution or other criminal proceeding against any person for any act purporting to be done under any provision of any emergency regulation or of any order or direction made or given thereunder shall be instituted in any court except by, or with the written sanction of, the Attorney-General ; and no suit, prosecution or other Protection in respect of acts done in good faith under any emergency regulation or any order or direction thereunder. [§4, 8 of 1959.]

proceeding, civil or criminal, shall lie against any person for any act in good faith done in pursuance or supposed pursuance of any such provision.

Reception of documents in evidence, &c.

10. Every document purporting to be an instrument made or issued by the President or other authority or person in pursuance of this Ordinance or of any emergency regulation, and to be signed by or on behalf of the President or such other authority or person, shall be received in evidence, and shall, until the contrary is proved, be deemed to be an instrument made or issued by the President or that authority or person.

Regulations to come into force upon being made by the President.

11. Notwithstanding anything in the Interpretation Ordinance or in any other law, every emergency regulation shall come into force forthwith upon its being made by the President, and shall be deemed to be as valid and effective as though it were herein enacted.

[§5,8 of 1959.]

PART III

SPECIAL POWERS OF THE PRESIDENT

Calling out the armed forces.

[§5, 8 of 1959.]

12. (1) Where circumstances endangering the public security in any area have arisen or are imminent and the President is of the opinion that the police are inadequate to deal with such situation in that area, he may, by Order published in the Gazette, call out all or any of the members of all or any of the armed forces for the maintenance of public order in that area.

(2) The members of any of the armed forces who are called out by Order made under subsection (1) for the purpose of maintaining public order in any area shall for such purpose have the powers, including the powers of search and arrest, conferred on police officers by any provision of this Part or of any other written law, other than the powers specified in Chapter XI of the Code of Criminal Procedure Act:

Provided that the power conferred on police officers by subsection (1) of section 14 shall not be exercised by any member of the armed forces called out as aforesaid who

is of a rank below that of Sergeant of the Sri Lanka Army or Sri Lanka Air Force or of Petty Officer of the Sri Lanka Navy.

(3) In any area in respect of which an Order is made under subsection (1), section 95 of the Code of Criminal Procedure Act shall have effect as if the expression " police officer" occurring therein includes any member of the armed forces who is called out by such Order and who is of a rank not below that of Sergeant of the Sri Lanka Army or Sri Lanka Air Force or of Petty Officer of the Sri Lanka Navy.

(4) Where any member of the Sri Lanka Army who is not an officer or a soldier of the Regular Force is called out by Order made under subsection (1), he shall, within the meaning and for the purposes of the Army Act, be deemed to be on active service and to be a person subject to military law.

(5) Where any member of the Sri Lanka Navy who is not an officer or a seaman of the Regular Naval Force is called out by Order made under subsection (1), he shall, within the meaning and for the purposes of the Navy Act, be deemed to be on active service and to be a person subject to naval law.

(6) Where any member of the Sri Lanka Air Force who is not an officer or airman of the Regular Air Force is called out by Order made under subsection (1), he shall, within the meaning and for the purposes of the Air Force Act, be deemed to be on active service and to be a person subject to that Act.

(7) Any member of the armed forces who is called out by Order made under subsection (1) shall remain so called out until the expiry or rescission of that Order.

13. Any police officer, or any member of the armed forces who is called out by Order made under section 12, may, if a written authorization to do so is issued to him by the President or by any person appointed by the President to act on behalf of the President under this section, seize and remove any gun or explosive in the possession of any person in the area to which such Order applies and keep it in such custody as may be determined by the

Seizure and removal of guns and explosives. [§5, 8 of 1959.]

person issuing such authorization, and may, for the purpose of seizing and removing any gun or explosive, enter, with such assistants as may be necessary, any premises or place in such area and search such premises or place and any person present therein.

specified in the Order, be on any public road, railway, public park, public recreation ground or other public ground or the seashore except under the authority of a written permit granted by such person as may be specified in the Order.

Seizure and removal of offensive weapons and offensive substances from persons in a public place.
[§5,8 of 1959.]

14. (1) Any police officer may remove any offensive weapon or any offensive substance which any person, without lawful authority or reasonable excuse, has in his possession or under his control in" any public place in any area to which an Order made under section 12 applies.

(2) In subsection (1), "public road" includes any roadway over a public bridge, any pavement, drain, embankment or ditch belonging or appertaining to a public road.

(3) If any person contravenes an Order made under this section, he shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to rigorous imprisonment for a term not exceeding one month or to a fine not exceeding one hundred rupees or to both such imprisonment and fine.

(2) In subsection (1)—

" offensive substance" means any inflammable, corrosive or volatile substance;

" offensive weapon " means any knife or gun, or any bomb or grenade or any other device or contrivance made or intended for a use or purpose similar to that of a bomb or grenade, or any other article capable of being used for causing injury to the person; and

(4) Where a person accused of the offence of contravening an Order made under this section is ordered by the court to be released on bail or on his executing a bond without sureties for his appearance in court, the amount of the bail bond or of the bond without sureties shall not exceed five hundred rupees.

" public place " includes any highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise.

17. (1) Where the President considers it necessary in the public interest to do so for the maintenance of any service which, in his opinion, is essential to the life of the community, he may, by Order published in the Gazette, declare that service to be an essential service.

Essential services
[§5'8 of 1959]

Disposal of guns, explosives and other articles or substances seized and removed under this Part.
[§5, 8 of 1959.]

15. Any article or substance which is seized and removed under section 13 or section 14 from any person in any area to which an Order made under section 12 applies shall, unless legal proceedings are taken against that person for any offence to which he is liable in respect of that article or substance, be returned to him forthwith after the expiry or rescission of such Order.

(2) Where any service is declared by Order made under subsection (1) to be an essential service,—

(a) any person who, on the day immediately preceding the date of publication of that Order in the Gazette, was engaged or employed, or who, after that day, is engaged or employed, on any work in connexion with that service shall be guilty of an offence if he fails or refuses to attend at his place of work or employment or at such other place as may from time to time be designated by his employer or a person acting under the

Curfew.
[§5, 8 of 1959.]

16. (1) Where the President considers it necessary to do so for the maintenance of public order in any area, he may, by Order published in the Gazette, direct that, subject to such exemption as may be made by that Order or by any subsequent Order made under this section, no person in such area shall, between such hours as may be

authority of his employer, or if he fails or refuses to perform such work as he may be directed by his employer or by a person acting under the authority of his employer to perform ; or

(b) any person who, by violence to person or property, or by spoken or written threat, intimidation or insult of any kind to whomsoever addressed or by molestation of any description, or in any other manner whatsoever—

(i) impedes, obstructs, delays or restricts the carrying on of that service, or

(ii) compels, incites, induces or encourages any other person employed in or in connexion with the carrying on of that service to surrender or depart from his employment (whether or not such other person does so surrender or depart in consequence), or

(iii) prevents any other person from offering or accepting employment in or in connexion with the carrying on of that service; or

(c) any person who, by any physical act or by any speech or writing, incites, induces or encourages any other person to commit any act specified in paragraph (b) of this subsection (whether or not such other person commits in consequence any act so specified),

shall be guilty of an offence:

Provided that any cessation of work in consequence of a strike commenced by a registered trade union solely in pursuance of an industrial dispute shall not be deemed to be an offence under the preceding provisions of this subsection. In this proviso, the expression " industrial dispute " shall have the meaning assigned to it by section 48 of the Industrial Disputes Act.

(3) Where a person is prosecuted for an offence under paragraph (a) of subsection (2), it shall be a defence for him to prove that he was prevented from attending at his place of work or employment owing to illness or owing to the fact that transport facilities were not available for him to travel to such place.

(4) Every person who commits an offence under this section shall, on conviction after summary trial before a Magistrate, be liable to rigorous imprisonment for a term not less than three months and not exceeding five years or to a fine not less than five hundred rupees and not exceeding five thousand rupees or to both such imprisonment and fine.

18. Any police officer may arrest without warrant any person who is committing or has committed or whom he has reasonable ground for suspecting to be committing or to have committed any offence under section 16 or section 17.

Offenders under section 16 or section 17 may be arrested without warrant. [§5, 8 of 1959.]

19. Section 15 (2) of the Code of Criminal Procedure Act, shall not apply to any person convicted of an offence under section 16 or section 17.

Section 15(2) of the Code of Criminal Procedure Act not to apply to offenders under section 16 or section 17. [§5, 8 of 1959.]

20. Any person arrested by any member of the armed forces who is called out by Order made under section 12 shall without unnecessary delay be delivered to the custody of a police officer to be dealt with according to law.

Persons arrested by members of the armed forces to be delivered to the custody of the police. [§5, 8 of 1959.]

21. (1) An Order made under section 12, section 16 or section 17 shall be in operation for a period of one month from the date of its publication in the Gazette, but without prejudice to the earlier rescission of that Order or to the making of a further Order at or before the end of that period.

Provisions in regard to Orders made under this Part. [§5,8 of 1959.]

(2) The provisions of subsection (3) of section 2 shall, mutatis mutandis, apply to an order made under section 12, section 16 or section 17 in like manner as they apply to a Proclamation made under subsection (1) of section 2.

(3) An Order made under section 12, section 16 or section 17, or the circumstances necessitating the making of such Order, shall not be called in question in any court.

(4) An Order made under section 12, section 16 or section 17 may be amended or rescinded by resolution of Parliament or by another Order made under that section.

23. No prosecution or other criminal proceeding against any person for any act purporting to be done under any provision of this Part or of any Order made thereunder shall be instituted in any court except by, or with the written sanction of, the Attorney-General ; and no suit, prosecution or other proceeding, civil or criminal, shall lie against any person for any act in good faith done in pursuance or supposed pursuance of any such provision.

Protection in respect of acts done in good faith under any provision of this Part or of any Order thereunder. [§5,8 of 1959.]

24. In this Part—

"armed forces" means the Sri Lanka Army, the Sri Lanka Navy and the Sri Lanka Air Force ;

" explosive " shall have the same meaning as in the Explosives Act; and

" gun " shall have the same meaning as in the Firearms Ordinance.

Interpretation of expressions in this part-

The provisions of this Part and of any Order made thereunder to prevail over all other law. [§5, 8 of 1959.)

22. The provisions of this Part and of any Order made under section 12, section 16 or section 17 shall have effect notwithstanding anything inconsistent therewith or contrary thereto contained in any other law.

CHAPTER 106

PUBLIC SERVANTS (LIABILITIES)

Ordinance
No. 2 of 1899,
Act
No. 10 of 1951.

AN ORDINANCE TO PROTECT PUBLIC SERVANTS FROM LEGAL PROCEEDINGS IN RESPECT OF CERTAIN LIABILITIES.

[6th March, 1899.]

Short title.

1. This Ordinance may be cited as the Public Servants (Liabilities) Ordinance.

"The Public Service Mutual Provident Association", incorporated under the Public Service Mutual Provident Association Ordinance.

Actions not to lie against public servants in certain cases.

2. (1) No action shall be maintained against a public servant—

- (a) upon any promise, express or implied, to repay money paid or advanced to him or to another person at his request;
- (b) upon any promise, express or implied, to be answerable for the debt or default of another person ; or
- (c) upon any bond, bill of exchange, promissory note, or other security made, drawn, accepted, endorsed, or given by him.

(6) Nothing in this section contained shall affect the right of the holder any security to bring an action to realize the same.

3. All proceedings and documents in or incidental to an action in contravention of this Ordinance shall be void, and where complaint is made by a public servant or by the head of his department that such public servant is dealt with in contravention of this Ordinance by any process, execution, or order issued out of any court, and is made to that court or any court superior to it, the court or some Judge thereof shall examine into the complaint and shall, if necessary, discharge such public servant without fee, and may award reasonable costs to the complainant, which may be recovered as if costs had been awarded in his favour in an action in such court.

Proceedings in contravention of this ordinance to be void.

(2) This section does not apply to the case of a public servant who at the date when the liability sought to be enforced is contracted is in receipt of a salary in regard to his fixed appointment of more than five hundred and twenty rupees a month.

(3) This section does not apply to a liability contracted by a person prior to the date when he became a public servant.

(4) This section does not apply to any liability contracted before the commencement of this Ordinance.

(5) This section does not apply to any liability contracted by a public servant to

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

Interpretation.

"action" includes legal proceedings and process of every description other than criminal, and includes proceedings in insolvency;

*"public servant" means a person employed in the service of the Government of Sri Lanka or of any Municipal Council or Urban Council or Town Council.

CHAPTER 481

POLICE SAVING ASSOCIATION

Ordinance
No. 4 of 1928,

AN ORDINANCE TO INCORPORATE THE CEYLON POLICE SAVING ASSOCIATION.

[22nd April, 1928.]

Short title.

1. This Ordinance may be cited as the Ceylon Police Saving Association Ordinance.

with full power and authority to have and use a corporate seal and to change and alter the same at their pleasure.

Interpretation.

2. In the interpretation of this Ordinance the following words and expressions shall have the following meanings unless such meanings be inconsistent with or repugnant to the subject or context:—

4. The general objects for which the corporation is constituted are hereby declared to be to promote thrift amongst the members of the Sri Lanka police force, members of the Sri Lanka Government clerical service while attached to or serving in the Police Department, the lecturers and instructors attached to or serving in the Police Training School, and members of the senior division of the Police Boys' Brigade, and to provide for payment of a capital sum to them or their nominees or legal representatives in accordance with the rules. General objects.

"corporation" means the president, chairman, and members of the committee of management for the time being of the Ceylon Police Saving Association and the members for the time being of the Ceylon Police Saving Association constituted a corporation under the provisions of this Ordinance;

5. (1) The affairs of the corporation shall, subject to the rules, be administered by a committee of management consisting of the president and not less than five other members to be elected respectively in accordance with any provisions in that behalf contained in this Ordinance or in the rules. In the event of any casual vacancy occurring in the committee of management it may be filled forthwith by the remaining members of the committee, and any person so appointed to fill a casual vacancy shall only hold office for so long as the person in whose place he was appointed would have held the same if no vacancy had occurred. Committee of management.

"rules" means the rules of the corporation made under this Ordinance and for the time being in force;

"member" means a person duly admitted as a member of the corporation in accordance with the provisions of this Ordinance and of the rules.

Incorporation of the Ceylon Police Saving Association.

3. From and after the passing of this Ordinance the president, chairman, and members of the committee of management for the time being of the Ceylon Police Saving Association, and such and so many persons as are now members of the Ceylon Police Saving Association or as shall hereafter be admitted as members of the said association shall be and become a corporation with continuance for ever under the style and name of "The Ceylon Police Saving Association", and by that name shall and may sue and be sued in all courts,

(2) The first committee of management shall consist of H. L. Dowbiggin, Esq., C. M. G., J.P.; as president; D. V. Altendorff, Esq., as chairman of committee; G. H. Bromley, Esq., as treasurer; W. T. Brindley, Esq., as secretary; J. D. Aitken, Esq.; and Inspector D. Lloyd.

(3) The Inspector-General of Police or Acting Inspector-General of Police for the time being and from time to time shall be ex officio president of the corporation.

Power to make rules.

6. It shall be lawful for the corporation, from time to time, at any general meeting of the members and by a majority of votes, to make rules for the admission, withdrawal, or expulsion of members ; for the amount of subscriptions payable by members and for the payment of moneys due to them; for the performance of the duties and the exercise of the powers of the committee of management and of the various officers, agents, and servants of the corporation; for the procedure to be observed in the transaction of business; and otherwise generally for the management of the affairs of the corporation and the accomplishment of its objects.

and there were contained in such rules a covenant on the part of himself, his heirs, executors, and administrators to conform thereto subject to the provisions of this Ordinance.

Vesting of property in corporation.

9. On the passing of this Ordinance all and every the property, estate, and effects and funds and moneys belonging to the Ceylon Police Saving Association as existing prior to the passing of this Ordinance, whether held in the name of the Ceylon Police Saving Association or in the name or names of any person or persons on behalf of or in trust for the Ceylon Police Saving Association, shall be and the same are hereby vested in the corporation, and the same, together with all after-acquired property, both movable and immovable, and all subscriptions, contributions, grants, donations to be hereafter made, and any other additions thereto shall be held by the corporation for the uses, ends, and purposes in this Ordinance and in the rules provided and declared.

Alteration of rules.

7. The rules when made may at any general meeting of the members be altered, added to, amended, or cancelled, subject, however, to the following restrictions, namely:—

10. All debts and liabilities of the Ceylon Police Saving Association existing at the time of the passing of this Ordinance shall be paid by the corporation, and all debts, subscriptions, and contributions payable to the Ceylon Police Saving Association and existing at the time of the passing of this Ordinance shall be paid to the said corporation for the purposes of this Ordinance.

Debts of association.

- (i) that no rule passed and no decision come to by the corporation in general meeting shall be altered, added to, amended, or cancelled except by a majority of three-fourths in number of the members present and voting at any subsequent general meeting;
- (ii) that no rule or decision nor any alteration, amendment, addition, or cancellation of any rule or decision shall have effect until the same has been published in Part II of the Sri Lanka Police Gazette;
- (iii) that no alteration, addition, amendment, or cancellation shall be made in the rate of the subscription to be paid by members or in the amount of the benefit (other than bonuses) to accrue to members in respect of their subscriptions unless the proposal to make such alteration, addition, amendment, or cancellation shall have previously been sanctioned in writing under the hand of the president of the corporation.

11. The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of two of the members of the committee of management, who shall sign their names in attestation thereof, and such signing shall be independent of the signing of any person as a witness.

Use of seal.

12. The corporation shall have full power to take and hold property, whether movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition, or otherwise, and all property vested in it under section 9 of this Ordinance ; and all such property shall be held by the corporation for the purposes of this Ordinance with power to sell, mortgage,

Power to hold property.

Rules to bind members.

8. The rules of the corporation shall bind the corporation and all members thereof and all persons claiming through them respectively to the same extent as if each member had subscribed his name thereto

lease, exchange, or otherwise dispose of the same subject to any provision in that behalf contained in this Ordinance or in the rules.

Receipt in discharge of mortgages, &c.

13. A receipt under the hands of two members of the committee of management countersigned by the treasurer acknowledging the receipt by the corporation of any moneys secured to the corporation by any mortgage or other assurance and endorsed upon such mortgage or other assurance shall vacate the same.

Investment of funds.

14. It shall be lawful for the corporation, subject to the rules, to invest any portion of the funds belonging to the corporation and any moneys or funds belonging or left to or which shall hereafter be paid into or come into the hands of the corporation or into the hands of any person in trust for the corporation on the following securities or any of them and no others with power for the corporation from time to time to vary any such investments for others of the same or like nature :—

- (a) in promissory notes, debentures, stock, or other securities of the Government of Sri Lanka;
- (b) on a first mortgage of immovable property situated in Sri Lanka:

Provided that the property is not a leasehold for a term of years and that the value of the property exceeds by one-third, or if consisting wholly or mainly of buildings exceeds by one-half, the mortgage moneys;

- (c) on any other security expressly authorized by any rule which the Secretary to the Treasury may from time to time prescribe in that behalf:

Provided always that nothing in this section shall be deemed to preclude in any case a deposit of such moneys or funds as aforesaid or any part or portion thereof in the name of the corporation in such bank or banks as to the committee of management may seem fit; and

Provided also that, notwithstanding anything hereinbefore contained, the corporation shall be at liberty to hold any debentures, securities, stocks, or shares,

whether ordinary or preference, in any company with limited liability that may be bequeathed or given to the corporation, whether such company shall at the time of such bequest or gift be paying a dividend on its ordinary shares or not, without being obliged to sell or realize the same and to invest the proceeds of any sale or realization when made on investments hereby authorised.

15. In the case of the death of any member leaving no nominee and where the corporation shall be satisfied by affidavit that the member died intestate and that no letters of administration are required by law to be taken out to his estate, the corporation shall be at liberty to pay all moneys payable under the rules to any person or persons appearing to the corporation to be entitled thereto as heir or heirs-at-law of the deceased member and such payment when made shall be a full discharge to the corporation from all further liability in respect of the moneys so paid, provided that where any person appearing to be entitled as aforesaid is a minor the money to which such person is entitled shall be deposited in a Government savings bank (including the National Savings Bank) in the name of such minor.

Letters of administration when to be dispensed with.

16. A person under the age of twenty-one years but above the age of fourteen years and being under the provisions of this Ordinance and of the rules otherwise eligible to be a member may be a member of the corporation, and may subject to the rules of the corporation enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules but shall not be a member of the committee of management, secretary, or treasurer of the corporation.

Membership of minors

17. Nothing in this Ordinance contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Ordinance and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

CHAPTER 621

PUBLIC SERVICE PROVIDENT FUND

Ordinances

Nos.18 of 1942,
23 of 1947,

Acts

Nos.33 of 1952,
46 of 1954,
52 of 1961,
35 of 1964,
18 of 1965,
38 of 1971,

Laws

Nos.37 of 1975,
32 of 1978.

AN ORDINANCE TO MAKE PROVISION FOR THE ESTABLISHMENT OF A PROVIDENT FUND, FOR THE GRANT THEREFROM OF BENEFITS TO CERTAIN NON-PENSIONABLE EMPLOYEES OF THE GOVERNMENT, AND FOR OTHER MATTERS INCIDENTAL TO OR CONNECTED WITH THE PURPOSES AFORESAID.

[1st April, 1942.]

Short title. **1.** This Ordinance may be cited as the Public Service Provident Fund Ordinance.

Establishment of the fund. **2.** (1) A fund to be known as the Public Service Provident Fund is hereby established for the grant of benefits, as hereinafter provided, to every non-pensionable employee in the service of the Government whose salary is payable at a monthly rate. Such employee is hereafter in this Ordinance referred to as a " non-pensionable employee ".

[§ 2, Law 37 of 1975.] (2) A general account for the fund and a separate account for each contributor to the fund shall be opened and kept in such manner as the Director of Pensions may direct.

[§ 2, 35 of 1964.] (3) For the purposes of this Ordinance, each of the persons specified hereunder shall be deemed to be a non-pensionable employee in the service of the Government and the allowance paid in lieu of salary to each such person shall be deemed to be a salary:—

The Private Secretary to the Chief Justice.

The Private Secretary to any Judge of the Supreme Court other than the Chief Justice.

The Private Secretary to the President of the Court of Appeal or to any other Judge of the Court of Appeal.

(4) For the purposes of this Ordinance, a person holding the post of Sub-Postmaster shall be deemed to be a non-pensionable employee in the service of the Government and the monthly allowance paid in lieu of salary to such person shall be deemed to be a monthly salary. [§ 2, Law 32 of 1978.]

(5) Notwithstanding anything in this Ordinance any non-pensionable employee, not being a citizen of Sri Lanka, employed in any Sri Lanka mission abroad may, at his option, be exempted by the board of management from his liability to make contributions under this Ordinance, and where such employee had been a contributor under this Ordinance prior to the date he is so exempted, his account in the fund shall be closed and he shall be paid such amount as would have been paid to him under section 14 of this Ordinance if he had left the service on satisfactory completion of his contract. [§ 2, Law 37 of 1975.]

2A. Where any person who is a graduate of a University and who held a pensionable post under the Government, resigned from such post to undergo training under the Graduate Training Scheme, and upon completion of the period of such training was appointed to a monthly paid post under the Government such person's previous service under the Government in a monthly paid post shall be deemed to be service in respect of which contributions are Past services of graduates in monthly paid posts to be treated as service. [§ 3, Law 37 of 1975.]

payable under this Ordinance and accordingly the provisions of this Ordinance shall apply to and in relation to such previous service of such person.

Control and management of the fund.

3. (1) The control and management of the fund are hereby vested in a board of management consisting of—

- (a) the Director of Pensions;
- (b) the Solicitor-General;
- (c) two persons, each of whom is the head of a department of Government or the deputy or principal assistant to the head of such a department; and
- (d) one person who is a contributor to the fund.

(2) The persons referred to in paragraphs (c) and (d) of subsection (1) shall be appointed to the board by the Minister in charge of the subject of Public Administration.

(3) The Director of Pensions shall be the chairman of the board.

Compulsory contributions to the fund. [§ 4, Law 37 of 1975.]

4. (1) Every non-pensionable employee shall, until the termination of his service with the Government, pay each month, as a compulsory contribution to the fund, six *per centum* of his consolidated salary.

(2) The compulsory contribution of a non-pensionable employee for any month shall be calculated on the monthly salary of such employee, notwithstanding that the amount received as salary for that month is less than the monthly salary or that no amount whatever is received by way of salary for that month:

Provided that where a contributor is on half-salary or no salary for a period exceeding two months continuously, he may elect to contribute, in respect of that part of the period which exceeds two months, at the rate of six *per centum* of any salary which he receives.

(3) The contribution required or authorized to be paid by a non-pensionable employee under the preceding provisions of this section, shall be deducted from the salary of such employee and paid to the fund.

5. Subject as hereinafter provided and subject to such conditions as may be prescribed, a non-pensionable employee may, in addition to his compulsory contribution, pay as a voluntary contribution to the fund an amount not exceeding six *per centum* of his monthly salary:

Voluntary contributions to the fund. [§ 5, Law 37 of 1975.]

Provided that the rate at which any such voluntary contribution is calculated shall not be varied except at half-yearly intervals.

*7. (1) At the close of each financial year, the general account of the fund shall be credited by the Deputy Secretary to the Treasury with a sum equivalent to one and a half times the aggregate of the compulsory contributions made by all the contributors during that financial year ; and the separate account of each contributor shall be provisionally credited with a sum equivalent to one and a half times the aggregate of the compulsory contributions made by him during that financial year.

Bonuses.

(2) Each sum so credited to the separate account of a contributor shall be called a bonus.

8. (1) Every contributor may, in lieu of the whole or any portion of the compulsory contribution under section 4, pay an equivalent sum towards a policy of assurance on his own life in the manner and subject to such conditions as may be prescribed by regulation.

Premiums on life policies may be regarded as contributions to the fund.

(2) Such payment shall be deemed to have been contributed to the fund for the purpose of calculating any bonus under section 7, but not for the purpose of the calculation or payment of interest under sections 11, 12 and 14.

(3) No premium paid on or in respect of a policy of life assurance shall be deemed, under subsection (1), to be paid to the fund, if, at the time such premium is paid, the policy has been assigned or is subject to any hypothecation or charge whatsoever.

* Section 6 is repealed by Act No. 52 of 1961.

(4) In this section, " policy of life assurance" means a policy issued to a contributor by an insurer approved by the board whereby the payment of a fixed sum is assured on the death of the contributor or on his attaining the age of fifty-five years or any higher age specified in the policy.

- (b) the refund to the Consolidated Fund of the cost of establishment for that financial year;
- (c) the payment of interest to the accounts of the contributors in proportion to the amounts standing to their credit in the fund at the close of that financial year.

Investment of moneys paid into the fund.

9. Moneys paid into the fund shall, so far as practicable, be invested by the Director of Pensions, with the approval of the board, in the securities prescribed in section 20 of the Trusts Ordinance for the investment of trust property which consists of money.

The amounts apportioned under paragraphs (a) and (c) shall be sufficient to pay interest on the amounts to the credit of the contributors in the fund at integral, half or quarter rates *per centum* or any combination of such rates, but at no smaller fractional rate. Any amount of profit insufficient to provide interest at a quarter *per centum* shall be carried forward to the following financial year.

Cost of establishment to be met from Consolidated Fund.

10. The cost of establishment and other expenses incidental to the management and administration of the fund (all hereinafter referred to as " the cost of establishment ") shall, subject to the refund to the Consolidated Fund referred to in section 11 (3), be met from the Consolidated Fund.

12. Interest payable to the account of a contributor shall be credited separately on compulsory contributions, voluntary contributions and bonuses, and shall begin to accrue in respect of each sum contributed and each bonus on the first day of the month next following the date on which the contribution was made or the bonus credited. Such interest shall be calculated in each year to the thirty-first day of December and shall then be added to and become part of the principal and be deemed for the purposes of this Ordinance to be compulsory contribution, voluntary contribution or bonus, as the case may be.

Examination of the accounts of the fund and apportionment of profit or loss.

11. (1) The board shall, as soon as may be after the thirty-first day of December in each year, cause an examination to be made of the general account of the fund as on that date and ascertain the profit made or loss incurred for the financial year ending on that date.

(2) Where the examination referred to in subsection (1) discloses a loss for any financial year, the amount of such loss shall be debited by the board to the accounts of the contributors to the fund in proportion to the amounts standing to their credit in the fund at the close of that financial year.

(3) Where the examination referred to in subsection (1) discloses a profit for any financial year, such profit shall be apportioned by the board, as far as may be, for the purposes hereinafter set out and in the order in which such purposes are respectively mentioned:—

13. (1) On the death of a contributor or the termination of the contributor's service in any non-pensionable post on any date in any financial year— Closing of accounts. [§ 6, 52 of 1961.]

- (a) the payment of interest to the accounts of contributors in proportion to the amounts standing to their credit in the fund at the close of that financial year up to a maximum of two and a half *per centum* of the amounts so standing to their credit:

- (a) interest up to the end of the month previous to that date calculated at the rate at which interest was credited to the account of that contributor in respect of the last preceding financial year; and
- (b) in the event of his death or termination of his service in any of the circumstances in which section 14 applies, bonuses for that financial year equal to one and a half times the compulsory

contributions made by the contributor during that financial year,

such head of department, that he is incapable by reason of some infirmity of mind or body of discharging the duties of his office;

shall be credited to his account, which shall then be closed:

(2) satisfactory completion of contract;

[§ 6, 52 of 1961.]

Provided that where any contribution under section 4 which was due from such contributor before such date has not been paid to the fund before such date, the interest and bonuses referred to in paragraphs (a) and (b) of this subsection shall be credited to his account, but such account shall not be closed till such time as shall be determined by the board in order that such contribution may be deducted from his salary and paid, or be otherwise paid to the fund ; and if such contribution is paid to the fund before such account is closed, the fund shall be credited by the Deputy Secretary to the Treasury with a sum equivalent to one and a half times such contribution, and such account shall be credited with a bonus equivalent to one and a half times such contribution, and such account shall then be closed.

(3) abolition of office ;

(4) retirement on account of age;

(5) determination of contract by, or with the consent of, the Government otherwise than by dismissal;

(6) in the case of a female contributor, retirement with a view to, or in consequence of, marriage after not less than three years' service (subject to the production of evidence of marriage within such period after retirement as may be prescribed);

(7) retirement approved by the Minister in charge of the subject of Public Administration on any grounds other than those specified in the preceding paragraphs, [§ 6, Law 37 of 1975.]

(2) Notice of such closure shall thereupon be given—

(i) if the contributor is living, to the contributor; or

(ii) if the contributor is dead, to such person or persons mentioned in section 17 to whom it shall appear to the Director of Pensions that notice should properly be given ;

the amount standing to his or her credit in the fund at the closing of such account shall, subject as hereinafter provided, be paid to the contributor or any other person to whom by virtue of this Ordinance or otherwise payment may lawfully be made :

and, in either case, to such other persons as shall or may, in the opinion of the Director of Pensions, reasonably require such notice.

Provided that where the aggregate of the compulsory contributions, bonuses and interest thereon standing to his or her credit in the fund is less than the aggregate of—

(a) the compulsory contributions paid by the contributor to the fund ;

(b) the bonuses credited to the account of the contributor in the fund ; and

(c) compound interest at two and a half *per centum* per annum on the compulsory contributions paid by the contributor to the fund and on the bonuses credited to his account in the fund.

Payment of benefits on death or termination of service. [§ 7, 52 of 1961.]

14. Subject to the provisions of this Ordinance, if a contributor dies while in the service of the Government or leaves the service in any of the following circumstances, that is to say :—

(1) retirement on medical evidence to the satisfaction of the President, or, where it is competent for the head of the department in which the contributor served to order his retirement, to the satisfaction of

a sum equivalent to the difference between such aggregates shall be paid out of the Consolidated Fund to the contributor or to such other person to whom by virtue of this Ordinance or otherwise payment may lawfully be made.

Power to modify paragraph (6) of section 14 in the case of female employees.

15. The Minister in charge of the subject of Public Administration may, by Order published in the Gazette, direct that in the case of a female contributor of any such class or description as may be specified in the Order the minimum service required by paragraph (6) of section 14 shall be five years' service in lieu of the three years' service specified in that paragraph, and in every such case the provisions of that paragraph shall apply accordingly.

Payment of benefits on dismissal or discontinuance or termination of service in any circumstances other than those in which section 14 applies.

16. Subject to the provisions of this Ordinance, if a contributor is dismissed, or discontinued on the ground of inefficiency or misconduct or leaves the service of the Government in any circumstances other than those in which section 14 applies—

- (a) the amount of his contributions to the fund and interest thereon shall be paid to the contributor;
- (b) all bonuses and interest thereon provisionally credited to the account of the contributor shall be credited to the Consolidated Fund :

[§ 7, Law 37 of 1975.]

Provided, however, that in the special circumstances of any particular case, the Minister may in his discretion, direct that such bonus and interest or any specified portion thereof be paid to the contributor.

Payment on death of a contributor, [§ 8, Law 37 of 1975.]

17. (1) Subject to the provisions of this Ordinance, on the death of a contributor—

- (a) if the amount payable does not exceed twenty thousand rupees, the Director of Pensions shall pay such amount to the person or persons' nominated for the purpose by the contributor in the manner prescribed, or, if no such nomination has been made, to the credit of the estate of the deceased contributor or, at the discretion of the Director of Pensions, to the

person or persons appearing to the Director of Pensions to be entitled by law to receive such amount;

- (b) if the amount exceeds twenty thousand rupees, the Director of Pensions shall pay such amount to the credit of the estate of the deceased contributor:

Provided that the Director of Pensions may make payment, not exceeding one thousand rupees in any one case to meet the expenses of the funeral of the deceased or to give immediate relief to the widow or children or other dependants of the deceased, if in the opinion of the Director of Pensions such relief is required.

(2) Any payment made by the Director of Pensions under this section shall be valid and effectual against any demand made upon the Government, the board or the Director of Pensions by any other person in respect of the amount payable in respect of that contributor.

18. All bonuses and other moneys authorized to be credited or paid from the Consolidated Fund by or under this Ordinance shall be charged upon the Consolidated Fund.

Bonuses, &c., to be a charge on Consolidated Fund.

19. Subject to the provisions of this Ordinance, no compulsory contribution, bonus, or interest on any such contribution or bonus shall be assignable or transferable or liable to be attached, sequestered or levied upon, in execution of any decree or order of any court, for or in respect of, any debt or claim whatsoever.

Compulsory contributions, &c., not to be assigned or attached.

20. Where a contributor to the fund is appointed to a pensionable office in the public service and enters on the duties of such office—

Appointment of contributor to pensionable office under Government. [§ 9, Law 37 of 1975.]

- (a) the account of that contributor shall be closed on the day on which he enters on the duties of his new office;
- (b) the aggregate amount of the bonuses credited by Government to the account of that contributor, together

with the interest accrued on such bonuses shall be paid to Government out of the fund ; and

- (c) the aggregate amount of the compulsory contributions and voluntary contributions, if any, made by that contributor to the fund together with interest accrued on such contributions shall be paid to that contributor out of the fund.

20A. (1) Where a contributor who is an uncertificated Government teacher becomes eligible for the grant of a pension under the School Teachers Pension Regulations published in Gazette No. 7,631 of February 24, 1928 (and therein referred to as " rules "),—

- (a) the account of that contributor shall be closed on the day on which he becomes so eligible;
- (b) the aggregate amount of the bonuses credited by Government to the account of that contributor together with the interest accrued on such bonuses shall be paid to Government out of the fund ;
- (c) the aggregate amount of the compulsory contributions and voluntary contributions, if any, made by that contributor to the fund together with interest accrued on such contributions shall be paid to that contributor out of the fund ; and
- (d) no award under the Minutes on Pensions shall be made to that contributor in respect of any service as an uncertificated Government teacher which is reckonable for the purposes of any pension payable under the aforesaid Regulations.

(2) In this section, " Government teacher" means a teacher appointed by the Department of Education to a school administered under the Code of Regulations for Government Schools published in the Supplement to Gazette No. 7,726 of August 2. 1929.

***22.** The Director of Pensions may, before payment is made of moneys lying to the credit of a contributor's account in the fund, make deductions on account of income tax from such moneys. Any sum so deducted shall be paid to the Commissioner-General of Inland Revenue.

Deduction on account of income tax. [§56(1), 18 of 1965.]

23. Before payment is made of moneys lying to the credit of a contributor's account in the fund, any sum or sums due from that contributor to the Government or to the Lady Lochore Loan Fund may be deducted from such moneys.

Deduction of sums due to Government or to Lady Lochore Loan Fund. [§ 11, Law 37 of 1975.]

24. (1) The Director of Pensions shall keep a separate account for the moneys of the fund. Such account shall be audited by the Auditor-General.

Accounts and audit.

(2) The board shall submit to the Minister in charge of the subject of Public Administration as soon as practicable after the close of each financial year a full statement showing the working of the fund and all claims thereon, and containing full particulars of all transactions connected with the working of the fund.

25. As soon as practicable after the close of each financial year, the Director of Pensions shall inform each contributor of the total amount standing to his credit in the fund at that date,

Information to contributors.

†**27.** (I) The Minister in charge of the subject of Public Administration may, after consulting the board, make regulations for the purpose of giving effect to the principles and provisions of this Ordinance.

Regulations.

(2) In particular, and without prejudice to the generality of the powers conferred by subsection (1), regulations may be made—

- (a) for or in respect of any matter required to be prescribed ;
- (b) for the management and control of the fund;
- (c) prescribing a quorum for the board and the procedure to be adopted at meetings of the board;

* Section 21 is repealed by Law No. 37 of 1975.

† Section 26 is repealed by Aci No. 52 of 1961.

Provisions relating to a contributor who becomes eligible for the grant of a pension under the School Teachers Pension Regulations. (§ 9, 52 of 1961.]

(d) prescribing the procedure for making deductions from the salaries of contributors; and

(e) prescribing the manner in which payment of insurance premiums may be proved or verified.

(3) No regulation made under subsection (1) shall have effect until such regulation has been approved by Parliament. Notification of such approval shall be published in the Gazette; and, upon such publication, the regulation to which the notification relates shall be as valid and effectual as if it were herein enacted.

Interpretation. **28.** In this Ordinance, unless the context otherwise requires—

" board " means the board of management constituted under section 3 ;

" contributor " means a contributor to the fund;

" financial year " means the period of twelve months commencing on the first day of January of each year; [§ 23, 38 of 1971.]

" fund " means the Public Service Provident Fund established by this Ordinance;

" personal allowance " means a special addition to salary granted personally to the holder for the time being of a post or office ;

" prescribed " means prescribed by this Ordinance or by any regulation made thereunder;

" salary " means the consolidated salary and includes any wages and any personal allowance but no other payment or allowance whatsoever. [§ 12, Law 37 of 1975.]

CHAPTER 67

PRISONERS' WELFARE FUND

Law No. 18 of 1973, Act No. 54 of-1979. A LAW TO MAKE PROVISION FOR THE ESTABLISHMENT OF A PRISONERS' WELFARE FUND, FOR THE DISBURSEMENT OF MONEYS THEREFROM FOR THE GENERAL WELFARE OF PRISONERS ; AND TO PROVIDE FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[9th May, 1973.]

Short title. **1.** This Law may be cited as the Department of Prisons Prisoners* Welfare Fund Law.

Establishment of the Department of Prisons— Prisoners' Welfare Fund. **2.** (1) For the purposes of this Law there shall be established a fund called the Department of Prisons— Prisoners' Welfare Fund (hereinafter referred to as " the Fund ").

(2) A general account of the Fund shall be maintained in such manner as the Secretary to the Ministry charged with the subject of Finance may direct.

Control and management of the Fund. **3.** The control and management of the fund shall be vested in the Commissioner of Prisons.

Payments to the Fund. **4.** The following moneys shall be credited to the account of the Fund :—

(a) all moneys lying to the credit of the " General Deposit Account— Prisoners' Welfare Fund " as shown in the books of accounts of the Department of Prisons, on the date on which this Law comes into operation ;

(aa) any such sum of moneys lying to the credit of any prisoner in the General Deposit—Prisoners' Wages and Private Cash Accounts, as remains unclaimed for a period of not less than one year from the date of release of such prisoner ;

(b) such part of the net proceeds of the sale of hobby articles, as may be determined from time to time by the Secretary ;

(c) the compulsory levy made on the wages of prisoners ;

(d) -any public donations made towards the welfare of prisoners ;

(e) any sums recovered by way of charges levied on Government Departments and other institutions for the supply of prison labour ;

(f) any unauthorized cash found in the possession of prisoners ;

(g) any cash found in prison premises without proof of ownership ;

(h) net profits from—

(i) the sales room run by the Department of Prisons,

(ii) exhibitions of hobby articles made by prisoners, and

(iii) canteens run in prisons ; and

(i) such other contributions to the Fund as may be approved by the Secretary to the Ministry charged with the subject of Finance.

5. The Commissioner of Prisons shall, subject to such instructions as may be issued to him from time to time by the Secretary, have the power to expend moneys lying to the credit of the Fund for any of the following purposes :—

(a) spiritual and religious welfare of prisoners ;

(b) educational welfare of prisoners ;

(c) provision of recreational facilities and other amenities to prisoners ;

(d) payment of rewards to prisoners ;

(e) payment of repayable advances for organizing exhibitions and the maintenance of canteens for prisoners ;

[§2,54 of 1979.]

PRISONERS' WELFARE FUND

[§3,54 of
1979-!

(f) such after-care services as would help in the rehabilitation of prisoners after their discharge from prison,

(2) The Commissioner of Prisons shall submit to the Minister as soon as practicable after the close of each financial year a full statement showing the working of the Fund and containing full particulars of all transactions connected with the working of the Fund, together with a copy of the Auditor-General's report. Such report shall, as soon as may be convenient, be placed before Parliament by the Minister.

Financial year. **6.** The financial year for the purposes of the Fund shall be the year commencing on 1st January and ending on 31st December.

8. In this Law, " Secretary " means the Interpretation. Secretary to the Ministry charged with the subject of Prisons-

Accounts and
audit,

7. (1) The accounts of the Fund shall be audited by the Auditor-General,

CHAPTER 406

PILYANDALA YOUNG MEN'S BUDDHIST ASSOCIATION

Law
No. 30 of 1976.

A LAW TO INCORPORATE THE PILYANDALA YOUNG MEN'S BUDDHIST ASSOCIATION.

[21st December, 1976.]

Short title.

1. This Law may be cited as the Piliyandala Young Men's Buddhist Association Law.

Incorporation of the Piliyandala Young Men's Buddhist Association.

2. From and after the date of the commencement of this Law the President, Vice-President, and members of the Committee of Management for the time being of the Piliyandala Young Men's Buddhist Association, and such and so many persons as now are members of the said Piliyandala Young Men's Buddhist Association (hereinafter referred to as "the Association") or shall hereafter be admitted members of the Corporation hereby constituted, shall be a body corporate (hereinafter referred to as "the Corporation") with perpetual succession under the style and name of the "Piliyandala Young Men's Buddhist Association", and by that name shall and may sue and be sued in all courts, with full power and authority to have and use a common seal and alter the same at its pleasure.

General objects of the Corporation.

3. The general objects for which the Corporation is constituted are hereby declared to be—

- (a) the promotion of the study and propagation of Buddhism;
- (b) the encouragement of the practical observance of Buddhism;
- (c) the promotion of unity and co-operation amongst Buddhists;
- (d) the advancement of the physical, and intellectual development and culture of the Buddhists ;
- (e) the engagement in social services;
- (f) representing and acting on behalf of the Buddhists in matters affecting them.

4. (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation, be administered by a Committee of Management, consisting of such number of persons to be elected in accordance with the rules in force for the time being of the Corporation.

Committee of Management.

(2) The first Committee of Management of the Corporation shall be the Committee of Management of the Association holding office on the date of commencement of this Law.

5. (1) It shall be lawful for the Corporation, from time to time, at any general meeting of the members and by a majority of votes, to make rules for the admission, withdrawal, or expulsion of members; for the conduct of the duties of the Committee of Management and of the various officers, agents and servants of the Corporation; for the proceure in the transaction of business; and otherwise generally for the management of the affairs of the Corporation and the accomplishment of its objects. Such rules when made may, at a like meeting, be altered, added to, amended, or cancelled, subject however to the requirements of subsection (2).

Rules of the Corporation.

(2) No rule of the Corporation for the time being in force nor any rule which may hereafter be passed shall be altered, added to, amended or cancelled, except by a vote of two-thirds of the members present and voting at a general meeting of the Corporation, provided that such alteration, addition, amendment or cancellation shall have been previously approved by the Committee of Management.

(3) The rules of the Association in force on the date of commencement of this Law shall be deemed to be the rules of the Corporation made under this section.

in token of their presence, and such signing shall be independent of the signing of any person as a witness.

Debts due by and payable to the Association.

6. All debts and liabilities of the Association existing at the time of the coming into operation of this Law shall be paid by the Corporation hereby constituted, and all debts due to and subscriptions and contributions payable to the Association shall be paid to the Corporation for the purpose of this Law.

8. The Corporation shall be capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition, or otherwise, and all such property shall be held by the Corporation for the purposes of this Law and subject to the rules in force for the time being of the Corporation, with full power to sell, mortgage, lease, exchange, or otherwise dispose of the same.

Corporation may hold property, movable and immovable.

How the seal of the Corporation is to be affixed.

7. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of two of the members of the Committee of Management, who shall sign their names to the instrument

9. Nothing in this Law contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Law.

Saving of the rights of the Republic and others.

CHAPTER 553

QUARANTINE AND PREVENTION OF DISEASES

Ordinances AN ORDINANCE TO MAKE PROVISION FOR PREVENTING THE INTRODUCTION INTO
 Nos. 3 of 1897, SRI LANKA OF THE PLAGUE AND ALL CONTAGIOUS OR INFECTIOUS DISEASES
 7 of 1917, AND FOR PREVENTING THE SPREAD OF SUCH DISEASES IN AND OUTSIDE SRI
 14 of 1919, LANKA.
 14 of 1920,
 13 of 1936,
 11 of 1939,
 5 of 1941,
 38 of 1943,
Act
 No. 12 of 1952.

[9th February, 1897.]

- Short title. **1.** This Ordinance may be cited as the Quarantine and Prevention of Diseases Ordinance.
- Regulations. **2.** The Minister may, from time to time, make, and when made revoke or vary, such regulations as may seem necessary or expedient for the purpose of preventing the introduction into Sri Lanka of any disease, and also preventing the spread of any disease in and outside Sri Lanka.
- Matters in respect of which regulations may be made. **3.** (1) The regulations made under section 2 may provide amongst other things—
- (a) for placing aircraft, vessels and boats arriving at any port or place in Sri Lanka in quarantine, for the manner of disinfecting the same, and for the imposing and prescribing the method of recovery of any charges, which may be incurred by Government in carrying out such operations;
 - (b) for placing persons or goods coming or brought in such aircraft, vessels or boats in quarantine, for the manner of disinfecting or fumigating such goods, for the imposition of fees or charges for carrying out such operations and for the method of recovering such fees or charges;
 - (c) for prohibiting or regulating the landing of persons or goods from aircraft, vessels or boats either absolutely or conditionally;
 - (d) for establishing and maintaining quarantine stations, and for regulating the management of the same, and for the charging, imposing, and recovering of fees for the use and occupation of such stations, and for the cost of maintenance of the persons occupying the same;
 - (e) for inspecting aircraft, vessels and boats leaving or arriving at any port or place in Sri Lanka, and for the detention thereof or of any person intending to sail therein, as may be necessary;
 - (f) for inspecting persons travelling by railway or otherwise, and for segregating in hospitals or otherwise persons diseased ;
 - (g) for isolating all cases of disease and diseased persons;
 - (h) for closing wells, pits, cesspits, and cesspools;
 - (i) for prescribing the mode of burial or cremation of any person dying of disease;
 - (j) for regulating the number of persons to be allowed to inhabit any dwelling place;

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- (k) for the removal from infected localities to places of observation or other places of persons found in such localities;
 - (l) for the removal of diseased persons to hospitals or other places for medical treatment, and for their detention until they can be discharged with safety to the public;
 - (m) for the cleansing and disinfecting of drains, sewers, cesspits, and of houses, buildings, rooms, and other places which have been occupied by any diseased person, or which are otherwise in an insanitary condition, and, if expedient, for destroying the same, with or without compensation as may be deemed expedient;
 - (n) for the disinfecting and, if expedient, destroying, with or without compensation as may be deemed expedient, goods which have been in contact with any diseased person, or which may be deemed capable of spreading disease;
 - (o) for prescribing and regulating the seizure, detention, and destruction or disposal of any goods landed or otherwise dealt with in contravention of any regulation made under this Ordinance, and for prescribing and regulating the liability of the owner, or consignor or consignee or importer of the goods, for the expenses connected with the seizure, detention, and destruction or disposal thereof;
 - (p) for prescribing the reporting to such officer or officers as may be named in the regulations, by medical practitioners and persons professing to treat diseases, of cases of disease treated by them;
 - (q) for prescribing the reporting by the householder or occupier of any house or premises to such officer or officers as may be named in the regulations of any case of serious illness occurring in any such house or premises; and the visiting and inspecting of such case by such officer or officers;
 - (r) for the appointment of inspectors and other officers to carry out the provisions of this Ordinance or of any regulations made thereunder, and for regulating their duties and conduct, and for investing them with all powers necessary for the due execution of their duties;
 - (s) for prescribing the publication of any regulations made under this Ordinance, and for prescribing and regulating the form and mode of service or delivery of notices and other documents.
- (2) Provided always that nothing in this section contained shall in any way restrict or be construed to restrict the generality of the powers conferred on the Minister by section 2, but such powers shall extend to all matters, whether similar or not to those in this section mentioned, as to which it may be expedient to make regulations for the better carrying into effect of the objects of this Ordinance.

***4.** (1) If any person, without lawful authority or excuse (proof whereof shall lie on him), contravenes any regulation made under this Ordinance, or does or omits to do anything which under the provisions of this Ordinance or of any regulations made thereunder he ought not to do or omit, or if he obstructs or impedes or assists in obstructing or impeding any inspector or other officer appointed under this Ordinance, or any police officer in the execution of any provision of this Ordinance or of any regulation made thereunder, he shall be guilty of an offence against this Ordinance.

(2) Every prosecution for an offence against this Ordinance may be instituted in the Magistrate's Court* of the division in which the offence was committed, and such

* Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

QUARANTINE AND PREVENTION OF DISEASES [Cap.553]

court may impose the full penalties herein prescribed, anything in the Code of Criminal Procedure Act or in any other enactment to the contrary notwithstanding.

Punishment.

5. (1) If any person is guilty of an offence against this Ordinance, he shall be liable on conviction before a Magistrate* to imprisonment of either description for a term not exceeding six months or to a fine not exceeding one thousand rupees, or to both.

(2) Nothing in this section contained shall affect the liability of any person to any punishment or penalty to which he is liable under any enactment other than this Ordinance, but so that a person shall not be punished twice for the same offence.

Duties of inspectors and police officers.

6. (1) When a person is seen or found committing or is reasonably suspected of being engaged in committing an offence against this Ordinance, any inspector or other officer appointed under this Ordinance or any police officer may without warrant stop and detain him, and if his name and address are not known may without warrant apprehend him.

(2) If any person obstructs or impedes an inspector or other officer appointed under this Ordinance, or any police officer in the execution of any provision of this Ordinance or of any regulation made thereunder, or assists in any such obstructing or impeding, he may be apprehended by such inspector or other officer or police officer without warrant.

(3) A person apprehended under this section shall be taken with all practicable speed before a Magistrate or a Judge of a Primary Court.

(4) Nothing in this section shall take away or abridge any power or authority that a police officer would have had if this section had not been enacted.

Presumption.

7. Where the person in charge of a diseased person is charged with an offence against this Ordinance relative to such disease, he shall be presumed to have known of the existence of such disease in such person, unless and until he shows to the satisfaction of the Magistrate or Judge of a

Primary Court before whom he is charged that he had not such knowledge, and could not with reasonable diligence have obtained such knowledge.

8. Inspectors and other officers appointed under this Ordinance shall be deemed public servants within the meaning of the Penal Code.

Officers to be public servants.

9. (1) Whenever any person shall have been landed at any port or place in Sri Lanka for the purpose of performing quarantine, or for medical treatment, or on the ground that such person is alleged to be of unsound mind, the aircraft or vessel from which such person shall have been landed shall not be entitled to receive a clearance until sufficient security to the satisfaction of the principal officer of customs shall have been given by the pilot, master, agent, or consignee of such aircraft or vessel to the principal officer of customs for the repayment to the Government of all expenses which may be incurred by the Government in respect of such person, and also the necessary passage money of such person to the place of his original destination, or at the option of the Principal Collector of Customs to the place of his original departure, unless arrangements shall be made to the satisfaction of the Principal Collector of Customs for his conveyance to such place of destination or departure.

Security for expenses of certain persons landed from aircraft or vessel.

(2) The Principal Collector of Customs shall be entitled to require the pilot, master or agent of any aircraft or vessel from which any such person shall have been landed, or the pilot, master or agent of any other aircraft or vessel belonging to the same line or company as such aircraft or vessel, upon its being certified by the Director of Health Services that the person in question is in a sufficient stage of recovery for travelling, to receive and keep such person on board the aircraft or vessel in question for the purpose of being conveyed to the place of his original destination, or to the place of his original departure, as the case may be, and may refuse a clearance to such aircraft or vessel until his requirement is complied with.

* Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Uazette Extraordinary No. 43/4 of 1979-07-02.

Removal of person refusing to leave Sri Lanka by accommodation provided under section 9.

10. Where any person for whose departure from Sri Lanka arrangements have been made under section 9 refuses to leave Sri Lanka or to board the aircraft or vessel on which a passage has been provided for him, it shall be lawful for a police officer specially authorized in writing by the Inspector-General of Police to arrest such person and to conduct him in custody aboard such aircraft or vessel.

Execution of regulations may be delegated to local authority.

11. The Minister may delegate the enforcement and execution of any regulation made under this Ordinance to any Municipal or local authority subject to such restrictions as the Minister may, from time to time, think fit to impose.

Regulations to be published.

12. All regulations made under this Ordinance shall be published in the Gazette, and shall from the date of such publication have the same force as if they had been enacted in this Ordinance.

13. In this Ordinance, and any regulations made thereunder, unless the context otherwise requires—

" aircraft" includes all balloons, whether fixed or free, kites, gliders, airships, airplanes, and other flying machines;

" disease " shall mean any disease of a contagious, infectious, or epidemic nature;

" diseased" shall mean infected or suspected of being infected with disease;

" goods" shall mean goods, wares and merchandise, furniture, packets, packages, baggage, wearing apparel, books, letters, or any other article whatsoever; and shall include animals.

Interpretation.

CHAPTER 575

RABIES

Ordinances AN ORDINANCE TO PROVIDE FOR THE SUPPRESSION OF RABIES IN SRI LANKA.

- Nos. 7 of 1893.
- 7 of 1906.
- 24 of 1921.
- 6 of 1929,
- 17 of 1930.
- 16 of 1934,
- 61 of 1939,
- 13 of 1941,
- 23 of 1946.
- 29 of 1947,

Acts

- Nos.22of 1955.
- 23 of 1956.

[2nd January, 1894.]

Short title. **1.** This Ordinance may be cited as the Rabies Ordinance.

Interpretation. **2.** In this Ordinance, unless the subject or context otherwise requires—

" disease " means rabies, and " diseased " means affected with rabies ;

" police officer" includes inspectors, sergeants, and constables of police, and grama seva niladharis and peace officers;

" stray dog " means any dog wandering at large and not being under the control or charge of any person ;

" suspected " means suspected of rabies, and " suspected animal " includes any animal which has been bitten by any diseased or suspected dog, or which has been in contact with any diseased or suspected animal, or which has been otherwise exposed to the infection of rabies.

Definition of local authority. **3.** In this Ordinance, unless the subject or context otherwise requires, the expression " local authority" denotes a person falling under any of the descriptions hereafter following, namely:—

(a) within the limits of a Municipality, the Mayor of the Municipal Council;

(b) within the limits of an Urban Council or a Town Council, the Chairman of such Council;

(c) outside the limits of a Municipality, Urban Council, or Town Council and within the limits of the administrative district, the Government Agent thereof;

(d) every police officer and every person duly authorized in writing by the Mayor of a Municipal Council, or Chairman of an Urban Council or Town Council, or by the Government Agent to act in his behalf for the purpose of carrying out the provisions of this Ordinance.

4. Every local authority shall cause all stray dogs found within his jurisdiction to be seized, and such dogs shall be dealt with as follows:—

All stray dogs to be seized.

(a) if the dog is not diseased or suspected, it shall be detained in some proper place and be there kept for such period as the local authority may think expedient, provided that where the owner or other person who had charge of the dog is known the local authority shall cause notice to be forthwith given to either of them of the seizure and detention of the dog, and upon receiving payment of the reasonable expenses incurred in respect of such seizure and detention shall deliver the dog to the person noticed or his agent, without prejudice however to

How to be dealt with.

the recovery of any penalty for the infringement of any of the provisions of this Ordinance ;

(3) It shall be the duty of every such police officer—

Duty of police officer.

Unclaimed dogs.

(b) if the dog so seized and detained be not claimed within two days after the notice aforesaid has been served, or, in case no owner or other person is known to be in charge of the dog, within three days of such seizure, or in case of non-payment of the reasonable expenses incurred in respect of such seizure and detention, it shall be competent to the local authority to cause the dog to be destroyed or otherwise disposed of in such manner as the local authority shall deem expedient.

(a) to kill every dog or other animal which is diseased or which after any visit and inspection is found to have become diseased ;

(b) from time to time to visit and inspect any such suspected or bitten dog or other animal;

(c) after every visit and inspection to report the condition of such dog or other animal to the local authority specified in (a), (b), and (c) of section 3, within whose jurisdiction such dog or other animal is, and such local authority shall determine the time when such visits and inspection shall cease.

Person who knowingly suffers a dog to make such person's house its ordinary place of resort deemed to be the owner of such dog.

5. Every person who shall knowingly suffer a dog to make such person's house or premises its ordinary place of resort shall be deemed and held to be the owner of such dog for the purposes of this Ordinance, and shall be liable civilly and criminally for all mischief done and all acts of nuisance committed by such dog.

8. A police officer receiving credible information of the existence of rabies, or having reasonable ground to suspect the existence of rabies, shall forthwith proceed to the place where such rabies is reported to exist, and put in force the powers conferred on him by this Ordinance or by the regulations made thereunder.

Police officer to proceed to place where rabies exists.

When may a person kill any dog.

6. It shall be lawful for any person to kill upon the spot any dog which shall attack him, and to pursue and kill any dog not being securely tied up or otherwise confined which he shall have reasonable ground to believe to be diseased.

9. It shall be lawful for the local authority specified in (a), (b), and (c) of section 3 of this Ordinance to give public warning by beat of tom-tom, and by such other means as he may deem expedient, of the existence of rabies within his jurisdiction, and it shall be lawful for any such local authority (subject to the approval of the Minister), from time to time or at any time to make, and when made revoke, add to, alter, and amend, regulations for the following purposes, or any of them :—

Regulations.

Notice by owner or possessor of diseased dog or other animal to police officer.

7. (1) Every owner or other person having under his charge a dog or other animal which is diseased or suspected, or has been bitten by a dog or other animal reasonably suspected, shall cause such dog or animal to be securely tied or otherwise confined, and shall forthwith give notice of the fact of such dog or animal being so diseased, suspected, or bitten, to a police officer of the district wherein the dog or animal so diseased, suspected, or bitten, is or was.

(a) for providing for the muzzling of dogs while in or on any public road or place, with such exemptions (if any) as the local authority may think fit;

(b) for providing for the keeping of dogs under control by the owner or person in charge thereof in such manner as may be prescribed by such regulations;

Action to be taken on receiving a notice under subsection (1).

(2) The police officer receiving such notice shall forthwith transmit the information to the local authority specified in (a), (b), and (c) of section 3 of this Ordinance, who shall likewise inform the Director of Health Services and the Government Veterinary Surgeon.

- (c) for providing for the seizure, detention, and disposal, including destruction, of dogs not being kept under control in the manner prescribed by such regulations;
- (d) for providing for the recovery by the local authority of the expenses incurred in respect of the detention of any dog seized and detained and disposed of under any such regulations from the owners thereof;
- (e) for prohibiting or regulating the holding of shows or exhibitions of dogs, and the exposing of dogs for exhibition or sale thereat,;
- (f) for the establishment within the jurisdiction of any such local authority of inoculation stations for the inoculation or testing of dogs or suspected animals and for the regulation, management and control of such stations ;
- (g) for the compulsory testing of dogs or suspected animals in order to detect the presence of rabies; for the compulsory preventive inoculation against rabies of dogs or suspected animals; and for the imposition and recovery of fees in respect of such testing or inoculation.

Publication of regulations.

10. Any regulation when made, added to, altered or amended by the local authority and approved of by the Minister. under this Ordinance, shall be published in the Gazette, and shall when so published, until the same is revoked in manner aforesaid, have the force of law.

Destruction of dogs on proclamation by local authority.

11. (1) Notwithstanding any of the provisions of this Ordinance, where a local authority within the meaning of section 3 (a), (b), or (c) is satisfied that rabies exists, or that there is a danger of rabies within the limits of his jurisdiction, he shall by written notice to be posted in prominent places within the jurisdiction, and by beat of tomtom, and by such other means, as he shall deem expedient, proclaim the area comprised within the said limits, or any part

thereof including one or more villages or estates only, as an area within which rabies exists or within which there is a danger of rabies, as the case may be.

(2) Any dog found in any public place or road, or any place other than a private building, compound, or garden, within any area or part thereof so proclaimed, and not being tied up or led shall be liable to be destroyed forthwith by any person authorized in writing, either generally or specially, by the local authority for that purpose, and the expenses of any such destruction in areas outside the limits of a Municipality, Urban Council, or Town Council, shall be paid from general revenue.

(3) Any such proclamation shall take effect on being proclaimed as provided by subsection (1), and shall be published in a subsequent issue of the Gazette.

(4) Any such proclamation shall expire at the end of six months from the date thereof, but without prejudice to the power of the local authority to issue another proclamation under this section.

12. Every police officer and every person duly authorized under section 3, paragraph (d), shall cause to be destroyed every diseased dog within his district, and if he thinks fit any suspected dog or any diseased animal other than a dog within his district, provided that if the owner of such dog or animal gives notice in writing to the local authority that he objects to such dog or animal being destroyed, the local authority shall cause it to be examined by a medical officer of the Department of Health, and if such officer is of opinion that such dog or animal ought to be destroyed the local authority shall cause the same to be destroyed.

Destruction of diseased dogs. Destruction of suspected dogs and diseased animals other than dogs. Notice by owner to local authority.

***13.** The following penalties are imposed for the following acts and omissions, which are hereby declared to be offences under this Ordinance ;—

Penalties for offences.

(1) If anything is done or omitted to be done in contravention of this Ordinance or of any regulations made by a local authority under

Contravention of Ordinance or regulations.

* Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

section 9 of this Ordinance, the owner of the dog and the person for the time being in charge thereof shall each, according to and in respect of his own acts and defaults, be liable on conviction to a fine not exceeding one hundred rupees.

(b) in any way molests, obstructs or prevents any other person in or from lawfully seizing, detaining or destroying a dog,

Penalty for failure to give notice under section 7.

(2) Any owner or person knowingly having in his possession a diseased or suspected dog or other animal, or a dog or other animal which has been bitten by a dog or other animal reasonably suspected to be diseased, shall if he fail to give notice of the same to a police officer as required by section 7 of this Ordinance, be liable on conviction to a fine not exceeding one hundred rupees, or to simple or rigorous imprisonment for a period not exceeding three months, or both.

he shall, on conviction, be liable to a fine not exceeding one hundred rupees, or to simple or rigorous imprisonment for a period not exceeding three months, or to both such fine and imprisonment.

Failure of police officer to perform duty imposed under section 7.

(3) Every police officer receiving notice as regards a diseased dog shall, if he fail to perform any duty imposed on him by section 7 of this Ordinance, be liable on conviction to a fine not exceeding one hundred rupees, or to simple or rigorous imprisonment for a period not exceeding three months or both.

14. (1) It shall be lawful for the Minister by Order to be published in the Gazette, to prohibit from time to time, as he may think desirable, the importation into Sri Lanka from any place where he has reason to believe that rabies exists, of dogs, or to order that no dog shall be imported without a licence in writing under the hand of the Principal Collector of Customs containing such conditions as the Principal Collector of Customs may, from time to time, direct to be inserted therein.

(2) The said licence shall bear a stamp of five rupees, which shall be supplied by the person to whom the same is issued :

Allowing diseased dogs to go at large.

(4) Every owner of a dog or other animal which is diseased or suspected, or has been bitten by a dog or other animal reasonably suspected to be diseased, who shall permit the same to go at large after being informed or knowing it to be diseased, suspected, or to have been bitten by any dog or animal suspected to be diseased, shall be liable on conviction to a fine not exceeding one hundred rupees, or to simple or rigorous imprisonment for a period not exceeding three months or both.

Provided, however, that all licences issued in respect of such dogs or classes of dogs as may be specified by the Minister by notification in the Gazette, shall be exempted from the requirements of this subsection.

(3) Any person who knowingly imports or attempts to import any dog contrary to the prohibition or order contained in such Order, or who contravenes any condition contained in any such licence, shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding one hundred rupees, or in default to simple imprisonment for a period not exceeding three months.

Interference with dog seizures, &c.

(5) If a person—
(a) removes a dog from the custody of any other person who has lawfully seized it, or

(4) The Minister may, by Order published in the Gazette, extend the provisions of this section, subject to any exceptions and modifications set forth in the said Order, to any other animals by which,

in the Minister's judgment, rabies is liable to be carried. Criminal Procedure Act or in any other enactment to the contrary notwithstanding.

Magistrate's Court to have jurisdiction.

15. Every prosecution under this Ordinance may be instituted in the Magistrate's Court* of the division in which the offence was committed or where the offender is found, anything in the Code of

16. It shall be lawful for the court imposing a fine under this Ordinance to award to the informer any share not exceeding a moiety of so much of the fine as is actually recovered and realized. Informer's share.

* Triable also by a Primary Court under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 or 1979-07-02.

CHAPTER 597

RENT

Act No. 7 of 1972,
Laws Nos. 34 of 1976,
10 of 1977,
Act No. 55 of 1980.

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO RENT RESTRICTION.

[1st March, 1972. except sections 15, 16 and 17.*]

Short title and date of operation.

1. (1) This Act may be cited as the Rent Act.

(2) The provisions of this Act other than the provisions of sections 15, 16 and 17 thereof shall come into operation on the 1st day of March, 1972.

(3) The provisions of sections 15, 16 and 17 of this Act shall come into operation on such date as may be appointed by the Minister by Order published in the Gazette.*

Operation and application of Act.

2. (1) This Act shall be in operation—

(a) in every area in which the Rent Restriction Act (No. 29 of 1948), was, by virtue of the provisions of section 2 of that Act and by virtue of any Notification made under that section, in force immediately prior to the 1st day of March, 1972 ; and

(b) in every other area for the time being declared by the Minister, by Notification published in the Gazette, to be an area in which this Act shall be in operation.

(2) The Minister shall in every Notification under paragraph (b) of subsection (1), appoint the date on which the Notification shall take effect.

(3) The Minister may, by Order published in the Gazette, declare that this Act shall with effect from such date as may be specified therein cease to be in operation in any area, or in any part of any area, in which the Act has been in operation.

(4) So long as this Act is in operation in any area, the provisions of this Act shall apply to all premises in that area, other than—

- (a) excepted premises;
- (b) residential premises constructed after January 1, 1980, and let on or after that date;
- (c) residential premises occupied by the owner on January 1, 1980, and let on or after that date ;

(d) residential premises in the occupation of—

- (i) a person who has been issued with a valid *visa* under the Immigrants and Emigrants Act and whose total income exceeds one thousand rupees per month; or

(ii) a non-resident company,

and let to such person or company, as the case may be, on or before the coming into operation of this subsection which the Commissioner for National Housing, on application made by the landlord thereof, upon being satisfied of such facts, exempts from the application of this Act; and

(e) residential premises let after the 12th day of December, 1980—

- (i) a person, who has been issued a valid *visa* under the

* Sections 15, 16 and 17 are not in operation on 31st December, 1980.

Immigrants and Emigrants Act and whose total income exceeds one thousand rupees per month; or

are situated, to the effect that such premises were ready for occupation on or after January 1, 1980; and

(ii) a non-resident company,

(B) the expression " non-resident company " means—

in respect of which the landlord thereof obtains the prior approval therefor of the Commissioner for National Housing who shall grant such approval if he is satisfied that the previous tenant has vacated such premises voluntarily or upon an order of court,

(a) a company to which Part IX of the Companies Ordinance* applies; or

(b) a company exempted under section 3 of the Companies (Special Provisions) Law; or

and the word " premises " wherever it occurs in this Act shall, unless the context otherwise requires, be construed as premises to which this Act applies, and the expressions " residential premises " and " business premises " shall be construed accordingly.

(c) a company recognized as an "existing company" under the Companies Ordinance* where the majority of the shareholders or the directors of such company are not resident in Sri Lanka; or

In this subsection—

(d) a company registered in Sri Lanka which is controlled and managed by persons outside Sri Lanka and whose principal office is situated outside Sri Lanka.

(A) the expression " residential premises constructed after January 1, 1980 " means—

(i) a residential premises situated within the administrative limits of a local authority, and in respect of which a certificate of conformity has been granted, after January 1, 1980, under the Housing and Town Improvement Ordinance, to the effect that such premises is as regards construction, drainage and in all other respects, in accordance with the law ; or

(5) The regulations in the Schedule to this Act shall have effect for the purpose of determining the premises which shall be excepted premises for the purposes of this Act, and may be amended from time to time, by regulation made under section 43.

3. (1) It shall not be lawful for the landlord of any premises—

Restriction on increase of rent. [§ 3, 55 of 1980.]

(ii) a residential premises situated in an area where the local authority thereof does not issue certificates of conformity, and in respect of which a certificate has been granted in the prescribed form after January 1, 1980, by the Assistant Government Agent of the administrative division within which such premises

(a) to demand, receive or recover as the rent of such premises in respect of any period commencing on or after the date of commencement of this Act any amount in excess of the authorized rent of such premises as defined for the purposes of this Act in section 6 ; or

(b) to increase the rent of such premises in respect of any such period to an amount in excess of such authorized rent.

* Repealed and replaced by the Companies Act, No. 17 of 1982.

[§ 3, 55 of 1980.]

(2) It shall not be lawful for the tenant of any premises to pay or offer to pay, as the rent of such premises, any amount in excess of the authorized rent of such premises as defined for the purposes of this Act in section 6.

(3) Any transfer to a tenant of any burden or liability previously borne by the landlord shall, for the purposes of this Act, be treated as an alteration of rent, and where, as the result of such transfer, the terms on which any premises are held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased, whether or not the sum periodically payable by way of rent is increased; and any increase of rent in respect of any transfer to a landlord of any burden or liability previously borne by the tenant where, as the result of such transfer, the terms on which any premises are held are on the whole not less favourable to the tenant than the previous terms, shall be deemed not to be an increase of rent for the purposes of this Act;

Provided that, for the purposes of this section, the rent shall not be deemed to be increased where the liability for rates is transferred from the landlord to the tenant, if a corresponding reduction is made in the rent.

Standard rent. [§ 4, 55 of 1980.]

4. (I) The standard rent per annum of any residential premises the first assessment of the annual value of which was made in respect of any period commencing on a day not later than the first day of January, 1969, and the annual value of which does not exceed the relevant amount, and of any business premises the annual value of which does not exceed the relevant amount, means—

(a) the amount of the annual value of such premises as specified in the assessment in force during the month of January, 1955, or if the assessment of the annual value of such premises is made for the first time after that month, the amount of such annual value as specified in such first assessment; or

(b) if the rates levied in respect of such premises are, under the terms of the

tenancy, payable by the landlord, the aggregate of the amount determined under paragraph (a) and of the amount payable per annum by way of rates in respect of such premises for the time being.

(2) The standard rent per annum of any residential premises, other than premises referred to in subsection (1), means the aggregate of—

(a) the amount of the annual value of such premises; and

(b) the amount payable per annum by way of rates in respect of such premises.

(3) In the case of any premises to which the provisions of subsections (1) and (2) do not apply, the standard rent per annum of the premises means such rent as may be fixed by the board on application made either by the landlord or the tenant for the time being of such premises.

(4) The standard rent of any premises per month or per quarter or per half-year shall be determined in proportion to the standard rent of the premises per annum.

5. (1) Where the landlord of any premises has, since the date by reference to which the standard rent of the premises is determined for the purposes of this Act, incurred, or hereafter incurs, expenditure on the improvement, repair or structural alteration of the premises (not including expenditure on decoration)—

Permitted increases. [§ 4, 55 of 1980.]

(a) in any case, where such landlord has obtained the prior consent of the tenant to effect such improvement, repair or structural alteration, and such tenant has agreed as to the amount to be expended thereon; or

(b) in any case where the tenant has withheld his consent to effect such improvement, repair or structural alteration and where the landlord has obtained the prior approval of the board to effect such improvement, repair, or structural alteration, at such amount as is authorized by the board,

the standard rent per annum of such premises may be increased for a period of five years by twenty-five *per centum* each year of the amount of the expenditure so incurred:

Provided, however, that the board may, on application made by the tenant of such premises, direct that the standard rent shall not be increased as hereinbefore provided, or reduce the amount by which the standard rent may be so increased on the ground that the improvement, repair or structural alteration was not carried out in accordance with the agreement reached with the tenant or the authorization of the board, as the case may be.

(2) An increase of the rent of any premises in accordance with the provisions of subsection (1) shall be a permitted increase for the purposes of this Act.

Authorized rent. [§ 4, 55 of 1980.]

6. For the purposes of this Act, the authorized rent of any premises shall be the standard rent of the premises determined under section 4, or where any increase of rent is permitted by section 5 in the case of such premises, the aggregate of the standard rent and every such permitted increase :

Provided, however, that the authorized rent of any premises shall not be less than the authorized rent or the receivable rent of those premises, as the case may be, under the provisions of this Act as were in force on March 1, 1972.

Prohibition of excessive advance, premium or other additional payment, [§ 7, 55 of 1980.]

*9. (I) No person shall, as a condition of the grant, renewal or continuance of the tenancy of any premises, demand or receive, or pay or offer to pay—

- (a) as an advance of rent, any amount exceeding the authorized rent for a period of three months; or
- (b) in addition to the rent of such premises, any premium, commission, gratuity or other like payment or pecuniary consideration whatsoever.

(2) Where a landlord is convicted of having received any amount in contravention of the provisions of

subsection (1), the Magistrate may make order requiring such landlord to refund such amount to the person from whom such amount was received.

(3) Where the Commissioner for National Housing is satisfied that the landlord of any premises has demanded any amount in contravention of the provisions of subsection (1), the Commissioner may make order directing such landlord not to grant the tenancy of such premises to any person other than a person authorized for the purpose by the board ; and where the landlord grants the tenancy of such premises in contravention of such order, the landlord shall be guilty of an offence under this Act.

(4) Where an order is made by the Commissioner for National Housing under subsection (3), the board shall, subject as hereinafter provided and notwithstanding anything in any other law, authorize such person as in its opinion is suitable to be the tenant of the premises, to occupy such premises.

(5) Where any person authorized by the board under subsection (4) to occupy any premises, occupies such premises, such person shall be deemed for the purposes of this Act to be the tenant of such premises and the provisions of this Act shall apply accordingly.

(6) The exercise of the power of the board to authorize persons to occupy premises under subsection (4) shall be subject to the right of the landlord of the premises to object to the first three persons proposed by the board to be so authorized.

10. (I) For the purposes of this Act, any part of any premises shall be deemed to have been let or sublet to any person, if, and only if, such person is in exclusive occupation, in consideration of the payment of rent, of such part, and such part is a defined and separate part over which the landlord or the tenant, as the case may be, has for the time being relinquished his right of control; and no person shall be deemed to be the tenant or the subtenant of any part of any premises by reason solely of the fact that he is permitted to use a room or rooms in such premises.

Letting of parts of premises and subletting of premises or part thereof.

* Sections 7 and 8 are repealed by Act No. 55 of 1980.

(2) Notwithstanding anything in any other law, the tenant of any premises—

(a) shall not, without the prior consent in writing of the landlord, sublet the premises to any other person ; or

(b) shall not sublet any part of the premises to any other person—

(i) without the prior consent in writing of the landlord ; and

(ii) unless prior to so subletting, he had applied to the board to fix the proportionate rent of such part of the premises and had informed the board and the landlord the name of the person to whom he proposes to sublet such part.

(3) As soon as may be after the board has fixed the proportionate rent of such part of the premises, the tenant shall in writing intimate to the landlord and to the subtenant the amount fixed by the board as the proportionate rent. Any sum received as rent which is in excess of the proportionate rent fixed by the board shall be refunded by the tenant to the subtenant or set off against the rent payable thereafter by the subtenant.

(4) Where the tenant of any premises has prior to the date of commencement of this Act sublet any part of such premises and where the landlord of any premises has prior to such date let any part of such premises, and where the proportionate rent of the part sublet or let, as the case may be, has not been fixed by the board, it shall be the duty of the tenant and the subtenant of the premises sublet and of the landlord and the tenant of the part of the premises let, to make an application to the board within thirty days of the date of commencement of this Act, to fix the proportionate rent of the part sublet or let, as the case may be, and the board shall fix such rent on the basis of the authorized rent or the receivable rent, as the case may be.

(5) Where the tenant of any premises sublets such premises or any part thereof without the prior consent in writing of the landlord, the landlord of such premises shall, notwithstanding the provisions of

section 22, be entitled in a court of competent jurisdiction to a decree for the ejection of such tenant from such premises, and also for the ejection of the person or each of the persons to whom the premises or any part thereof had been sublet.

(6) Where the tenant of any premises who has sublet such premises or any part thereof receives or recovers in respect of the premises or the part of the premises which he has sublet, any amount exceeding the authorized rent, or any amount exceeding such amount as the board has fixed as the proportionate rent of the part sublet, or receives or recovers, in addition to the authorized rent or the proportionate rent, any premium, commission, gratuity or other like payment or pecuniary consideration whatsoever, such tenant shall be guilty of an offence under this Act, and the landlord of such premises shall, notwithstanding the provisions of section 22, be entitled in an action instituted in a court of competent jurisdiction to a decree for the ejection of such tenant from the premises. [§.8, 55 of 1980.]

(7) Nothing in subsection (2), subsection (5) or subsection (6) shall apply to the subletting of any premises or part thereof without the prior consent in writing of the landlord where such premises or part had been sublet prior to the date of commencement of this Act to any person, so long as that person continues to be the subtenant of the premises or part thereof.

(8) Where any premises are sublet by a tenant in whole or in part the tenant shall in relation to the subtenant or each of the subtenants be deemed for all purposes of this Act to be the landlord of the premises and the other provisions of this Act shall apply accordingly.

(9) No landlord of any premises shall let any part of such premises to any other person unless prior to so letting he had applied to the board to fix the proportionate rent of such part, and had informed the board the name of the person to whom he proposes to let such part.

(10) As soon as may be after the board has fixed the proportionate rent of the part of the premises let by the landlord, the

landlord shall in writing intimate to the tenant the amount fixed by the board as the proportionate rent. Any sum received as rent which is in excess of the proportionate rent fixed by the board shall be refunded by the landlord to the tenant or set off against the rent payable thereafter by the tenant.

(11) Where the landlord receives or recovers in respect of any part of the premises which he has let, any amount exceeding such amount as the board has fixed as the proportionate rent of such part, or receives or recovers, in addition to such proportionate rent, any premium, commission, gratuity or other like payment or pecuniary consideration whatsoever, He shall be guilty of an offence under this Act, and where the tenant of any such part pays or offers to pay any amount exceeding such proportionate rent in respect of such part, or pays or offers to pay in addition to such proportionate rent any premium, commission, gratuity or other like payment or consideration whatsoever, he shall be guilty of an offence under this Act.

(12) The board shall give priority over the other proceedings before the board, to the hearing and determination of any application made under subsection (2) (b) (ii) or subsection (9) for the fixing of the proportionate rent, and the board shall fix such rent on the basis of one hundred and twenty *per centum* of the authorized rent.

(13) Where any premises are let, sublet or occupied in separate parts, which are not separately assessed for the purpose of rates, and the aggregate of the amount demanded or received as the rent for such separate parts exceeds the authorized rent of the premises, the landlord shall be deemed to have contravened the provisions of section 3 of this Act:

Provided, however, that where any such premises are let, sublet or occupied in separate parts on or after the date of commencement of this Act, the landlord shall not be deemed to have contravened such provisions if the aggregate of the amount demanded as the rent for such separate parts does not exceed one hundred and twenty *per centum* of the authorized rent of such premises.

(14) Where any premises are let or sublet prior to the date of commencement of this

Act in separate parts which are not separately assessed for the purpose of rates, the landlord or the tenant, as the case may be, of such premises shall not demand, receive or recover as the rent of any part of such premises so let or sublet any amount in excess of the proportionate rent fixed for such part by the board under this Act, notwithstanding that such part has subsequent to the date on which it was let or sublet, been separately assessed for the purpose of rates.

11. (1) Subject to the provisions of subsection (2), no landlord or agent of the landlord of any premises shall enter into an agreement or other contract with the tenant or an agent of the tenant of such premises for the hire or lease of any furniture, fittings or appliances on such premises.

Contracts for the hire or lease of furniture, fittings, &c.

(2) Where any residential premises which are occupied by the landlord are let to a tenant on account of the landlord temporarily not requiring the use thereof, such landlord may enter into a separate agreement or contract for the hire or lease by the tenant of such furniture, fittings and appliances as were kept in such premises for the personal use of the landlord. Such agreement or contract shall not be entered into except with the prior permission of the board granted on application made by the landlord, and the period for which such agreement or contract shall prevail and the amount payable by the tenant in respect of the hire or lease of such furniture, fittings and appliances shall be as determined by the board when such permission is granted.

(3) Notwithstanding anything in any other law, no agreement or other contract entered into prior to the date of commencement of this Act between the landlord or an agent of the landlord, and the tenant or an agent of the tenant, of any premises, for the hire or lease of any furniture, fittings or appliances on such premises shall be valid or have effect in law, and no landlord shall receive any consideration or benefit arising from such agreement or contract except such consideration or benefit as accrued to him prior to the date of commencement of this Act.

12. (1) Notwithstanding anything in any other law, no landlord or tenant of any residential premises shall, unless so

Use of residential premises for other purposes.

[S. 8. 55 of 1980.]

[§ 8, 55 of 1980.]

authorized by the Commissioner for National Housing, use or permit any other person to use such premises wholly or mainly for any purpose other than that of residence.

(2) Where any residential premises are on the date of commencement of this Act used wholly or mainly for any purpose other than that of residence, the landlord or tenant of such premises, as the case may be, shall not continue to use such premises for such purpose after the expiry of six months from such date—

(a) unless such purpose is in the opinion of the Commissioner for National Housing a specified purpose ; or

(b) where such purpose is not in the opinion of the Commissioner for National Housing a specified purpose, for any period exceeding such period as may be determined by such Commissioner; or

(c) unless, as a result of structural alterations lawfully made to such premises prior to the date of commencement of this Act, the Commissioner for National Housing is of opinion that it would not be equitable to require that such premises shall be used for residential purposes.

In this subsection—

"residential premises" means any premises which at any time within a period of ten years prior to the date of commencement of this Act had been occupied wholly or mainly for the purpose of residence ; and

" specified purpose " means any of the purposes specified hereunder:—

(i) carrying on the business of selling goods by retail;

(ii) carrying on the business of a restaurant, an eating house, a hotel, a boarding house or a guest house;

(iii) carrying on a nursing home, a medical clinic or maintaining a hospital or the provision of any other professional service;

(iv) conducting a school or other educational institution or maintaining a library or maintaining an office of a registered trade union or of a Member of Parliament or of a recognized political party within the meaning of the Ceylon (Parliamentary Elections) Order in Council, 1946;*

(v) maintaining an office of a Government department or of a Corporation the capital of which has been wholly or partly provided by the Government;

(vi) conducting a sports club or other recreational or cultural institution.

13. (1) Where the board is satisfied, on application made by the tenant of any premises, or on an inspection of such premises carried out by it or under its authority, that the landlord—

Provision of amenities, repairs, Ac.

(a) has without reasonable cause discontinued or withheld any amenities previously provided for the benefit of the tenant; or

(b) has failed to carry out any repairs or redecoration necessary in the opinion of the board to maintain the premises in proper condition,

the board may make order directing the landlord to provide such amenities or to carry out such repairs or decoration as may be specified in the order; and it shall be the duty of the landlord to comply with the provisions of such order before such date as may be specified in that behalf in the order, or within such extended period as may be allowed by the board on application made by the landlord.

* See List of Enactments omitted from the Revised Edition.

(2) Where the board is satisfied that any delay in the provision of the amenities alleged to have been discontinued or withheld in an application made under subsection (1) or that any delay in the carrying out of the repairs or redecoration which the landlord is alleged in any such application to have failed to carry out, will cause injury to the occupants of the premises or hazard to their health or permanent damage to the premises, or seriously inconvenience the occupants, the board shall, before making the final order on such application, make an interim order directing the landlord to provide such amenities or to carry out such repairs or redecoration without delay, notwithstanding that there may be pending in any court, at the time of such application, any other action or proceedings relating to such premises.

(3) The board shall in any order under subsection (1) or subsection (2) directing the landlord to effect any repairs or redecoration authorize the tenant, in the event of the landlord failing to comply with the order, to carry out such repairs or redecoration and to incur for the purpose expenditure not exceeding such amount as may be specified in that behalf in the order ; and where any repairs or redecoration are carried out by the tenant in pursuance of the authority so conferred, the tenant shall be entitled to set off against the rent payable in respect of the premises the expenditure actually incurred by him for the purpose, or the amount specified in that behalf in the order, whichever is less.

(4) Where the tenant of any premises refuses to permit the landlord to carry out any repairs or redecoration necessary to maintain the premises in proper condition, the board may, on application made by the landlord, make order directing the tenant to permit the landlord to carry out such repairs or redecoration as may be specified in the order.

(5) The board may inspect or cause to be inspected periodically all premises within its area of jurisdiction for the purpose of ascertaining whether the premises are maintained in proper condition.

14. (1) Notwithstanding anything in any other law, the tenant of any residential premises which is purchased by any person under the Partition Law or which is allocated to a co-owner under a decree for partition shall be deemed to be the tenant of such purchaser or of such co-owner, as the case may be, and the provisions of this Act shall apply accordingly, and where such tenant is deprived of any amenities as a result of such partition, the owner of the premises where such amenities are located shall permit such tenant to utilize such amenities without making any payment therefor until such amenities are provided by such purchaser or co-owner or by the tenant under subsection (3).

(2) The board may, on application made by the tenant of any premises referred to in subsection (1), or by the owner of the premises where such amenities are located, by order fix the period within which such purchaser or co-owner shall provide the amenities.

(3) The board shall in any order under subsection (2) authorize the tenant, in the event of the purchaser or co-owner failing to provide the amenities within the period fixed by the board, to provide the amenities and to incur for the purpose expenditure not exceeding such amount as may be specified in that behalf in the order; and where such amenities are provided by the tenant in pursuance of the authority so conferred, the tenant shall be entitled to set off against the rent payable in respect of the premises, the expenditure actually incurred by him for the purpose or the amount specified in that behalf in the order, whichever is less.

15. (1) No landlord of any premises shall, either by himself or through any other person, without reasonable cause, discontinue or withhold any amenities or facilities previously provided for the tenant of, or the person in occupation of, such premises, or deprive, withhold or fail to repair or maintain in proper condition any essential supply or service previously provided to such tenant or person.

(2) In this section, " essential supply or service" includes supply of water, gas, electricity or lights including lights in passages and on staircases, lifts and conservancy and sanitary service.

Tenancy and amenities of premises purchased under Partition Law or allocated under partition decree.

Withholding amenities provided to tenants.

Use of force on tenants and causing damage to premises. [§ 9, 55 of 1980.]

16. No landlord of any premises or other person shall, either by himself or through any other person, directly or indirectly, make use of, or threaten to make use of, any force, violence, or restraint, or inflict or threaten to inflict, any harm, damage or loss, upon or against the tenant of, or any person in occupation of, such premises, or damage, remove or tamper with, any part of such premises, in order to induce, compel or prevail upon, such tenant or person to vacate such premises, or to make any payment of money in excess of the authorized rent of such premises or the proportionate rent of any part of such premises.

Interference with occupation by tenants.

17. (1) No landlord of any premises or other person shall, either by himself or through any other person, interfere or attempt to interfere in any manner in the occupation or use of any premises by the tenant of, or the person in occupation of, such premises or in any manner prevent access to such premises by such tenant or person.

(2) In this section and in sections 15 and 16, "person in occupation", in relation to any premises, means a person in occupation of the premises with the consent, express or implied, of the landlord of the premises.

Demolition of buildings.

18. Where any building used for residential purposes which is let to a tenant is demolished on an order made under the provisions of the Housing and Town Improvement Ordinance, the owner of the land on which the demolished building stood shall not construct any building or buildings on such land except with the permission of the board. The board in granting such permission may by order fix the number of residential units that shall be constructed on such land. Such owner shall let one of the residential units so constructed to the tenant of the demolished building, if such tenant makes a request therefor.

Demolition of buildings over fifty years old. [§ 10, 55 of 1980.]

18A. (1) The Commissioner for National Housing may—

- (a) upon application made in that behalf by the owner of any building used for residential purposes and

constructed at least fifty years prior to the date of the application;

- (b) after affording the occupants of such building an opportunity of being heard,

make order authorizing such owner to demolish such building if the Commissioner is satisfied that the re-development of the land on which such building stands is necessary for the more efficient utilization of such land.

(2) Where the Commissioner for National Housing makes an order under subsection (1) authorizing the owner of a building to demolish such building, the Commissioner shall—

- (a) specify in such order, the number of residential units that shall be constructed by such owner within such period or periods as may be determined by the Commissioner on the land on which the demolished building stood ; and
- (b) (i) provide alternate accommodation for the tenant, if any, of such building; or
- (ii) order the owner of such building to pay to the tenant thereof, such compensation as the Commissioner determines to be reasonable, for loss of possession by such tenant; so however that the amount ordered to be so paid shall in no case be less than three times the authorized rent per annum of the building.

(3) An order made under subsection (t) shall be deemed to have been duly communicated to every occupier of the building in respect of which such order is made, if it is posted by the Commissioner for National Housing on some conspicuous part of such building.

(4) Every occupier of any building in respect of which an order is made under subsection (1) shall vacate such building not later than ninety days after the provisions of subsection (2) (b) (i) or 2 (A) (ii) are complied with.

(5) Where the occupier of any building in respect of which an order is made under subsection (1) fails to comply with the provisions of subsection (4) the owner of such building may, notwithstanding anything in this Act, apply to the District Court of the district in which such building is situated, praying for the recovery of possession of such building and for the ejectment therefrom, of such occupier.

The provisions of subsections (3), (4), (5), (6), (7), (8) and (9) of section 23 shall, *mutatis mutandis*, apply to the hearing and disposal of every such application.

(6) A decision of the Commissioner for National Housing under paragraph (b) -of subsection (2) shall not be called in question or examined by the court in any proceedings under this section.

(7) Where the owner of a building fails to construct the number of residential units within such period or periods as determined by the Commissioner for National Housing under subsection (2), the relevant area of land shall be acquired by the Government under Part VIII of the National Housing Act.

Number of independent units in residential premises not to be reduced.

19. Where any residential premises had been let before the date of commencement of this Act in separate parts which are not separately assessed for the purpose of rates and which are independent residential units, the landlord of such premises shall not, without the prior authority of the Commissioner for National Housing, by making any alterations to any such part or otherwise, reduce the number of independent residential units in such premises. The Commissioner may grant such authority only where the parts concerned are not let to tenants.

Construction of additional residential units on excess land.

20. (I) Where the tenant of any residential premises refuses to permit the landlord thereof to construct any building for residential purposes on the land within the boundaries of the premises, or to make such extensions to the existing buildings as are capable of being used for residential purposes, or refuses to permit any purchaser of such land to construct any other building for residential purposes on such land, the

landlord or the purchaser, as the case may be, may make application to the board for an order directing the tenant to permit the landlord or the purchaser, as the case may be, to so construct or make extensions; and the board may make order accordingly if the board is satisfied, having regard to the minimum requirements relating to land appurtenant to buildings imposed by by-laws or regulations of the appropriate local authority, and not taking into account any structure unlawfully constructed or which is not an essential part of the premises, that there is sufficient space in such land for such construction or extensions and that the building or buildings or extensions proposed to be constructed or made will not unduly interfere with the amenities and facilities enjoyed by the tenant or where such amenities or facilities may be interfered with, that the landlord or the purchaser, as the case may be, will provide to the tenant fresh adequate amenities and facilities; and the board may in such or subsequent order determine the number of residential units that shall be constructed on such land and the period within which such number of residential units shall be constructed and the amount of the rent to be paid by the tenant thereafter for his occupation of the existing premises.

(2) Where the number of residential units determined by the board under subsection (1) is not constructed, without reasonable cause, within the period determined thereunder or such extended period as may be allowed by the board on application made by the landlord or by the purchaser, the landlord or the purchaser, as the case may be, shall be guilty of an offence under this Act.

20A. (I) The Commissioner for National Housing may, on application made in that behalf and notwithstanding anything in this or any other law, make order authorizing the landlord of any premises where there is within the boundaries of such premises appurtenant land exceeding eight perches in extent, to construct any building for residential purposes on such land or to make such extensions to existing buildings

Construction of additional residential units on appurtenant land exceeding eight perches in extent. [§ 11, 55 of 1980.]

as are capable of being used for residential purposes;

Provided that no such order shall be made by the Commissioner unless he is satisfied—

(a) that the applicant has the financial capacity to construct the number of residential units within such period or periods as may be determined by the Commissioner; and

(b) that the building or extension proposed to be constructed or made will not unduly interfere with the amenities and facilities enjoyed by the tenant, or where such amenities or facilities may be interfered with, that the landlord will, before he takes possession of such land, provide to the tenant fresh adequate amenities and facilities.

Every order made under this subsection shall be communicated to the tenant of such premises and it shall be the duty of such tenant to permit the landlord of such premises to construct such building or to make such extensions as is or are referred to in such order.

(2) Where the tenant of any premises in respect of which an order is made under subsection (1) refuses to permit the landlord of such premises to construct such building or to make such extensions as is or are referred to in such order, the Commissioner for National Housing shall issue a certificate to the Magistrate's Court of the division within which such premises are situated, setting forth the following facts, namely :—

(a) that he has made order authorizing the landlord of such premises to construct a building for residential purposes on the appurtenant land within such premises or to make such extensions to existing buildings as are capable of being used for residential purposes ;

(b) that such order was communicated to the tenant of the premises;

(c) that such tenant has refused to permit such landlord to construct such building or to make such extensions; and

(d) praying for the delivery of possession of such part of the appurtenant land within such premises as is specified in the certificate (hereafter in this section referred to as " the relevant area of land ") to the landlord of such premises.

(3) Every certificate issued under subsection (2) shall be *primes facie* evidence of the facts stated therein.

(4) Upon receipt of a certificate issued under subsection (2), a Magistrate's Court shall forthwith issue, and if need be, re-issue, a writ of possession to the Fiscal of the district* in which the relevant area of land is situated requiring and authorizing such Fiscal before a date specified in the writ, and not being a date earlier than three or later than seven clear days of the date of the issue of such writ, to deliver possession of the relevant area of land to the person specified in the certificate issued by the Commissioner for National Housing under subsection (2). Such writ shall be sufficient authority for such Fiscal or any police officer authorized by him in that behalf to enter the relevant area of land with such assistants as the Fiscal or such officer shall deem necessary and to give possession accordingly.

(5) Where the number of residential units determined by the Commissioner for National Housing under subsection (1) is not constructed, without reasonable cause, within the period determined thereunder or such extended period as may be allowed by the Commissioner on application made by the landlord, the relevant area of land shall be required by the Government under Part VIII of the National Housing Act.

21. (1) The tenant of any premises may pay the rent of the premises to the authorized person instead of the landlord.

Rent may be paid to the authorized person instead of the landlord.

(2) Where any payment of any rent of any premises is made on any day in

* See also section 52 (1) of the Judicature Act. Fiscals are now attached to Courts.

accordance with the provisions of subsection (1), it shall be deemed to be a payment received on that day by the landlord of the premises from the tenant thereof.

(3) Where the rent of any premises is paid to the authorized person, the authorized person shall issue to the tenant of the premises a receipt in acknowledgment of such payment, and shall transmit the amount of such payment to the landlord of the premises. It shall be the duty of such landlord to issue to the authorized person a receipt in acknowledgment of the amount so transmitted to him.

(4) In this section, " authorized person ", with reference to any premises, means the Mayor, or Chairman of the local authority within whose administrative limits the premises are situated or the person authorized in writing by such Mayor or Chairman to receive rents paid under this section, or where the Minister so determines, the board of the area within which the premises are situated.

Proceedings for ejection.

22. (1) Notwithstanding anything in any other law, no action or proceedings for the ejection of the tenant of any premises the standard rent (determined under section 4) of which for a month does not exceed one hundred rupees shall be instituted in or entertained by any court, unless where—

- (a) the rent of such premises has been in arrear for three months or more after it has become due ; or
- (b) such premises, being premises which have been let to the tenant on or after the date of commencement of this Act, are, in the opinion of the court, reasonably required for occupation as a residence for the landlord or any member of the family of the landlord, or for purposes of the trade, business, profession, vocation or employment of the landlord ; or
- (bb) such premises, being premises which have been let to the tenant prior to the date of commencement of this Act, are, in the opinion of the

[§2, Law 10 of 1977.]

court, reasonably required for occupation as a residence for the landlord or any member of the family of the landlord ; or

- (c) such premises were let to the tenant for use as a residence by reason of his being in the service or employment of the landlord and the tenant has ceased to be in such service or employment; or
- (d) the tenant or any person residing or lodging with him or being his subtenant has, in the opinion of the court, been guilty of conduct which is a nuisance to adjoining occupiers or has been convicted of using the premises for an immoral or illegal purpose, or the condition of the premises has, in the opinion of the court, deteriorated owing to acts committed by or to the neglect or default of the tenant or any such person.

For the purposes of paragraph (b) of this subsection, any premises of which the landlord is a body of persons corporate or unincorporate shall be deemed to be required for the purposes of the business of the landlord, if they are, in the opinion of the court, reasonably required for any of the objects or purposes for which the body is constituted.

(IA) Notwithstanding anything in subsection (I), the landlord of any premises referred to in paragraph (bb) of that subsection shall not be entitled to institute any action or proceedings for the ejection of the tenant of such premises on the ground that such premises are required for occupation as a residence for himself or any member of his family, if such landlord is the owner of more than one residential premises and unless such landlord has caused notice of such action or proceedings to be served on the Commissioner for National Housing. [§ 2, Law 10 of 1977.]

(IB) Where any action or proceedings for the ejection of the tenant of any premises referred to in paragraph (bb) of subsection (1) is or are instituted in any court, on the ground that such premises are required for occupation as a residence for the landlord [§ 2, Law 10 of 1977.]

or any member of the family of the landlord, such action or proceedings shall have priority over all other business of that court.

[§ 2, Law 10 of 1977.]

(lc) Where a decree for the ejectment of the tenant of any premises referred to in paragraph (hb) of subsection (I) is entered by any court on the ground that such premises are reasonably required for occupation as a residence for the landlord or any member of the family of such landlord, no writ in execution of such decree shall be issued by such court until after the Commissioner for National Housing has notified to such court that he is able to provide alternate accommodation for such tenant.

[§ 2, Law 10 of 1977.]

(ID) Notwithstanding anything in any other law, where a writ in execution of a decree for the ejectment of the tenant of any premises referred to in paragraph (bh) of subsection (1) is issued by any court, the execution of such writ shall not be stayed in any manner by reason of any steps taken or proposed to be commenced in any court with a view to questioning, varying or setting aside such writ.

[§ 12, 55 of 1980.]

(IE) In any proceeding under subsection (1C) the court shall not inquire into the adequacy or the suitability of the alternate accommodation offered by the Commissioner for National Housing.

(2) Notwithstanding anything in any other law, no action or proceedings for the ejectment of the tenant of—

- (i) any residential premises the standard rent (determined under section 4) of which for a month exceeds one hundred rupees; or
- (ii) any business premises the standard rent (determined under section 4) of which for a month exceeds one hundred rupees and the annual value of which does not exceed the relevant amount,

shall be instituted in or entertained by any court, unless where—

- (a) rent has been in arrear for one month after it has become due ; or

(b) the premises are, in the opinion of the court, reasonably required for occupation as a residence for the landlord or any member of the family of the landlord or for the purposes of the trade, business, profession, vocation or employment of the landlord ; or

(bb) in the case of premises let to a tenant, whether before or after the date of commencement of this Act, and where the landlord is the owner of not more than one residential premises—

[§ 12, 55 of 1980.]

- (i) such premises are in the opinion of the court reasonably required for occupation as a residence for the landlord or any member of the family of the landlord; or
- (ii) the landlord of such premises has deposited prior to the institution of such action or proceedings a sum equivalent to five years' rent with the Commissioner for National Housing for payment to the tenant; or

(c) such premises were let to the tenant for use as a residence by reason of his being in the service or employment of the landlord and the tenant has ceased to be in such service or employment; or

(d) the tenant or any person residing or lodging with him or being his subtenant has, in the opinion of the court, been guilty of conduct which is a nuisance to adjoining occupiers or has been convicted of using the premises for an immoral or illegal purpose or the condition of the premises has, in the opinion of the court, deteriorated owing to acts committed by or to the neglect or default of the tenant or any such person.

For the purposes of paragraph (b) of this subsection, any premises of which the landlord is a body of persons corporate or

unincorporate shall be deemed to be required for the purposes of the business of the landlord, if they are, in the opinion of the court, reasonably required for any of the objects or purposes for which the body is constituted.

[§ 12, 55 of 1980.]

(2A) Where a decree for the ejection of the tenant of any premises referred to in paragraph (bb) of subsection (2) is entered by any court on any of the grounds referred to in that paragraph, the court shall forthwith issue a writ in execution of the decree to the Fiscal of the court requiring and authorizing him to deliver vacant possession of the premises to the landlord of such premises.

[§ 12, 55 of 1980.]

(2B) Notwithstanding anything in any other law, where a writ in execution of a decree for the ejection of the tenant of any premises referred to in paragraph (bb) of subsection (2) is issued by any court, the execution of such writ shall not be stayed in any manner by reason of any appeal from the judgment of such court.

[§ 12, 55 of 1980.]

(2c) Where any action or proceedings for the ejection of the tenant of any premises referred to in paragraph (bb) of subsection (2) is or are instituted in any court, such action or proceedings shall have priority over all other business of that court and shall in any event be disposed of within twelve months from the date of the institution of such action or proceedings.

(3) The landlord of any premises referred to in subsection (1) or subsection (2) shall not be entitled to institute, or as the case may be, to proceed with, any action or proceedings for the ejection of the tenant of such premises on the ground that the rent of such premises has been in arrear for three months or more, or for one month, as the case may be, after it has become due,—

(a) if the landlord has not given the tenant three months' notice of the termination of tenancy if it is on the first occasion on which the rent has been in arrear, two months' notice of the termination of tenancy if it is on the second occasion on which the rent has been in arrear and one month's notice of the

termination of tenancy if it is on the third or any subsequent occasion on which the rent has been in arrear; or

(b) if the tenant has prior to the institution of such action or proceedings tendered to the landlord all arrears of rent; or

(c) if the tenant has, on or before the date fixed in such summons as is served on him, as the date on which he shall appear in court in respect of such action or proceedings, tendered to the landlord all arrears of rent.

(4) The court may, where a tenant tenders to the landlord the arrears of rent after the institution of the action or proceedings and on or before the date mentioned in paragraph (c) of subsection (3), impose on such tenant a fine of such amount as may be determined by the court, if in the opinion of the court, there was no sufficient cause for the delay in the payment of the rent.

(5) Where any action or proceedings for the ejection of the tenant of any premises referred to in subsection (1) or subsection (2) is or are instituted on the ground that the rent has been in arrear for three months or more, or for one month, as the case may be, after it has become due, the court may, on being satisfied that the rent has been in arrear on account of the tenant's illness or unemployment or other sufficient cause, make order that a writ for the ejection of the tenant from those premises shall not issue if the tenant pays to the court the arrears of rent either in a lump sum on such date or in instalments on such dates, as may be specified in the order; and if the tenant pays to the court the arrears of rent on such date or dates, his tenancy of those premises shall, notwithstanding its termination by the landlord of those premises, be deemed not to have been terminated.

(6) Notwithstanding anything in any other law, the landlord of any premises referred to in subsection (1) or subsection (2) shall not be entitled to institute any action or proceedings for the ejection of

the tenant of such premises on the ground that such premises are required for occupation as a residence for himself or any member of his family, or for the purposes of his trade, business, profession, vocation or employment, if the landlord has not given to the tenant of such premises one year's notice in writing of the termination of the tenancy :

who had acquired ownership of such premises on a date prior to the specified date:

Provided, however, that the preceding provisions of this subsection shall not apply to the institution of any action or proceedings for the ejection of the tenant of any premises the annual value of which exceeds one hundred and fifty *per centum* of the relevant amount where such tenant had come into occupation thereof prior to the date of commencement of this Act.

Provided that the landlord of any premises referred to in paragraph (bb) of subsection (1) or paragraph (bb) of subsection (2) may institute an action or proceedings for the ejection of the tenant of such premises if such landlord has given to such tenant six months' notice in writing of the termination of the tenancy.

In this subsection, "specified date" means the date on which the tenant for the time being of the premises, or the tenant upon whose death the tenant for the time being succeeded to the tenancy under section 36 of this Act or section 18 of the Rent Restriction Act (No. 29 of 1948), came into occupation of the premises.

(7) Notwithstanding anything in the preceding provisions of this section, no action or proceedings for the ejection of the tenant of any premises referred to in subsection (1) or subsection (2) (i) shall be instituted—

(8) where a decree for the ejection of the tenant of any premises is entered by any court on the ground that the court is of opinion—

(a) on the ground that the premises are reasonably required for occupation as a residence for the landlord or any member of the family of the landlord or for the purposes of the trade, business, profession, vocation or employment of the landlord ; or

(a) that the premises are reasonably required for occupation as a residence for the landlord or any member of his family or for the purposes of the trade, business, profession, vocation, or employment of the landlord ; or

(b) where the landlord is the owner of not more than one residential premises, on the ground that—

(b) that in the case of premises where the landlord is the owner of not more than one residential premises—

(i) such premises are reasonably required for occupation as a residence for the landlord or for any member of the family of the landlord; or

(i) the premises are reasonable required for occupation as a residence for the landlord or any member of the family of the landlord; or

(ii) the landlord of such premises has deposited prior to the institution of such action or proceedings a sum equivalent to five years' rent with the Commissioner for National Housing for payment to the tenant,

(ii) the landlord of the premise; had deposited a sum equivalent to five years' rent where the standard rent thereof for a month exceeds one hundred rupees, with the Commissioner for National Housing for payment to the tenant,

where the ownership of such premises was acquired by the landlord, on a date subsequent to the specified date, by purchase or by inheritance or gift other than inheritance or gift from a parent or spouse

the court shall in such decree direct that no person, other than the landlord or some

[§ 2, Law 10 of 1977.]
[§ 12, 55 of 1980.]

[§ 12, 55 of 1980.]

[§ 12, 55 of 1980.]

member of his family whose name shall be specified in the decree, shall enter into occupation of the premises upon vacation thereof by the tenant or upon the ejectment therefrom of the tenant.

(9) Where, in any case to which subsection (8) applies, the landlord or other person whose name is specified in the decree, without reasonable cause, does not enter into occupation of the premises before the expiration of a period of three months after the date of the vacation thereof by the tenant or of his ejectment therefrom, or having thus entered into occupation of the premises, vacates them without reasonable cause within three years of the entry into such occupation or lets such premises or part thereof within such period, the tenant (hereinafter referred to as "the former tenant") may, at any time within fourteen days after the expiration of the said period of three months, or, as the case may be, at any time within fourteen days after the vacation of the premises by the landlord or the said other person, make application to the court for an order restoring him into possession of the premises. The landlord shall be named respondent to such application.

(10) Notice of any application made by the former tenant under subsection (9) shall be served on the person, if any, for the time being in occupation of the premises; and where notice is so served—

- (a) such person may, if he applies in that behalf to the court within fourteen days of the date of service on him of such notice, be added as a party to the proceedings upon the application; and
- (b) such person shall, whether or not he is so added as a party, be bound by any order made under subsection (11).

(11) Where the court is satisfied upon application made by the former tenant under subsection (9) that the landlord or other person whose name is specified in the decree, without reasonable cause, did not enter into occupation of the premises before the expiration of the period of three months after the date of the vacation of the premises

by the former tenant or his ejectment therefrom, or, having thus entered into occupation of the premises, has vacated them without reasonable cause within three years of the entry into such occupation, the court may make order for the delivery of possession of the premises to the former tenant, and may, if necessary, by the same or subsequent order, direct the ejectment from the premises of the landlord or any person claiming by, through or under him:

Provided, however, that where any person has been added as a party to the proceedings under subsection (10), no order shall be made under the preceding provisions of this subsection, if the court is of opinion that the person so added as a party was not aware at or before the time at which he entered into occupation, that a decree had been entered for the ejectment from the premises of the former tenant.

(12) Every order made under subsection (II) and every order dismissing an application made by the former tenant under subsection (9) shall be subject to an appeal to the Court of Appeal; and the provisions of the Civil Procedure Code shall apply in relation to any such appeal in like manner as though it were an appeal preferred against an order made by the court in the exercise of its ordinary jurisdiction.

(13) An order made under subsection (11) may be enforced in like manner as an order or decree falling under Head (C) of section 217 of the Civil Procedure Code.

(14) Where there is more than one landlord of any premises, the expression "the landlord" shall, with reference to such premises, be construed, for the purposes of this section, to mean all or any one or more of such landlords.

(15) Where, in any case to which subsection (8) applies, the landlord or other person whose name is specified in the decree, having entered into occupation of the premises vacates them without reasonable cause within three years of the entry into such occupation, such landlord or person shall be guilty of an offence under this Act.

[§ 12, 55 of 1980.]

(16) In subsections (9) to (13), "court" means the court in which the action for the ejection of the former tenant was instituted.

Ejection of occupiers of residential premises purchased or constructed with moneys provided by prescribed State institutions on mortgages of such premises.

23. (1) Where any residential premises are purchased by the tenant of such premises with moneys partly or wholly provided by a prescribed State institution on a mortgage of such premises created in favour of such institution, and where, consequent on such tenant defaulting in the payment of the moneys due upon such mortgage, such premises are sold to any person (hereinafter in this section referred to as "the landlord") the occupier for the time being of such premises, whether he be such tenant or any other person, shall not be entitled, notwithstanding anything in any other law, to occupy such premises after the expiry of a period of six months from the date of such sale and accordingly the occupier shall forthwith on the expiry of such period together with his dependants and subtenants, if any, vacate the premises and deliver possession thereof to the landlord, if he had not done so earlier.

(2) In any case where the occupier of any residential premises referred to in subsection (1) fails to comply with the provisions of subsection (1), it shall be lawful for the landlord to file, in the District Court of the district in which the premises are situated, an application praying for the recovery of possession of the premises, and for the ejection therefrom of the occupier and his dependants and subtenants, if any.

(3) On receipt of an application under subsection (2), the court shall cause to be served on the occupier a copy of the application and a rule *nisi* requiring him—

- (a) to appear on a date specified in such rule, not being earlier than three, or later than seven, clear days after the date of the service of the rule ; and
- (b) to show cause why he should not deliver possession of the premises as required by subsection (1).

(4) A rule *nisi* under subsection (3) shall be deemed to have been duly served on the occupier if it is delivered to him by the Fiscal or any other person authorized by the Fiscal, or where it cannot be so

delivered, if it is posted by the Fiscal, or the person authorized as aforesaid, on some conspicuous part of the premises to which the rule relates.

(5) If any occupier upon whom a rule *nisi* is served under this section appears before the court on the date specified in the rule and, by affidavit or by statement on oath or affirmation, raises any defence, which in the opinion of the court necessitates an adjournment of the hearing, the court shall immediately settle and record the issue or issues raised and shall, having regard to the circumstances of the case, appoint a date not later than seven days from the date on which the occupier appeared before the court for the hearing of evidence; and in such case the Registrar of the court shall thereupon issue a summons to every such witness as may be required by the parties commanding his attendance at the time and place specified in the summons.

(6) Where any date is appointed under subsection (5) for the hearing of any case, the hearing shall not be adjourned for any later date—

- (a) unless all the parties to the case consent to such adjournment; or
- (b) unless the court is satisfied, upon evidence furnished on oath or affirmation or by affidavit, that such adjournment is necessary by reason of the absence otherwise than by collusion, of a witness who knows and is able to prove facts material to the case,

(7) On the date appointed under subsection (5) for the hearing of the case or on such other date, if any, to which such hearing may be adjourned under subsection (6), the court shall hear and determine the issues raised and give judgment thereon, notwithstanding anything to the contrary in any other written law.

(8) If any occupier upon whom rule *nisi* has been served under this section, does not appear on the date specified in such rule or on such other date, if any, to which the hearing may be adjourned under this section or, having appeared, fails to show good and

valid cause why he should not deliver possession as required by subsection (1) of the premises specified in the rule, the rule *nisi* shall be made absolute; and the court shall forthwith issue, and if need be reissue, a writ of possession to the Fiscal of the Court requiring and authorizing him before a date specified in the writ, not being earlier than three, or later than seven, clear days from the date of the issue of such writ, to deliver possession of the premises to the landlord or to any other person appointed by the landlord for the purpose and to eject the occupier and his dependants and subtenants, if any, from the premises. Such writ shall be sufficient for the said Fiscal or any police officer authorized by him in that behalf to enter the premises with such assistants as the Fiscal or such officer shall deem necessary and to give possession accordingly and to eject the occupier and his dependants and subtenants, if any, from the premises.

Where a writ of possession is issued under this subsection to the Fiscal, the execution of such writ shall not be stayed in any manner whatsoever by reason of any steps taken or proposed to be commenced in any court, with a view to questioning, varying or setting aside the decision on which such writ was issued,

(9) Any person who -is dissatisfied with any final judgment, or any order having the effect of a final judgment, pronounced or made by a District Court under this section may appeal to the Court of Appeal against such judgment or order; and the provisions of any other written law relating to appeals to the Court of Appeal from the judgments or orders of District Courts shall apply in the case of any appeal preferred under the preceding provisions of this subsection.

(10) No action for the recovery of any premises referred to in subsection (1) or for the ejectment of the occupier from such premises shall be taken except under the provisions of this section.

(11) Nothing In any other provisions of this Act shall apply to or restrict the institution or maintenance of any proceedings under this section in respect of any premises referred to in subsection (1).

(12) The provisions of this section shall, *mutatis mutandis*, apply in the case of

premises which were constructed with moneys partly or wholly provided by a prescribed State institution on a mortgage of such premises created in favour of such institution, and which in the opinion of such institution, were constructed for residential purposes.

(13) in this section, "prescribed" means prescribed by the Minister by Notification published in the Gazette.

24. Notwithstanding anything in any other provisions of this Act, where a decree for the ejectment of a tenant of any residential premises is entered by any court on the ground that the court is of opinion that the premises are reasonably required for occupation as a residence for the landlord or any member of his family, the landlord or member of his family in whose favour the decree was entered shall not, before the expiration of a period of ten years from the date of such decree, be entitled to institute any action or proceedings on such ground for the ejectment of the person who may subsequently have become the tenant of such premises or for the ejectment of any tenant of any other residential premises.

Prohibition of ejectment proceedings for ten years after obtaining a decree for ejectment.

25. (I) Where the tenant of any residential premises has been given notice of the termination of the tenancy on the ground that the rent of such premises has been in arrear and where any other person guarantees the payment of such rent and all rents payable by such tenant in the future, the board may, on application made to it by the tenant and if it is of opinion that a satisfactory guarantee has been provided, order the landlord to withdraw the notice.

Withdrawal of notice on provision of guarantee for payment of rent.

(2) Where the board has under subsection (1) ordered a landlord to withdraw a notice, such landlord shall, notwithstanding anything to the contrary in any other provisions of this Act, not be entitled to institute any action or proceedings for the ejectment of the tenant by virtue of his having given such notice.

26. (1) Where any residential premises the annual value of which exceeds the relevant amount have been let before the date of commencement of this Act in separate parts which are not separately

Ejectment of tenants of parts of premises.

assessed for the purpose of rates and which parts are independent living units, the grounds on which the landlord may institute action or proceedings for the ejectment of the tenant of any such part shall be the grounds on which the landlord of any premises the annual value or standard rent of which corresponds to the proportionate annual value or standard rent, as the case may be, fixed by the board for such part, may institute action or proceedings for the ejectment of the tenant of any such premises.

(2) The board, in fixing the proportionate annual value of any part under subsection (1), shall ensure that the aggregate of the proportionate annual values of all such parts does not exceed the annual value of the entire premises as specified in the assessment in force on the first day of January, 1969, or, where the assessment of the annual value of such premises was made for the first time after that date, the amount of such annual value as specified in such first assessment.

Ejectment of tenant of part of premises another part of which is occupied by the landlord.

27. (1) Notwithstanding anything in any other provisions of this Act, where any part of any residential premises is let on or after the date of commencement of this Act, or where any part of any residential premises the annual value of which exceeds the relevant amount has, prior to such date, been let, the landlord of such residential premises shall be entitled to institute action or proceedings for the ejectment of the tenant of that part of the premises—

- (a) if that part was not separately assessed for the purpose of rates on the day on which it was first let;
- (b) if the landlord was, during a period of not less than six months immediately prior to the date on which such action or proceedings is or are instituted, living in, and living only in, another part of such premises, such part not being only an extension (to the premises) constructed after the tenant for the time being came into occupation of the part let to him;
- (c) where any part of any residential premises the annual value of which

exceeds the relevant amount was let prior to the date of commencement of this Act, if the landlord thereof was living in, and living only in, another part of such premises during the whole of the period of six months prior to the first day of February, 1972, or where that part was let within six months prior to the first day of February, 1972, if the landlord was during the whole of the period commencing on the date on which such part was let and ending on the date of commencement of this Act living in, and was let and ending on the date of commencement of this Act living in, and living only in, another part of such premises; and

- (d) if the landlord has given one month's notice of the termination of the tenancy:

Provided, however, that the landlord of such residential premises shall not be entitled to institute action or proceedings under the preceding provisions of this subsection for the ejectment of the tenant of any part of such premises, if the ownership of such premises was acquired by the landlord on a date subsequent to the specified date by purchase, or by inheritance or gift other than inheritance or gift from a parent or spouse who had acquired ownership of such premises on a date prior to the specified date.

For the purposes of the foregoing proviso, " specified date " means the date on which the tenant for the time being of the part of the premises, or the tenant upon whose death the tenant for the time being of the part of the premises succeeded to the tenancy under section 36 of this Act or section 18 of the Rent Restriction Act (No. 29 of 1948), came into occupation of the part of the premises.

(2) Where any action or proceedings for the ejectment of a tenant is instituted in a court under subsection (1), such court—

- (a) shall as expeditiously as possible hear and determine such action or proceedings; and

(b) shall, where it decides that the tenant shall be ejected, make order for the delivery of possession of the part of the premises to the landlord on a date not later than three months from the date of such order and may, if necessary by the same or subsequent order direct the Fiscal to eject from the premises any person for the time being in occupation of such part of the premises and to deliver possession of such part of the premises to the landlord.

(3) Where an order under subsection (2) is issued to the Fiscal by a court, the execution of such order shall not be stayed in any manner by reason of any steps taken or proposed to be commenced in any court with a view to questioning, varying or setting aside such order.

28. (1) Notwithstanding anything in any other provisions of this Act, where the tenant of any residential premises has ceased to occupy such premises, without reasonable cause, for a continuous period of not less than six months, the landlord of such premises shall be entitled in an action instituted in a court of competent jurisdiction to a decree for the ejection of such tenant from such premises.

(2) The summons issued to be served on a tenant in an action referred to in subsection (1) shall be deemed to have been duly served on such tenant if the serving officer has affixed one of the duplicates of the summons to a conspicuous part of such premises and if a duplicate of the summons was sent by the court issuing the summons by registered post to the last known address of the tenant.

29. (1) Notwithstanding anything in any other law, no lease, agreement express or implied, or other contract entered into prior to the date of commencement of this Act in respect of the tenancy or rent of any residential premises the annual value of which exceeds the relevant amount, shall, with effect from the date of commencement of this Act, be valid or have any effect in law.

(2) Notwithstanding anything in any other provisions of this Act, it shall be lawful, with effect from the date of commencement of this Act, for the landlord of any residential premises and the person seeking to be the tenant thereof to enter into a written agreement whereby such premises are let to such person for a period specified therein, such period being not less than five years, or until the happening of an event specified therein, where at the end of such period or on the happening of such event, such premises will be required for occupation as a residence for the landlord or any member of his family; and no such contract or agreement shall, notwithstanding anything in any other written law, be valid or have effect in law unless it is registered with the board on application made either by such landlord or by such person within thirty days after it is entered into.

(3) Where an agreement under subsection (2) is entered into, the tenant shall vacate the premises at the end of the period specified in such agreement, or as the case may be, on the happening of the event specified therein.

(4) Where a tenant who has entered into an agreement under subsection (2), vacates the premises prior to the end of the period, or the happening of the event specified therein, the landlord or any member of his family may enter into occupation of such premises or the landlord may let such premises to any other tenant.

(5) Where the landlord or any member of his family, having entered into occupation of the premises under subsection (4), vacates the premises without reasonable cause within three years of the entry into such occupation, the landlord or the member of the family, as the case may be, shall be guilty of an offence under this Act.

(6) No landlord shall let any premises to a tenant under subsection (4) for any period exceeding the unexpired part of the period specified in the agreement entered into under subsection (2), or, as the case may be, for any period beyond the happening of the event specified in such agreement.

Ejection of tenants who cease to occupy premises for six months.

Agreements in respect of tenancy, rent, &c.

(7) Where, on the tenant vacating the premises in accordance with the agreement entered into under subsection (2) or on the tenant being ejected therefrom under subsection (13), such premises are not required, for any cause, for occupation as a residence for the landlord or any member of his family, the landlord shall so notify to the board, and the board may, as hereinafter provided and notwithstanding anything in any other law, authorize such person as in its opinion is suitable to be made the tenant thereof to occupy such premises.

(8) Where, at any time after an agreement has been entered into under subsection (2) and before the end of the period, or the happening of the event, specified therein, or at any time after the end of the period, or the happening of the event, specified therein, and before the tenant vacates the premises, the landlord considers that such premises will not be required for occupation as a residence for the landlord or any member of his family as contemplated when the agreement was entered into, the landlord shall so notify to the board, and the board may, if the tenant makes a request therefor authorize the tenant to continue to occupy such premises or, where the tenant does not make a request therefor, authorize as hereinafter provided and notwithstanding anything in any other law, such other person as in its opinion is suitable to be made the tenant thereof, to occupy such premises.

(9) Where at any time after the tenant vacates the premises, whether at the time specified in the agreement or thereafter, and before the landlord or any member of his family enters into occupation of such premises, the landlord considers that such premises will not be required immediately after such vacation, for occupation as a residence for the landlord or any member of his family, the landlord shall so notify to the board, and the board may, as hereinafter provided and notwithstanding anything in any other law, authorize such person as in its opinion is suitable to be made the tenant thereof, to occupy such premises.

(10) Where the landlord or any member of his family, having entered into occupation of the premises under the

preceding provisions of this section, intends to vacate the premises before the expiration of a period of three years after such entry the landlord or the member of his family, as the case may be, shall so notify to the board, and the board may as hereinafter provided and notwithstanding anything in any other law, authorize such person as in its opinion is suitable to be made the tenant thereof, to occupy such premises.

(11) Where any person authorized by the board under the preceding provisions of this section to occupy or continue to occupy any premises occupies or continues to occupy such premises, he shall be deemed to occupy or to continue to occupy such premises, as the case may be, under an agreement entered into under subsection (2), for such period, or until the happening of such event as may be specified by the landlord at the time of such authorization, except in a case where the landlord of such premises is prepared to let such premises to such person under the provisions of this Act otherwise than under an agreement under subsection (2).

(12) The exercise of the power of the board to authorize persons to occupy premises under the preceding provisions of this section shall be subject to the right of the landlord of the premises to object to the first three persons proposed by the board to be so authorized.

(13) Where any action for breach of an agreement under subsection (2) is instituted before a court, the court shall as expeditiously as possible hear and determine such action and shall, if such breach is proved, and if satisfied that the premises are required for occupation as a residence for the landlord or any member of his family, enter a decree for the ejection of the tenant without granting the tenant any further period of time for vacating the premises.

(14) Where the landlord or any member of his family does not enter into occupation of the premises without reasonable cause before the expiration of a period of three months after the date of vacation thereof by the tenant, or of his ejection therefrom, under the preceding provisions of this section, or, having thus entered into

occupation of the premises, vacates the premises without reasonable cause within three years of the entry into such occupation, the landlord or the member of his family, as the case may be, shall be guilty of an offence under this Act.

certificate of tenancy relating to such premises in the prescribed form. A certificate of tenancy given under this section by a landlord to a tenant shall be admissible in evidence and shall be *prima facie* evidence of the facts stated therein.

Continuance of original contract of tenancy.

***31.** Where an action for the ejectment of any person from any premises occupied by him as a tenant is dismissed by any court by reason of the provisions of this Act, his occupation of those premises for any period prior or subsequent to the dismissal of such action shall, without prejudice to the provisions of this Act, be deemed to have been or to be under the original contract of tenancy.

(2) Where the landlord of any premises refuses to give the tenant a certificate of tenancy, the board shall, upon application made to it by the tenant, give to the tenant a certificate of tenancy relating to such premises in the prescribed form, and a certificate of tenancy given by the board to the tenant shall be deemed to be a certificate of tenancy given by the landlord to the tenant.

Recovery of payments in excess of authorized rent. [§ 14, 55 of 1980.]

32. Where any tenant of any premises has paid by way of rent to the landlord, in respect of any period any amount in excess of the authorized rent, or the proportionate rent, as the case may be, of the premises or part thereof, such tenant shall be entitled to recover the excess amount from the landlord, and may, without prejudice to any other method of recovery, deduct such excess amount from the rent payable by him to the landlord.

36. (1) Notwithstanding anything in any other law, the succeeding provisions of this section shall have effect in the event of the death of the tenant of any premises. For the purposes of this subsection, a person shall be deemed to be the tenant of any premises notwithstanding that his tenancy of such premises has been terminated by the expiry of the notice of the termination of the tenancy given by the landlord thereof, if at the time of his death he was in occupation of such premises.

Continuance of tenancy upon death of tenant.

Statement as to standard rent, receipt, &c. [§ 15, 55 of 1980.]

33. (1) The landlord of any premises shall, on being requested in writing so to do by the tenant of the premises, supply the tenant with a statement in writing setting out the standard rent of the premises, the amount of any increase of rent which is claimed by the landlord to be a permitted increase, and, where it is applicable, the proportionate rent of any of such premises.

(2) Any person who—

(a) in the case of residential premises the annual value of which does not exceed the relevant amount and which has been let prior to the date of commencement of this Act—

(2) It shall be the duty of the landlord of any premises to issue to the tenant a receipt in acknowledgment of every payment made by the tenant by way of rent or advance, whether or not such receipt is demanded by the tenant.

(i) is the surviving spouse or child, parent, brother or sister of the deceased tenant of the premises or was a dependant of the deceased tenant immediately prior to his death; and

Power of board to determine authorized rent. [§ 16, 55 of 1980.]

34. The board may, upon an application made in that behalf by the landlord or the tenant of any premises, by order determine the amount of the authorized rent of the premises.

(ii) was a member of the household of the deceased tenant (whether in those premises or in any other premises) during the whole of the period of three months preceding his death, or

Certificate of tenancy.

35. (1) The landlord of any premises shall, upon being requested to do so by the tenant of such premises, give to the tenant a

* Section 30 is repealed by Act No. 55 of 1980.

(b) in the case of residential premises other than those referred to in paragraph (a)—

- (i) is the surviving spouse or the child (where the child is not less than eighteen years of age) of the deceased tenant; and
- (ii) was a member of the household of the deceased tenant (whether in those premises or in any other premises) during the whole of the period of three months preceding his death; or

(c) in the case of business premises—

- (i) is the surviving spouse or the child of the deceased tenant, where such spouse or child carries on in such premises the business carried on by the deceased tenant; or
- (ii) is a partner in the business, or heir to the business, carried on by the deceased tenant; or
- (iii) is the executor or administrator of the estate of the deceased tenant,

shall, subject to any order of the board as hereinafter provided, be deemed for the purposes of this Act to be the tenant of the premises:

Provided, however, that a person referred to in paragraph (b) shall not be so deemed if such person was not living in those premises during the whole of the aforesaid period of three months, unless he satisfies the board that the premises in which he was living during the aforesaid period or part thereof were unsatisfactory or not available for his continued occupation.

(3) The landlord of any premises referred to in subsection (1) shall make application to the board for an order declaring which, if any, of the persons who may be deemed to be the tenants under subsection (2) shall be

the person who shall for the purposes of this Act be deemed to be the tenant of the premises.

(4) Where an application is made under subsection (3), the board shall, after notice to all persons who may be deemed to be the tenants under subsection (2) and after due inquiry, make order declaring which, if any, of such persons shall be the person who shall for the purposes of this Act be deemed to be the tenant of the premises.

(5) Any person declared under subsection (4) as the person who shall for the purposes of this Act be deemed to be the tenant of the premises shall be so deemed with effect from the first day of the month succeeding that in which the death of the deceased tenant occurred, and the provisions of this Act shall apply accordingly.

(6) Notwithstanding anything in any other provisions of this Act, the landlord of any premises referred to in subsection (1) shall not be entitled to institute any action or proceedings for the ejectment from such premises of any person referred to in subsection (2) on the ground that the rent of such premises has been in arrear for any period ending on the date on which the board made order under subsection (4).

(7) In this section, " spouse " when used with reference to any person, means the husband or wife, as the case may be, of that person, and includes in the case of marriage by habit and repute or according to custom, any contracting party to that marriage, and " child " includes a child of parents who have contracted a marriage by habit and repute or according to custom.

37. (1) The board shall prepare, keep and maintain up to date a Rent Register in respect of each of the premises situated within its area of jurisdiction and for that purpose the board may require the landlord or tenant of any premises to furnish to the board such information and particulars as it may deem necessary. Rent Register.

(2) The landlord of any premises let prior to the date of commencement of this Act shall within three months of such date send by registered post to the board and also to

the tenant of such premises a statement in writing containing the following particulars:—

- (a) the name of the tenant;
- (b) the name and address of the landlord;
- (c) the assessment number and address of the premises, with the boundaries and the extent;
- (d) the square area of the building;
- (e) the amenities provided to the premises, prior to and after the commencement of the tenancy;
- (f) the standard rent of the premises;
- (g) the authorized rent of the premises ;
- (h) the proportionate rent of any part of the premises;
- (i) the date of commencement of tenancy;
- (j) the date on which rent becomes due under the tenancy;
- (k) the name and address of the person to whom rent is payable ; and
- (l) any other particulars pertaining to the tenancy of the said premises.

(3) Where any premises or part thereof are let on or after the date of commencement of this Act, the particulars required to be furnished under subsection (2) and particulars relating to any agreement entered into under section 29 shall be furnished by the landlord within six weeks of the date on which such premises are let.

(4) The particulars furnished by the landlord under subsections (1), (2) and (3) and by the tenant under subsection (1) shall be entered in the Rent Register.

(5) In the event of a dispute between the landlord and the tenant regarding any of the afore-mentioned particulars the board shall make a decision after due inquiry. Such decision shall be final and conclusive.

(6) Any tenant or subtenant of any premises shall have the right to apply to the board to have his name entered in the Rent Register as a tenant or subtenant, as the case may be, of such premises. The board after notice to the landlord or to the landlord and the tenant, as the case may be, and after due inquiry, shall if satisfied, enter such person's name in the Rent Register as a tenant or subtenant of such premises. The decision of the board shall be final and conclusive.

(7) Where a change occurs in any of the particulars afore-mentioned, such change shall be notified to the board, by the person who has furnished such particulars, within six weeks of the occurrence of such change.

38. (1) There shall be for each area in which this Act is in operation such number of Rent Boards as may be determined by the Minister, constituted in the manner hereinafter provided.

Constitution of Rent Board.

(2) Each board in any Municipality, or town within the meaning of the Urban Councils Ordinance or the Town Councils Ordinance, shall consist of—

- (a) four persons appointed by the Minister, being persons who are not members of the Municipal Council, or Urban Council or Town Council, as the case may be, and two at least of whom shall be tenants of residential premises who are not owners or landlords of residential premises; and

- (b) the Chief Valuer:

Provided, however, that in the case of any board in the Municipality of Colombo, the Municipal Assessor shall be a member in lieu of the Chief Valuer.

The Minister shall nominate one of the members appointed by him to be the chairman of the board.

(3) The board for any area not mentioned in subsection (2) shall consist of—

- (a) four persons appointed by the Minister one of whom shall be nominated by him to be the chairman of the board ; and

[§17, 55 of 1980.]

(b) the Chief Valuer.

(4) Any officer of the department of the Chief Valuer authorized by him for the purpose may represent the Chief Valuer at any meeting of any board and shall be deemed for the purposes of the meeting to be a member of the Board.

(5) Any officer of the department of the Municipal Assessor authorized by him for the purpose may represent the Municipal Assessor at any meeting of any board in the Municipality of Colombo and shall be deemed for the purposes of the meeting to be a member of the board,

(6) Every person appointed under this section to be a member of any board shall, unless he earlier vacates the office by resignation or revocation of appointment, hold office for a period of three years commencing on the date of his appointment. Any member vacating office by effluxion of time shall be eligible for reappointment.

39. (1) Every application to the board under this Act shall be made in such manner as may be prescribed.

(2) At any meeting of the board three members shall constitute a quorum.

(3) Before making any order upon any application under this Act, the board shall give all interested parties an opportunity of being heard and of producing such evidence, oral or documentary, as may be relevant in the opinion of the board.

(4) The board may examine any witness on oath if it thinks fit to do so, and may summon any person to appear before it, and may require any person including any officer of a local authority or a department of Government or a corporation to produce any document including a document of title, which may be relevant in the opinion of the board.

(5) The board may, in such circumstances and according to such scale or scales as may be prescribed, award costs when dealing with any application made to the board under this Act.

(6) Any sum ordered by the board to be paid as costs by any person may be recovered, on application made to the Magistrate's Court having jurisdiction in the place where such person is resident, in like manner as a fine imposed by the court, notwithstanding that such sum may exceed the amount of the fine which the court may in its ordinary jurisdiction impose.

(7) All documents, notices or summons issued under the hand either of the chairman of the board or the secretary thereto, if appointed in accordance with regulations made in that behalf, shall be deemed to be issued by the board.

(8) The opinion of the majority of the members of the board present at any meeting shall be deemed to be the decision of the board on any matter. In case of an equality of votes, the chairman shall have a casting vote.

(9) In the absence of the chairman of the board from any meeting of the board, the members present shall elect some other member to be the chairman of that meeting.

(10) The proceedings of the board shall be open to the public, and minutes of such proceedings, including a summary of any oral evidence given before the board, shall be kept by or under, the direction of the chairman.

(11) Any interested party may, with the permission of the board, be represented before the board by an attorney-at-law or other person authorized in writing by that party.

(12) The proceedings of the board shall be deemed to be judicial proceedings within the meaning and for the purposes of Chapter XI of the Penal Code, and the members of the board shall be deemed to be public servants within the meaning of that Code.

(13) Every order made by the board at any meeting shall be reduced to writing and signed by the chairman, and a copy of the order shall be forthwith transmitted by registered post or delivered to the applicant and to the respondent.

(14) Regulations may be made prescribing the fees to be paid by persons

Proceedings
before the
board.

making applications to the board, and providing generally (but without prejudice to the preceding provisions of this section) for the procedure to be followed in the consideration and decision of applications, and other matters arising before the board under this Act.

40. (1) There shall be for the purposes of this Act a Board of Review consisting of not more than seven persons appointed by the Minister. Such persons shall be persons who hold or have held judicial office or are attorneys-at-law. The Minister shall nominate one of the members so appointed to be the Chairman of the Board of Review and may nominate another member of the Board of Review to be the Vice-Chairman of the Board of Review who shall in the absence of the Chairman perform the functions and exercise the powers vested in the Chairman under this Act.

(2) Every member of the Board of Review shall unless he earlier vacates the office by resignation or revocation of appointment, hold office for a period of two years commencing on the date of his appointment. Any member vacating office by effluxion of time shall be eligible for reappointment.

(3) There may be appointed, by name or by office, a secretary to the Board of Review.

(4) Any person who is aggrieved by any order made by any Rent Board under this Act may, before the expiry of a period of twenty-one days after the date of the receipt by him of a copy of the order, appeal against the order to the Board of Review :

Provided, however, that no appeal shall lie except upon a matter of law.

For the purposes of this subsection, the copy of an order which is transmitted to any person by registered post shall be deemed to have been received by him on the date on which it is delivered in the ordinary course of post at his address.

(5) (a) Every appeal to the Board of Review shall be heard at a meeting of not less than three members of that Board selected by the secretary to the Board by the drawing of lots. The decision made on such

appeal at such meeting shall be deemed to be the decision of the Board of Review on such appeal.

(b) The members of the Board hearing any appeal may request the secretary to summon a meeting of the whole Board. The quorum for such a meeting shall be five.

(c) Where the decision of the members of the Board of Review who hear any appeal is not unanimous, the decision of the majority of them shall be deemed to be the decision of that Board.

(d) The Chairman of the Board of Review, if he is one of the members of the Board hearing any appeal to that Board, or, if he is not one of them, one of those members chosen by the members present shall preside at a meeting of those members.

(e) The powers conferred on the Board of Review by the succeeding provisions of this section may be exercised by the members of that Board who hear any appeal to that Board.

(6) At the hearing of any appeal by the Board of Review, the appellant and the respondent shall each be entitled to be heard in person or by an attorney-at-law, but, save with the express consent of the Board, shall not be entitled to adduce any evidence whether oral or documentary.

(7) In any case where the Board of Review thinks fit so to do, whether of its own motion or on the application of any party to an appeal, the Board may examine any witness on oath, and may summon any person to appear before it, and may require any person to produce any document which it considers relevant, including any document of title.

(8) All documents, notices and summonses issued under the hand either of the Chairman of the Board of Review or of the Secretary to the Board shall be deemed to be issued by the Board.

(9) The proceedings of the Board of Review shall be deemed to be judicial proceedings within the meaning and for the purposes of Chapter XI of the Penal Code, and the members of the Board shall be deemed to be public servants within the meaning of that Code.

Board of Review.

(10) The Board of Review may in disposing of any appeal under this section award costs against any party. The provisions of subsection (6) of section 39 shall apply, *mutatis mutandis*, where any costs are awarded under this subsection.

travelling expenses payable to any person referred to in paragraph (c) of subsection (2) of this section and all other expenses incurred in the administration of this Act, shall be paid out of moneys provided by Parliament for the purpose.

(11) The decision of the Board of Review on any appeal under this section shall be reduced to writing and signed by the members of the Board who heard the appeal. They shall set out the reasons for the decision. Such decision shall be final and conclusive and—

(2) Regulations may be made—

(a) shall, in so far as it annuls or varies the order of the Rent Board against which the appeal was preferred, be substituted for and take the place of that order for the purposes of this Act; and

(a) prescribing the fees or rates of fees to be paid by persons making applications to any board under this Act, and providing for the recovery of any such fees;

(b) shall be binding on and followed by every Rent Board.

(b) providing for the payment of remuneration and travelling allowances to members of the Board of Review or of any Rent Board ; and

(12) Regulations may be made—

(c) providing for the payment of travelling expenses to any person who, on being summoned by a board on its own motion, appears before it for the purpose of giving any evidence or producing any document.

(a) prescribing the fees to be paid by persons preferring appeals to the Board of Review and the time and mode of the payment of such fees ;

42. (1) Every person who contravenes or fails to comply with the provisions of sections 3 (1) and (2); 9 (1) and (3); 10 (3), (4), (6), (9), (10), (11), (13) and (14); 11(1), (2) and (3); 12 (1) and (2); 14(1); 15 (1); 16 ; 17 (1); 18 ; 19 ; 20 (2); 21 (3); 22 (15); 29 (3), (5), (6),(7),(8),(9),(10) and (14); 33 (1) and (2); 35 (1); and 37 (2), (3) and (7) of this Act or any order made by any Rent Board shall be guilty of an offence under this Act. Offences and penalties, [§ 18. 55 of 1980.]

(b) prescribing the form and the manner in which such appeals shall be preferred ;

(c) requiring the record of the proceedings before the Rent Board to be transmitted to the Board of Review in the event of any appeal; and

(2) Every person guilty of an offence under this Act shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.

(d) providing generally (but without prejudice to the provisions of subsections (5) to (11)) for the hearing and disposal of appeals and for the procedure to be followed at any such hearing.

* (4) Where an offence under this Act is committed by a body of persons, then—

Financial provisions.

41. (1) The remuneration and allowances payable to a member of the Board of Review or of any Rent Board or to an authorized officer within the meaning of subsection (1) of section 44 and the

(a) if that body of persons is a body corporate, every director and officer of the body corporate; or

* Subsection (3) is repealed by Act No. 55 of 1980.

(b) if that body of persons is a body unincorporate, every director, manager, secretary, agent or other officer or person concerned with the management thereof, and in the case of a partnership, every partner,

shall be deemed to be guilty of that offence ;

Provided, however, that a director or an officer of such body corporate, or a director, manager, secretary, agent or other officer or person concerned with the management of such body unincorporate, or a partner of such partnership, shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(5) Where any prosecution against the landlord of any premises for any alleged contravention of the provisions of section 3 or section 9 is instituted by or at the instance of the tenant of such premises, then no prosecution against such tenant for any contravention of those provisions by reason of any payment or offer of payment alleged to have been made by him in respect of those premises, shall be instituted or maintained—

(a) at any time while the proceedings in the prosecution against the landlord are pending; or

(b) at any time after the proceedings have terminated, if the landlord is, in such proceedings, convicted of the offence with which he was charged.

In this subsection, "tenant M includes any person seeking to be the tenant of any premises.

Regulations.

43. (1) The Minister may make all such regulations as may be necessary for the purpose of carrying out or giving effect to the provisions and principles of this Act.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

(4) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the Gazette.

(5) Any regulation made by the Minister shall when approved by Parliament be as valid and effectual as if it were herein enacted. Notification of such approval shall be published in the Gazette,

44. (1) In this section, "authorized officer " means every officer who is declared by Order of the Minister to be an authorized officer for the purposes of this Act.

Enforcement of Act by authorized officers.

(2) The Minister shall in every declaration made under subsection (1) in relation to any officer specify the area or areas in which such officer may exercise the powers and functions of an authorized officer under this section; and any area so specified in respect of any such officer is hereinafter referred to as "the area of his appointment ".

Every Order under subsection (1) shall be published in the Gazette.

(3) It shall be lawful for an authorized officer—

(a) to institute a prosecution in respect of any offence under this Act alleged to have been committed within the area of his appointment;

(b) to make to the board, at the request of the tenant of any premises situated within the area of his appointment, any application authorized by this Act to be made to the board by such tenant;

(c) to make such inquiry as may be necessary in the event of any complaint being made to him of

any contravention of this Act alleged to have been committed within the area of his appointment; and for the purposes of such inquiry, to enter upon any premises at any reasonable time of the day for the purpose of inspecting such premises or of obtaining information with respect to the matter of the complaint; and

(d) generally to make such inquiries and to take such steps, and, in accordance with regulations made in that behalf, to exercise such powers of inspection or otherwise, as may be necessary to secure compliance with the provisions of this Act.

(4) Every authorized officer shall be deemed to be a public servant within the meaning of the Penal Code.

Delegation of powers of the Commissioner for National Housing, [§ 19, 55 of 1980.]

44A. (1) The Commissioner for National Housing may delegate any power, duty or function conferred or imposed on, or assigned to, him by any provision of this Act to the Government Agent for an administrative district or to the Assistant Government Agent of an administrative division.

(2) Where any power, duty or function is delegated, in pursuance of the provisions of subsection (1), to the Government Agent of an administrative district or to an Assistant Government Agent of an administrative division by the Commissioner for National Housing, such Government Agent or Assistant Government Agent may, subject to such general or special directions as may be issued by the Commissioner for National Housing, from time to time, exercise, perform and discharge such power, duty or function in respect of any premises within the limits of the administrative district or division to which his appointment relates.

Removal of difficulties.

45. It shall be lawful for the Minister by Order published in the Gazette, to make such provision as he may in his discretion consider necessary or expedient for the purpose of providing for any unforeseen or special circumstances, or of resolving, determining or adjusting any doubt, question or matter, which may arise in

relation to the application of this Act or in respect of which no provision or no effective provision is made in this Act.

Every Order made under this section shall upon publication thereof in the Gazette have the force of law and be as valid and effectual as if it were herein enacted.

46. (1) The Rent Restriction Act (No 29 of 1948), as amended from time to time is hereby repealed.

Repeal and transitional provisions.

(2) Notwithstanding the repeal of the Rent Restriction Act—

(a) every order or decision made by the Rent Control Board or the Board of Review under that Act in relation to any premises shall be deemed to be an order or decision made by the Rent Board or the Board of Review, as the case may be, under the corresponding provisions of this Act, and shall have effect accordingly;

(b) each Rent Control Board constituted under section 19 of that Act shall continue to hold office, and shall be deemed to be a Rent Board, under this Act, and the members thereof shall, until fresh appointments are made under this Act, hold office in like manner as though section 38 of this Act had been in operation at the time of the appointment of such members;

(c) the Board of Review constituted under section 21 of that Act shall continue to hold office under this Act, and the members thereof shall until fresh appointments are made under this Act hold office in like manner as though section 40 of this Act had been in operation at the time of the appointment of such members;

(d) all regulations made under that Act and in force on the day immediately preceding the date of commencement of this Act shall be deemed to be regulations made

under this Act, and may accordingly be amended, added to or rescinded by regulations made under this Act;

was acquired by the landlord under the circumstances specified in subsection (7) of section 22; or

(e) all proceedings which are pending on the day immediately preceding the date of commencement of this Act before any Rent Control Board under that Act shall be heard and continued before that Rent Control Board in all respects as though that Act had not been repealed ; and all appeals which are pending on the day immediately preceding the date of commencement of this Act before the Board of Review constituted under section 21 of that Act shall be heard and continued before that Board of Review in all respects as though that Act had not been repealed ;

(ii) for the ejectment of the tenant from any residential premises the annual value of which exceeds the relevant amount; or

(iii) for the ejectment, from any residential premises, of any person entitled under section 18 of the Rent Restriction Act (No. 29 of 1948), to give notice to the landlord thereof to the effect that he proposes to continue in occupation of the premises as tenant thereof,

(f) any requirement made, certificate issued, payment made, notice, determination, direction or approval given, application made or thing done under that Act shall, if in force on the day immediately preceding the date of commencement of this Act, continue in force and shall, so far as it could have been made, issued, given or done under this Act, have effect as if made, issued, given or done under the corresponding provisions of this Act.

shall, if such action or proceedings is or are pending on the date of commencement of this Act, be deemed at all times to have been and to be null and void.

(b) any appeal preferred to the Supreme Court from any judgment or decree of a court in any such action or proceedings as is or are referred to in paragraph (a) and is pending before the Supreme Court on the date of commencement of this Act shall be deemed at all times to have been and to be null and void ; and

Pending actions.

47. Notwithstanding anything in the Rent Restriction Act (No. 29 of 1948), or in any other law—

(a) any action or proceedings instituted in a court before the date of commencement of this Act—

(i) for the ejectment of the tenant from any residential premises the standard rent of which for a month exceeds one hundred rupees and the annual value of which does not exceed the relevant amount, where such action is instituted on the ground that such premises are reasonably required for occupation as a residence for the landlord or any member of his family, and where the ownership of such premises

(c) proceedings shall not be taken for the enforcement of any judgment or decree in any such action or proceedings as is or are referred to in paragraph (a), and where such proceedings have begun before the date of commencement of this Act but have not been completed on such date, such proceedings shall not be continued.

48. In this Act, unless the context Interpretation. otherwise requires—

" annual value " of any premises means the annual value of such premises assessed as residential or business premises, as the case may be, fo

the purposes of any rates levied by any local authority under any written law and as specified in the assessment under such written law, and where used in relation to the relevant amount, means the annual value of the premises as specified in the assessment in force during the month of January, 1968, or if the assessment of the annual value of the premises is made for the first time after that month, the amount of such annual value as specified in such first assessment;

any authority created and established by or under any law to exercise, perform and discharge powers, duties and functions corresponding to or similar to the powers, duties and functions exercised, performed and discharged by such Council;

" board", in relation to any premises, means the Rent Board established under section 38 for the area in which the premises are situated ;

" member of the family " of any person means the spouse of that person, or any son or daughter of that person over eighteen years of age ;

" business premises " means any premises other than residential premises as hereinafter defined;

" premises " means any building or part of a building together with the land appertaining thereto;

"prescribed" means prescribed by regulation;

" landlord ", in relation to any premises, means the person for the time being entitled to receive the rent of such premises and includes any tenant who lets the premises or any part thereof to any subtenant;

" reasonable cause" includes a cause approved or sanctioned by the board;

" regulation " means a regulation made under section 43 ;

" relevant amount " means—

" local authority " means—

(1) in relation to residential premises—

(a) any Development Council established under the Development Councils Act or any other authority, body or institution created and established by or under any law, vested with the exercise, performance and discharge of the powers, duties and functions of any Municipal Council, Urban Council, Town Council and Village Council under the Municipal Councils Ordinance, Urban Councils Ordinance, Town Councils Ordinance and Village Councils Ordinance respectively, or under any other law;

(a) Rs. 2,000, if such premises are situated in the Municipality of Colombo;

(b) Rs. 1,500, if such premises are situated in any other Municipality;

(c) Rs. 1,000, if such premises are situated in a town within the meaning of the Urban Councils Ordinance; and

(d) Rs. 500, if such premises are situated in a town within the meaning of the Town Councils Ordinance, or in any area other than an area referred to in the preceding provisions of this paragraph;

(2) in relation to business premises—

(b) any Municipal Council, Urban Council, Town Council or Village Council and includes

(a) Rs. 6,000, if such premises are situated in the Municipality of Colombo;

[§ 20, 55 of 1980.]

- (b) Rs. 4,000, if such premises are situated in any other Municipality;
- (c) Rs. 2,000, if such premises are situated in a town within the meaning of the Urban Councils Ordinance; and
- (d) Rs. 1,000, if such premises are situated in a town within the meaning of the Town Councils Ordinance, or in any area other than an area referred to in the preceding provisions of this paragraph;

"residential premises" means any premises for the time being occupied wholly or mainly for the purposes of residence.

49. Notwithstanding anything in this Act or any other law, any lease, agreement express or implied or other contract entered into prior to the 12th day of December, 1980, in respect of the tenancy or rent of any residential premises in the occupation of and let to—

- (i) a person who has been issued with a valid *visa* under the Immigrants and Emigrants Act and whose total income exceeds one thousand rupees per month ; or
- (ii) a non-resident company,

shall with effect from the 12th day of December, 1980, be deemed to be invalid and cancelled for all purposes.

Cancellation of certain agreements and leases. [§ 22, 55 of 1980.]

[§ 2 (4) and (5).]

SCHEDULE

REGULATIONS AS TO EXCEPTED PREMISES

1. Any premises of which the landlord is a local authority shall be excepted premises for the purposes of this Act.
2. Any premises of which the landlord is the Commissioner for National Housing shall be excepted premises for the purposes of this Act.
3. Any business premises (other than premises referred to in regulation 1 or regulation 2) situated in any area specified in Column I hereunder shall be excepted premises for the purposes of this Act if the annual value thereof as specified in the assessment made as business premises for the purposes of any rates levied by any local authority under any written law and in force on the first day of January, 1968, or, where the assessment of the annual value thereof as business premises is made for the first time after the first day of January, 1968, the annual value as specified in such assessment, exceeds the amount specified in the corresponding entry in Column II:

| <i>I</i> Area | <i>//</i> Annual Value |
|---|---------------------------|
| | Rs. |
| Municipality of Colombo | 6,000 |
| Municipality of Kandy, Galle or any other Municipality | 4,000 |
| Town within the meaning of the Urban Councils Ordinance | 2,000 |
| Town within the meaning of the Town Councils Ordinance | 1,000 |

4. Any business premises situated in any area in which the Act is in operation (not being a Municipality or a town within the meaning of the Urban Councils Ordinance or the Town Councils Ordinance) shall be excepted premises for the purposes of this Act—

- (a) if on the date of commencement of this Act such premises were let at a rent exceeding Rs. 1,500 per annum; or
- (b) where such premises were not let on that date, if they are first let thereafter at a rent exceeding Rs. 1,500 per annum:

Provided, however, that the board may on the application of the tenant, declare that any premises referred to in the preceding provisions of this regulation are not excepted premises, if the board is satisfied that the fair rental value of the premises is not more than Rs. 1,500 per annum.

CHAPTER 533

REQUISITIONING AND ACQUISITION OF LORRIES

Law
No. 45 of 1973.

A LAW TO PROVIDE FOR THE REQUISITIONING AND ACQUISITION OF LORRIES FOR PUBLIC PURPOSES AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[3rd December, 1973.]

Short title.

1. This Law may be cited as the Requisitioning and Acquisition of Lorries Law.

3. The period during which any lorry is requisitioned under this Law for temporary use for a public purpose by the Government shall not exceed sixty days in each calendar year.

Period of temporary use of lorries not to exceed sixty days in a year.

Requisitioning of lorries required for temporary use for public purposes.

2. (1) Where the competent authority is satisfied that any lorry is required for temporary use for a public purpose by the Government, he may by notice (hereinafter referred to as a "requisitioning notice"), served on the registered owner or person in whose possession or custody such lorry is, requisition such lorry for temporary use of the Government.

4. Where the competent authority is satisfied that any lorry requisitioned under section 2 is permanently required by the Government for any public purpose, he may by Order (hereinafter in this Law referred to as a "vesting Order") published in the Gazette vest such vehicle in the appropriate authority for and on behalf of the Government.

Acquisition of lorries for public purposes.

(2) Service of the requisitioning notice under subsection (1) shall be conclusive proof that such lorry is required for a public purpose by the Government and shall not be questioned in any court of law.

5. (1) Where the competent authority is satisfied that any lorry other than a lorry requisitioned under this Law is permanently required by the Government for a public purpose, he may by notice (hereinafter in this Law referred to as a "notice of claim") published in the Gazette declare that such lorry is required by the Government for a public purpose. Such lorry is hereinafter in this Law referred to as a "notified lorry".

Acquisition of lorries other than lorries requisitioned under this Law.

(3) Where a requisitioning notice has been served under subsection (1) on any person, it shall be lawful for any officer authorized by the competent authority (hereinafter referred to as an "authorized officer") to take possession of the lorry to which the notice relates on behalf of the competent authority.

(2) The publication of a notice of claim made under subsection (1) shall be conclusive proof that such notified lorry is required for a public purpose by the Government and shall not be questioned in any court of law.

(4) The authorized officer may give to the registered owner or person in whose possession or custody such lorry is, such written directions as appear to him to be necessary or expedient in connexion with the taking possession of such lorry, and such registered owner or person shall comply with all such written directions.

(3) Where a notice of claim is published under subsection (1), any officer authorized by the competent authority (hereinafter referred to as the "authorized officer") may, from time to time, by notice (hereinafter in this Law referred to as a "notice of disclaimer") published in the Gazette, disclaim the need for a public

(5) Any police officer, if requested by an authorized officer to do so, shall take such steps and use such force as may be necessary for securing compliance with any direction given under subsection (4).

REQUISITIONING AND ACQUISITION OF LORRIES [Cap. 533]

purpose by the Government of the lorry referred to in the notice of claim and specified in the notice of disclaimer.

(4) No person shall lease, hypothecate, alienate, transfer or dispose of in any manner whatsoever to any other person, other than the Government—

(a) any lorry specified in a notice of claim and not disclaimed by a notice of disclaimer; or

(b) any rights in respect of such lorry.

(5) The competent authority may—

(a) cause a report to be prepared as to the condition of any notified lorry ;

(b) cause a copy of such report to be sent by registered post to the registered owner of the lorry to which the report relates; and

(c) require such registered owner to notify in writing to the competent authority whether or not he agrees with such report and if he is not in agreement, to specify any objections he may have and the grounds of such objections and to produce all documents relied on by him in support of such objections.

(6) (a) The competent authority may, by a vesting Order published in the Gazette, vest in the appropriate authority for and on behalf of the Government, with effect from such date as shall be specified in the Order, any such notified lorry as has not been disclaimed by a notice of disclaimer.

(b) Before a vesting Order takes effect, the competent authority may, from time to time, alter, by Order published in the Gazette, the date on which such vesting Order takes effect.

(c) A vesting Order shall have the effect of giving the Government absolute title to any lorry specified in the Order free from all encumbrances.

6. (1) Where a lorry has been requisitioned for or vested in the Government under the preceding provisions of this Law and the competent authority is satisfied that any spare part is required in connexion with the maintenance of such lorry he may by notice (hereinafter referred to as a " notice of claim ") published in the same manner as specified by subsection (1) of section 5 declare that such spare part is required by the Government for a public purpose.

Acquisition of spare parts for any lorry requisitioned for or vested in the Government.

(2) The provisions of subsections (2) to (6) (both inclusive) of section 5 shall apply in relation to such notice of claim and the acquisition of the spare part specified in such claim and in the application of those subsections the word, " lorry " referred to therein shall be construed as a reference to the spare part and the words " registered owner " to the owner of such spare part.

(3) The provisions of sections 7 and 8 shall apply to the taking possession of any spare part specified in a notice under subsection (1) of this section and in the application of those sections the words " lorry " and " registered owner " shall be read and construed to mean the spare part and the owner of the spare part respectively.

(4) The provisions of sections 9 to 13 (both inclusive) shall, *mutatis mutandis*, apply in relation to a claim for compensation and in the determination of compensation payable in respect of any spare part vested in the Government under this section.

7. (1) Any authorized officer may take possession of any lorry vested in the appropriate authority for and on behalf of the Government.

Taking possession, &c., of lorries vested in the Government.

(2) Where a vesting Order has been made in respect of any lorry, it shall be lawful for an authorized officer to give to the registered owner of the lorry or the person in whose possession or custody the lorry is, such written directions as appear to him to be necessary or expedient in connexion with the taking possession of such lorry, and the registered owner or person in whose possession or custody the lorry is, shall comply with all such written directions.

(3) Any police officer, if requested by an authorized officer to do so, shall take such steps and use such force as may be necessary for securing compliance with any direction given under subsection (2).

8. (1) Every person who—

- (a) prevents, obstructs or resists or directly or indirectly causes any one to prevent, obstruct or resist, any person from or in taking possession of any lorry for and on behalf of the Government under section 2 (3) or section 7 (1); or
- (b) wilfully immobilises or attempts to immobilise any lorry or directly or indirectly causes any lorry to be immobilised with the intention of preventing, obstructing or resisting, any person from or in taking possession of any lorry under section 2 (3) or section 7 (1); or
- (c) fails to comply with any written directions given under section 2 (4) or section 7 (2),

shall be guilty of an offence under this Law.

(2) Any person guilty of an offence under subsection (1) shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding two years or to a fine not exceeding two thousand rupees or to both such imprisonment and fine; and the Magistrate may, where such offence is committed by the registered owner of a lorry or his agent or servant, order the forfeiture of such lorry in respect of which the offence is committed, to the Republic.

(3) Notwithstanding anything to the contrary, every offence under subsection (1) shall be a cognizable offence within the meaning and for the purposes of the Code of Criminal Procedure Act.

(4) Where an authorized officer is unable or apprehends that he will be unable to take possession of any lorry for and on behalf of the Government because of any obstruction or resistance that has been or is likely to be

offered, he shall, on his making an application in that behalf to the Magistrate's Court having jurisdiction over the place where the lorry is kept, be entitled to an order of the Court directing the Fiscal to deliver possession of that lorry to him for and on behalf of the Government.

(5) Where an order under subsection (4) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute the order and shall in writing report to the Court the manner in which that order was executed.

(6) For the purpose of executing an order issued by a Magistrate's Court under subsection (4), the Fiscal or any person acting under his direction may use such force as may be necessary to enter any place where the lorry to which that order relates is kept and seize such lorry, and to deliver possession thereof to the authorized officer for and on behalf of the Government.

9. Where any lorry is requisitioned under the provisions of this Law, the registered owner of such lorry at the time of such requisitioning, may, within one month after the lapse of thirty days from the date of such requisitioning, make a written claim to the compensation payable in respect of such lorry and specify in his claim—

- (a) his name and address;
- (b) the nature of his interest;
- (c) the period in respect of which the claim is made ; and
- (d) the amount claimed by him.

10. Where a lorry is vested in the Government, the competent authority shall, by notice published in the Gazette, and in such other manner as may be determined by him, direct every registered owner of such lorry to make within a period of one month from the date specified in the notice a written claim to the compensation payable under this Law in respect of such lorry and specify in his claim—

- (a) his name and address;
- (b) the particulars of his claim; and

Prevention of or obstruction to taking possession of lorries.

Claim to the compensation payable in respect of lorries requisitioned under this Law.

Notice to persons entitled to make claims to the compensation payable in respect of lorries vested in the Government under this Law.

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(c) the amount of compensation claimed by him.

11. (1) Upon the receipt of any claim made under section 9 or section 10 as to the compensation payable under this Law, the competent authority shall make a determination as soon as may be convenient as to the amount payable in respect of any such claim and shall give written notice of such determination made by him.

(2) The determination under subsection (1) as to the amount of compensation payable shall be made—

(a) in respect of any lorry requisitioned for temporary use for a public purpose, having regard to the rate of hire payable by the Government in respect of such lorry in the district and the period for which such lorry has been requisitioned; and

(b) in respect of any lorry vested in the Government, having regard to the imported cost of the lorry to the registered owner, the depreciation in value for the period of its use and the condition of the lorry at the time of taking possession thereof.

(3) The determination of the competent authority, subject to any appeal under section 12, shall be final and conclusive and shall not be questioned in any court of law.

12. (1) Any person aggrieved by the decision of the competent authority on a determination made by him on a claim to compensation under this Law may within fourteen days of the receipt of the notice of determination under section 11 appeal therefrom to the Tribunal constituted for the purpose.

(2) The Tribunal shall consist of five members appointed by the Minister, on the recommendation of the Judicial Service Commission, one of whom shall be an attorney-at-law with at least five years' professional experience.

(3) Three members shall constitute the quorum of the Tribunal.

(4) The Chairman of the Tribunal shall be appointed by the members at each meeting of the Tribunal.

(5) The members of the Tribunal shall be remunerated at such rates as may be prescribed.

(6) The Tribunal may either confirm or increase the compensation determined as payable by the competent authority under section 11.

(7) The decision of the Tribunal on any appeal shall be final and conclusive and shall not be questioned in any court of law.

13. (1) The compensation payable under this Law shall be paid to the person who at the time of the requisitioning or acquisition of the lorry was the registered owner of such lorry.

(2) Where, on the date of the requisitioning or acquisition of the lorry, a person, other than the registered owner of such lorry, was by virtue of a subsisting contract entitled to possession and use of such lorry, the registered owner to whom compensation is paid shall be deemed to receive it as a trustee for such other person.

14. Any notice or direction to be given to any person under any provision of this Law shall be deemed to be given to him, if such notice or direction is sent to him by registered letter through the post.

15. Where any offence under this Law is committed by a body of persons, then

(a) if that body is a body corporate, every director of that body corporate shall be deemed to be guilty of that offence; and

(b) if that body is a firm, every partner of that firm shall be deemed to be guilty of that offence :

Provided, however, that no such director or partner shall be deemed to be guilty of an offence under this Law if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of that offence.

Determination of compensation in respect of claims.

Appeal from a determination of compensation under section 11.

Payment of compensation.

Manner in which notice or direction may be served on persons.

Offences by bodies of persons.

Regulations.

16. (1) The Minister may make regulations in respect of all or any of the following matters:—

- (a) the term of office of the members of the Tribunal;
- (b) the mode and the manner in which appeals may be made to the Tribunal;
- (c) the procedure to be followed by the Tribunal in entertaining, hearing and deciding appeals;
- (d) all matters stated or required by this Law to be prescribed ; and
- (e) all other matters connected with or incidental to the matters aforesaid.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder. Notification of the date on which a regulation is deemed to be rescinded shall be published in the Gazette.

Interpretation.

17. In this Law—

- " appropriate authority " means the Secretary to a Ministry or the Chairman of a public corporation;
- " competent authority " means the Commissioner of Motor Traffic within the meaning of the Motor Traffic Act or such other person as may be appointed by the Minister

by notification published in the Gazette.

" lorry " means a motor vehicle which is constructed or adapted wholly or mainly for the carriage of goods and includes a trailer so constructed or adapted and a tractor, and a contraption used for the purpose of, or in connexion with, any work of excavation or construction;

" public corporation " means any corporation, board or other body which was or is established by or under any written law, other than the Companies Ordinance, with capital wholly or partly provided by the Government by way of grant, loan or other form ;

public purpose " means any service relating to—

- (a) the transport and distribution of essential foodstuffs or other goods or agricultural produce, or
- (b) any work of excavation or construction, which service is maintained or undertaken by a public corporation, Government department, local authority or co-operative society;

" registered owner ", in relation to a lorry, means the person registered for the time being as the owner of that lorry under the provisions of the Motor Traffic Act; and

" requisitioning ", with its grammatical variations and cognate expressions means, in relation to any lorry, taking possession of such lorry or requiring the lorry to be placed at the disposal of the competent authority.

CHAPTER 596

RATING AND VALUATION

Ordinance No. 30 of 1946.

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE MAKING AND COLLECTION OF RATES BY LOCAL AUTHORITIES AND TO THE VALUATION OF PROPERTY FOR THE PURPOSE OF SUCH RATES, AND TO PROVIDE FOR MATTERS CONNECTED WITH OR INCIDENTAL TO THE MATTERS AFORESAID.

[7th August. 1946.]

Short title. 1. This Ordinance may be cited as the Rating and Valuation Ordinance.

4. In this Ordinance, the expression "the appointed year", when used with reference to any rating area, means the year specified in the Order by which the provisions of this Ordinance are made applicable in the case of the rate or rates which may be made or levied by the rating authority for that area.

PART I

APPLICATION OF ORDINANCE AND CONNECTED PROVISIONS

Application of Ordinance.

2. Where any local authority is empowered, authorized or required by or under the provisions of any other written law to make, impose or levy a rate or rates on the annual value of any property in any area, the Minister may, by Order published in the Gazette, declare that the provisions of this Ordinance shall apply for the purpose of the making, imposition, levy, payment, collection and recovery of the rate or rates which may be made or levied by that authority for that area in respect of such year as shall be specified in the Order and of every subsequent year.

5. Every rate made or levied by the rating authority for any rating area in respect of the appointed year and of every subsequent year shall be made, levied, paid and recovered in accordance with the provisions of this Ordinance :

Rates to be made and levied by rating authorities in accordance with Ordinance.

Provided, however, that where any limitation or condition is imposed by any other written law in relation to the power of a rating authority to make and levy a rate, nothing in this Ordinance shall be deemed to modify or affect the limitation or condition so imposed.

Rating authorities and areas.

3. Where the provisions of this Ordinance have by Order under section 2 been made applicable in the case of the rate or rates which may be made or levied by any local authority for any area, that local authority and that area shall be a rating authority and a rating area, respectively, for the purposes of this Ordinance :

Provided, however, that where such local authority is a Village Council, no part of the village area, other than a locality declared under the provisions of the Village Councils Ordinance to be a built-up locality, shall be deemed to be or to form part of a rating area for the purposes of this Ordinance.

PART II

RATING

6. (1) Subject as hereinafter provided, every rate made by the rating authority for any rating area shall be a general rate on the annual value of all rateable property situated in the area :

General rate and special rate.

Provided that nothing in the preceding provisions of this subsection shall affect or prejudice the power of any rating authority to make or levy any special rate referred to in subsection (2).

(2) Where any rating authority is duly empowered in that behalf by or under any other written law to make and levy a special rate on the annual value of any property situated in any rating area or in any part of such area, all the provisions of this Ordinance shall, unless otherwise expressly provided, apply to such special rate, and for the purposes of such application, any reference in any such provision to a rating area shall, where necessary, be deemed to be a reference to the part of the rating area in respect of which the special rate is made.

(3) Where any rateable property, or any part of any rating area, is not benefited by any service or services in respect of which the general rate or any special rate is made, the rating authority may by resolution exempt that rateable property or all rateable property in that part of the rating area, as the case may be, from the payment of such portion or portions of such rate as may be declared in such resolution to be or to have been made in respect of such service or services.

Sanction of Minister in certain cases.

7. Where any rating authority resolves to make or levy in respect of any year a general rate or a special rate which is higher or lower than the general rate or the corresponding special rate, as the case may be, which was made or levied by that authority in respect of the preceding year under this Ordinance or any other written law, the rate shall not be valid unless it is sanctioned by the Minister.

Uniformity of rate.

8. Subject to the provisions of this Ordinance, every rate made by the rating authority for any rating area shall be a rate at a uniform amount *per centum* on the annual value of each rateable property in the area.

Minimum amount to be recovered as rate.

9. Where the amount payable in respect of the general rate, or the aggregate of the amounts payable in respect of the general rate and of any special rate or rates, on any rateable property for any year, is less than fifty cents, a sum of forty-eight cents shall, in lieu of the amount so payable, be deemed to be payable in respect of such rate or rates, as the case may be.

Making and operation of rate.

10. Every rate made by a rating authority shall be made in respect of the period of one year commencing on the first

day of January next succeeding the date on which the rate is approved by resolution of the rating authority, or where the rate requires the sanction of the Minister, the date on which it is so sanctioned.

11. Every rating authority shall, before the expiry of a period of ten days from the date on which any rate is made, or, where the rate requires the sanction of the Minister, from the date on which it is so sanctioned—

- (a) exhibit on the notice-board at the office of the authority, a written notice that such rate has been made; and
- (b) publish the notice in a newspaper circulating in the rating area, or, in the case of a rate made by a Village Council, by beat of tom-tom in the area or in such other manner as may be prescribed.

12. It shall be the duty of every rating authority (other than a Municipal Council) to comply with all such directions as may be issued by the Minister, from time to time, in relation to the dates before which resolutions for the imposition of rates shall be considered by the authority.

13. (1) It shall be the duty of every rating authority to keep and maintain a Rate Book in the prescribed form, and to enter or cause to be entered annually therein the prescribed particulars relating to each rateable property in the rating area.

(2) The owner or occupier of any rateable property, or any person authorized in that behalf by such owner or occupier, shall be entitled to inspect free of charge any portion of the Rate Book which contains particulars relating to that property.

14. The rating authority may at any time make such amendments in the Rate Book as may, in the opinion of the authority, be necessary in order—

- (a) to correct any clerical or arithmetical error in the Rate Book ;
- (b) to correct any erroneous insertion or omissions or any misdescriptions :

Provided, however, that no amendment the effect of which is to alter the amount entered in the Rate Book as payable on any property in respect of any rate, shall, unless it is necessitated by the alteration of a quinquennial list or supplemental list, be made by the rating authority except after service in the prescribed manner on the occupier of that property of a notice in the prescribed form, and after consideration of any objection which may, in accordance with the notice, be made by the owner or occupier of the property.

rating authority, the amount due on that property in respect of any rate :

Provided that nothing hereinbefore contained shall apply in the case of any property belonging to the State which is let to any person who is in the employment of the State and who resides on that property.

Meaning of "rateable property".

15. (1) In this Ordinance, "rateable property" means any land or any portion of any land which is separately owned, let or occupied, together with any house, building, tenement, hut or other roofed enclosure, or wall, hoarding or other structure thereon and includes—

- (a) any right of way, wayleave or other servitude appertaining to such property or enjoyed in connexion with such property; and
- (b) any property which is deemed, by virtue of the provisions of subsection (2), to be rateable property for the purposes of this Ordinance.

(2) All tramway lines, electric mains, cables or transformer stations, all gas, water, petrol, fuel or oil mains or lines, all telegraph or telephone poles, lines or cables, and all wireless transmission masts, and all pillar boxes which are installed and maintained in, upon or over any land, shall be deemed to be rateable property for the purposes of this Ordinance, and the authority, body, company, firm or individual by which or by whom such lines, mains, cables, stations, poles or masts are maintained for the time being shall be deemed to be the owner of such rateable property and shall be liable to pay the amounts due, from time to time, on such property in respect of any rate.

Liability of lessee or tenant of State property to pay rates.

16. Where any rateable property belonging to the State is leased or let to any person, the lessee or tenant, as the case may be, shall be liable to pay and shall pay to the

17. (1) Subject as hereinafter provided, no person shall be liable to be assessed or rated to or for any general rate in respect of—

Exemption for places of worship, charitable institutions, schools, Ac.

- (a) any land or buildings used exclusively or mainly for public religious worship or for any public charitable purpose;
- (b) any land or buildings used exclusively or mainly for the purposes of any school;
- (c) any land or buildings for the time being in charge of military sentries :

Provided, however, that the preceding provisions of this subsection shall not apply in any case where the owner of any land or building mentioned in those provisions receives any rent in respect of such land or building.

(2) For the purposes of subsection (1)—

- (a) any building or part thereof which is exclusively or mainly used or is set apart for the provision of living or sleeping accommodation for persons resident within the premises of any school, or for the preparation of food for, or the taking of meals by such persons, shall not be deemed to be used for the purposes of the school;
- (b) any playing-field maintained in connexion with any school shall, notwithstanding that it may be situated outside the premises of the school, be deemed to be used for the purposes of the school.

18. No person shall be liable to be assessed or rated to or for any general rate in respect of any burial or cremation ground, or of any building which is

Exemption for burial and cremation grounds.

maintained upon any such ground or is used for the purposes of cremation :

Provided, however, that the preceding provisions of this section shall not apply in the case of any crematorium maintained for profit otherwise than by the Government of Sri Lanka or a local authority.

(b) direct, in respect of each such division, that an original quinquennial list shall be made under this Part so as to come into force in such year as may be specified by him in such notification.

Exemption in the case of special rates.

19. In the case of a special rate—

- (a) the provisions of sections 17 and 18 shall not apply;
- (b) nothing in this Ordinance shall affect or prejudice the grant or the effect of any exemption provided for by the written law under which the special rate is made.

PART III

VALUATION OF RATEABLE PROPERTY

QUINQUENNIAL LISTS AND SUPPLEMENTAL LISTS

Quinquennial lists.

20. Subject to the provisions of section 21, a new list containing the prescribed particulars relating to each rateable property in each rating area (hereinafter referred to as an "original quinquennial list") shall be made in accordance with this Part so as to come into force on the first day of January in the appointed year and, thereafter, quinquennial lists shall be made, from time to time, for that area, so that a new quinquennial list shall come into force upon the expiration of a period of five years from the date on which the preceding quinquennial list came into force.

Rating divisions and quinquennial lists for such divisions.

21. (1) In any case where the Commissioner is satisfied that the preparation of an original quinquennial list to come into force in the appointed year for the whole of any rating area would be impracticable, having regard to all the circumstances of the case, the Commissioner may by notification published in the Gazette—

- (a) divide the rating area into such number of rating divisions, not exceeding five in number, as he may consider expedient, and define the limits of each such division ; and

(2) Where any rating area is divided by notification under subsection (1) into rating divisions, an original quinquennial list shall be made in accordance with this Part for each such division so as to come into force on the first day of January in the year specified in the notification in respect of that division; and thereafter new quinquennial lists shall be made, from time to time, for that division so that a new quinquennial list shall come into force upon the expiration of a period of five years from the date on which the preceding quinquennial list came into force.

(3) In any case where, in consequence of the division of any rating area into two or more rating divisions, an original quinquennial list is not made so as to come into force in the appointed year for the whole of the rating area, then until the date on which an original quinquennial list comes into force for any such rating division in accordance with subsection (2)—

- (a) such part of the assessment book in force for that area in the year preceding the appointed year as contains the annual value or the assessment of the annual value of the rateable properties in that rating division shall be deemed to be a quinquennial list duly made and approved for that division in accordance with this Part; and shall have effect accordingly subject to the modification that no objection, action or appeal shall be lodged, instituted or preferred under this Part in respect of any matter therein contained;

- (b) supplemental lists and provisional lists shall, where necessary, be made for that rating division in accordance with the requirements of this Part;

(c) the part of the assessment book which is deemed by paragraph (a) to be a quinquennial list for that rating division, together with and as altered by any such supplemental list or provisional list for the time being in force, shall be deemed for the purposes of any rate made by the rating authority to be the valuation list for that division.

(4) In subsection (3), " assessment book " means the assessment book or the assessment register which is maintained by the local authority for any area, and in which the annual value or the assessment of the annual value of the rateable properties in the area are entered in the year preceding the appointed year under the provisions of any other written law for the purposes of any rate imposed by that authority for that area, as amended or altered in consequence of the determination of any objection, action or appeal under any such provisions.

Form, &c., of draft lists.

22. (1) Every draft quinquennial list prepared for the purposes of this Part shall-

(a) be in the prescribed form and shall contain in respect of every rateable property within the rating area or division for which the list is prepared the particulars for the inclusion of which provision is made in that form;

(b) be prepared in accordance with such general or special directions as may, from time to time, be issued by the Commissioner for the purpose of carrying into effect the provisions of this Part relating to the procedure for the preparation of such lists.

(2) The particulars relating to the rateable properties situated in each town or ward comprised within any rating area or division or situated in each ward of any such town shall, as far as practicable, be separately set out in the draft quinquennial list prepared for that area.

23. (1) Where a quinquennial list is, under the provisions of section 20 or section 21, required to be made so as to come into force on the first day of January in any year for any rating area or division, other than a Municipality or a rating division of a Municipality, it shall be the duty of the rating authority, on or before such date in the preceding year as may be fixed by the Commissioner—

Preparation of draft quinquennial lists.

(a) to cause a draft quinquennial list to be prepared for that area or division, and to be signed by the Chairman of the authority; and

(b) to transmit the draft list to the Local Government Valuer for revision.

(2) Where a quinquennial list is, under the provisions of section 20 or section 21, required to be made so as to come into force on the first day of January in any year for any rating area or division, being a Municipality or a rating division of a Municipality, it shall be the duty of the rating authority—

(a) to cause a draft quinquennial list for that area or division to be prepared before such date as may be fixed by the authority; and

(b) before the thirtieth day of April in the year preceding that year, to revise and alter the draft list in such manner as may be necessary in the opinion of the authority, and to cause it to be signed by the Municipal Commissioner.

24. (1) Save as otherwise provided in section 25, a supplemental list shall be made every year for every rating area, or, where any such area has been divided into rating divisions, for every such division, and shall set out all such alterations as may, during the period of twelve months immediately preceding the fifteenth day of February in that year, have taken place in respect of any of the matters stated in the valuation list in force during that year for that area or division.

Preparation of draft supplemental lists.

(2) Where a supplemental list is required to be made in any year for any rating area

or division, other than a Municipality or a rating division of a Municipality, it shall be the duty of the rating authority, on or before the fifteenth day of February in that year—

(a) to cause a draft supplemental list to be prepared for that area or division and to be signed by the Chairman of the authority; and

(b) to transmit the list to the Local Government Valuer for revision.

(3) Where a supplemental list is required to be made in any year for any rating area or division, being a Municipality, or a rating division of a Municipality, it shall be the duty of the rating authority—

(a) to cause a draft supplemental list to be prepared for that area or division on or before such date in that year as may be fixed by the authority; and

(b) before the fifteenth day of June in that year, to alter or revise the list in such manner as may be necessary in the opinion of the rating authority and to cause it to be signed by the Municipal Commissioner.

(4) The provisions of section 22 shall apply, *mutalif mutandis*, in relation to every supplemental list, subject however to the modification that nothing therein contained shall be deemed to require any supplemental list to contain any particulars relating to any rateable property which has not been affected by any such alterations as are referred to in this section.

Cases where supplemental list is not to be made.

25. (1) No supplemental list shall be made for any rating area or division in the year preceding the year in which a new quinquennial list is, under the provisions of section 20 or section 21, required to come into force for that area or division.

(2) Where no such alterations as are referred to in section 24 (1) have taken place during the period of twelve months preceding the date on which a draft supplemental list would under that section

be required to be prepared for any rating area or division in any year, no supplemental list shall be made for that area or division in that year; and in any such case the rating authority shall, on or before that date, transmit to the Commissioner a certificate in the prescribed form to the effect that no such alterations have taken place in respect of that area or division, as the case may be.

26. (1) Where any draft quinquennial list or draft supplemental list is transmitted to the Local Government Valuer under this Part, it shall be the duty of the Local Government Valuer to revise the draft list in such manner as may, in his opinion, be necessary and the Valuer shall have power, for the purposes of such revision—

Revision of draft lists by Local Government Valuer.

(a) to include in any such draft list any rateable property the particulars relating to which have not been inserted therein ; and

(b) to correct or alter any of the particulars set out in such draft list.

(2) It shall be the duty of the Local Government Valuer, after any draft quinquennial list or draft supplemental list is revised or altered in accordance with the provisions of subsection (1), to sign the draft list and to return it to the rating authority—

(a) if it is a draft quinquennial list, before the thirtieth day of April next succeeding the date on which it is transmitted to him; or

(b) if it is a draft supplemental list, before the fifteenth day of June next succeeding that date.

27. (1) Where a draft quinquennial list or draft supplemental list has been prepared for any rating area or division in any year and has been revised by the rating authority or the Local Government Valuer, as the case may be, it shall be the duty of the Chairman of the rating authority, or in the case of a Municipal Council of the Municipal Commissioner, on or before the fifteenth day of July in that year to cause the draft

Deposit and inspection of draft lists.

list to be deposited at the office of the authority and to give public notice in the prescribed manner—

- (a) that the draft list has been deposited and will be open to public inspection at the office of the authority at any time before the fifth day of August next succeeding the date of such deposit; and
- (b) that written objection may, at any time before the fifth day of August next succeeding the date of such deposit, be lodged in respect of any valuation or matter contained in the draft list.

(2) The owner or occupier, or the authorized agent of the owner or occupier, of any rateable property shall, at any time within the period during which a draft quinquennial list or draft supplemental list is open to inspection, be entitled, free of charge, to inspect the draft list.

Notice of valuation.

28. (1) On or before the fifteenth day of July in the year in which any draft quinquennial list or draft supplemental list is prepared for any rating area or division, the Chairman of the rating authority, or in the case of a Municipal Council, the Municipal Commissioner, shall cause a notice of valuation relating to every rateable property included in the draft list to be served in the prescribed manner on the occupier of the property.

(2) Where notice of the deposit of any draft quinquennial list or supplemental list has been published in accordance with section 27, no valuation of any rateable property inserted therein shall be deemed to be invalid by reason only of the fact that notice of such valuation has not been served in accordance with the provisions of subsection (1).

Objections to draft list.

29. (1) Any person who is aggrieved by the incorrectness or unfairness of any matter in a draft quinquennial list or draft supplemental list, or by the inclusion therein or omission therefrom of any matter, or by the valuation as a single property of a building or portion of a building occupied in parts, or by any other matter done in or

connected with or arising out of such draft list, may lodge an objection with the rating authority at any time before the fifth day of August next succeeding the date on which the draft is deposited under section 27.

(2) Every such objection shall be in the form of a written statement which—

- (a) must set out the grounds of the objection and specify the address to which notices may be sent to the objector in connexion with any inquiry into or determination of the objection;
- (b) must, except in the case of an objection lodged with a Municipal Council, be in duplicate.

30. (1) Every rating authority shall cause particulars relating to all objections duly lodged with the authority in any year under section 29 to be entered in a register kept for the purpose, and shall, except where it is a Municipal Council, transmit to the Local Government Valuer, before the twentieth day of August in that year, copies of all statements of objection received by the authority.

Procedure upon receipt of objections.

(2) Every rating authority shall send a written notice to every objector, at the address specified by him, of the date on which, and the time and place at which, an inquiry will be held for the consideration of his objection;

Provided, however, that—

- (a) nothing hereinbefore contained shall be deemed to prevent any rating authority from determining any objection without holding an inquiry, if the determination is that the objection shall be allowed ; and
- (b) no date for any such inquiry shall be fixed by any rating authority, other than a Municipal Council, except after consultation with the Local Government Valuer.

31. (1) Every inquiry for the determination of any objection duly lodged under section 29 shall be held by the

Hearing and determination of objections.

Chairman of the local authority, or in the case of a Municipal Council by the Municipal Commissioner, or by an officer authorized for the purpose by the Chairman or the Municipal Commissioner, at the time and place specified in the notice under section 30 or at such other time to which the inquiry may be adjourned.

(2) Any objector who has duly lodged an objection under section 29 shall be entitled, either in person or by a representative authorized in writing in that behalf, to be heard and to call witnesses at the inquiry held for the determination of such objection.

Where the objector is not present at such inquiry either in person or by representative the objection may be heard and determined in his absence.

(3) The Local Government Valuer shall be entitled, either in person or by a representative authorized in writing in that behalf, to be heard and to call witnesses at any inquiry held for the determination of any objection lodged with any rating authority other than a Municipal Council:

Provided, however, that where the Local Government Valuer is not present or represented at any such inquiry, any matters stated in a written report sent by the Local Government Valuer shall be taken into consideration for the purpose of the determination of the objection.

Notice of decisions, and alterations of lists,

32. Where any objection has been determined by a rating authority, the rating authority shall—

- (a) cause a notice of the decision to be sent to the objector at the address specified by him in his statement of objections, and to the Local Government Valuer; and
- (b) cause such alterations, insertions or corrections, as may be necessary in consequence of the decision, to be made in the draft list to which the objection relates.

Provision as to time for determination of objections.

33. It shall be the duty of a rating authority to take all such steps as may be necessary to secure that all objections duly

lodged with that authority in any year under section 29 are as far as may be, heard and determined before the twenty-third day of December in that year :

Provided, however, that any such objection may be determined at any time after that day upon application made by the objector in that behalf, or in any case where sufficient time is not available for the determination before that day of all objections lodged with the authority.

34. (1) The Chairman of the rating authority or, where the authority is a Municipal Council, the Municipal Commissioner shall, as soon as may be after all objections, relating to any draft quinquennial list or supplemental list, which is required under this Part to be made in any year, have been determined as hereinbefore provided, and in any case not later than the thirty-first day of December in that year, finally approve and sign the draft list in token of such approval.

Final approval of lists by rating authorities.

(2) Every quinquennial list or supplemental list for any rating area or division which is approved by the rating authority under subsection (1) shall—

- (a) be deemed, unless the contrary is proved, to have been made in accordance with the provisions of this Part;
- (b) come into force on the first day of January next succeeding the date of such approval; and
- (c) continue in force until the date on which the succeeding quinquennial list for that area or division is required by section 20 or section 21 to come into force for that area or division.

APPEALS FROM DECISIONS OF RATING AUTHORITIES

35. (1) Save as otherwise provided in section 38, the Local Government Valuer, or any person who has duly lodged an objection with the rating authority in respect of any matter contained in a quinquennial list or supplemental list may, Action in District Court or Primary Court for revision of decisions upon objection.

before the expiry of a period of one month after the date of the receipt by him of the notice of the decision upon the objection, institute an action in accordance with the provisions of subsection (2) for the revision of such decision.

(2) Every action for the revision of any decision relating to any rateable property included in any quinquennial list or supplemental list, shall be instituted in the District Court or the Primary Court having jurisdiction over the place in which the property is situated, according as the total amount, which would be payable in accordance with the decision as rates on that property for the year in which the list is to come into force, exceeds or does not exceed one thousand five hundred rupees.

Hearing and determination of actions and appeals in actions.

36. (1) The court in which any action is duly instituted under section 35 shall hear and determine the action according to the procedure prescribed by any written law for the time being in force regulating the hearing and determination of civil actions brought in such court:

Provided, however, that where the plaintiff in such action is a person other than the Local Government Valuer, he shall not be permitted to adduce evidence on any ground of objection which was not set out in the statement of objection lodged by him with the rating authority under section 29.

(2) The decision of any District Court or Primary Court in any action instituted under section 35 shall be subject to an appeal to the Court of Appeal, and the provisions of Chapter LVIII of the Civil Procedure Code, and of any other written law relating to appeals to the Court of Appeal from judgments, decrees or orders of a District Court or Primary Court, as the case may be, shall apply to such appeal.

Amendments of lists in consequence of actions.

37. (1) Where no appeal is preferred from the decision of the District Court or of the Primary Court in an action instituted under section 35, it shall be the duty of the District Judge or Judge of the Primary Court, as the case may be, to send to the rating authority a statement under his hand setting out the decision or award or judgment and specifying the alteration, if

any, to be made in the quinquennial list or supplemental list to which the action relates.

(2) It shall be the duty of the Registrar of the Court of Appeal, upon the final determination of an appeal preferred to that court under section 36 (2), to send to the rating authority a statement under his hand setting out the decision of the Court of Appeal, and specifying the alteration, if any, to be made in the quinquennial list or supplemental list to which the appeal relates.

(3) The rating authority shall upon the receipt of any statement referred to in subsection (1) or subsection (2), cause such alterations as may be specified in the statement to be made in the quinquennial list or supplemental list to which the statement relates.

38. (1) Nothing in sections 35 to 37 shall apply in the case of any decision of a rating authority which is a Village Council.

Appeals to Government Agents from decisions of Village Councils.

(2) The Local Government Valuer, or any person who has duly lodged an objection with any rating authority, being a Village Council, in respect of any matter contained in a quinquennial list or supplemental list, may, before the expiry of a period of one month after the date of the receipt by him of the notice of the decision upon that objection, appeal against the decision to the Government Agent of the administrative district in which the village area is situated.

(3) Every such appeal shall be preferred by written statement setting out the grounds of appeal.

(4) The decision of the Government Agent on any such appeal shall be final.

(5) It shall be the duty of the Government Agent upon the determination of any appeal under this section to send to the rating authority a statement under his hand setting out his decision, and specifying the alteration, if any, to be made in the quinquennial list or supplemental list to which the appeal relates.

(6) The rating authority shall upon the receipt of any statement referred to in

subsection (5). cause such alterations as may be specified in the statement to be made in the quinquennial list or supplemental list to which the statement relates.

EFFECT OF LISTS

Quinquennial list and supplemental lists to be valuation list.

39. (1) The quinquennial list in force for any rating area or division during any year, together with, and as altered by, the supplemental list or lists, if any, which may be in force for that area or division during that year, shall be for the purposes of this Ordinance the valuation list for that area or division for that year; and, where any alterations are made in any such quinquennial list or supplemental list on any date in that year in accordance with the provisions of section 32 or section 37 or section 38, the valuation list shall on and after that date be deemed to be altered accordingly.

(2) The list or lists, as the case may be, declared by subsection (1) to be the valuation list for any rating area or division for any year, shall, for the purposes of any rate made for that area or division in respect of that year, be conclusive evidence of the annual value of the several rateable properties included therein and of the fact that all rateable properties required to be inserted therein have been so inserted.

Rate to be levied notwithstanding pending objections or actions.

40. Any rate for the purposes of which any valuation list is declared by section 39 to be conclusive shall be made and levied, and shall be collected and recoverable, in accordance with that list, notwithstanding that any objection, action or appeal duly lodged, instituted or preferred under this Part in respect of any matter stated in the list may not have been finally determined :

Provided, however, that in any case where the amount payable on any rateable property in respect of any rate is altered in consequence of the determination of such objection or of the decision in such action or appeal, the difference, if too much has been paid, shall be repaid or allowed, and if too little, shall be deemed to be arrears of the rate (except so far as any penalty is incurred on account of arrears) and shall be paid and recovered accordingly.

PROVISIONAL LISTS

Making of provisional lists.

41. (1) Where in the course of any year the value of any rateable property is increased by the addition thereto or erection thereon of any building or structure, or is, from any other cause or by reason of any other circumstances, increased or reduced, the provisions of this section shall have effect.

(2) The rating authority of the area in which such property is situated shall cause a provisional list to be prepared setting out the annual value of the property as so increased or reduced and such other particulars relating thereto as may be prescribed.

(3) Every such provisional list shall be revised in like manner as if such list were a draft quinquennial list prepared under this Part, and the rating authority shall, as soon as may be after the date of such revision, cause a notice of the new valuation, which shall be substantially in the prescribed form, to be served on the occupier of the property to which the notice relates.

(4) (a) The owner or occupier, or the authorized agent of the owner or occupier, of the rateable property in respect of which a notice of new valuation has been served under subsection (3) may, before the expiry of a period of 21 days from the date of the service of the notice, lodge an objection with the rating authority against the new valuation.

(b) Every such objection shall be made in the manner provided in section 29, and the provisions of sections 30 to 32 shall apply in the case of such objections in like manner as they apply in the case of objections in relation to draft quinquennial lists and supplemental lists.

(5) The Local Government Valuer, or any person who has duly lodged an objection with a rating authority under subsection (4), may, before the expiry of a period of ten days after the receipt by him of the notice of such decision under section 32, appeal to the Commissioner against such decision, and the order of the Commissioner upon such appeal shall be final:

Provided, however, that in any case where the rating authority is a Village Council,

such appeal shall be preferred to the Government Agent of the administrative district in which the village area is situated, and the decision of the Government Agent upon the appeal shall be final.

(6) Nothing in sections 35 to 37 shall apply in the case of any provisional list.

(7) It shall be the duty of the rating authority to make all such corrections or alterations in any provisional list as the Commissioner or any Government Agent may, by order under subsection (5), direct to be made therein.

Effect of provisional list.

42. (1) Every provisional list made in any year in respect of any rateable property in any rating area or division shall come into force on the first day of the month next succeeding the date on which the notice of the new valuation of that property is served on the occupier and shall, subject to such alterations, insertions or corrections as may be made therein in consequence of the decision of any objection or of any order made by the Commissioner or Government Agent under section 41 (5), continue in force until the date on which the first subsequent list for that area or division, as the case may be, comes into force.

(2) Every provisional list shall, in the period during which it is in force, be deemed to form part of the valuation list for the time being in force for the rating area or division for which it is made and shall, so far as may be necessary, be substituted for so much of the valuation list as relates to the property in respect of which the provisional list is made; and the amount levied in respect of such property during such period shall be determined by reference to the annual value of the property as contained in the provisional list:

Provided, however, that in any case where the amount of the annual value of the property as set out in the first subsequent list for that rating area or division, is less than the amount of the annual value thereof as set out in the provisional list, any sum overpaid in consequence of the difference between such amounts shall be repaid or allowed.

(3) In this section, " first subsequent list ", when used with reference to any provisional list for any rating area or division, means the supplemental list or quinquennial list for that area or division, the draft of which is the first draft list to be deposited under section 27 after the date on which the provisional list comes into force.

VALUATION IN SPECIAL CASES

43. (1) For the purpose of the valuation of any rateable property, the annual value of which is ascertained otherwise than by reference to the accounts, receipts or profits of the undertaking carried on in such property, all such plant or machinery in or upon the property as is, or is capable of being or is Intended to be, used for the purposes of any trade or business shall be deemed to form part of the property; and no account shall be taken of the value of any other plant or machinery.

Valuation of hereditaments containing machinery and plant,

(2) Where the annual value of any rateable property is to be ascertained by reference to the accounts, receipts and profits of any undertaking carried on therein, any question which may, in connexion with the determination of the annual value of the rateable property, arise as to the plant and machinery of which account shall be taken, or as to the value of such plant and machinery, shall be determined in the same manner as the question would be determined in England in the case of a like undertaking, under the provisions of any written or other law for the time being in force in England in that behalf.

44. The Minister may, from time to time, by Order published in the Gazette, declare that the annual value of land in any rating area or division or in any specified part thereof may be ascertained by reference to the capital site value of the land ; and where such Order is made, the following provisions shall be applicable in the case of any land in such rating area or division or part thereof, as the case may be :—

Valuation by reference to capital site value of land.

(1) Where any such land is suitable for building purposes, or is capable of being developed for such purposes at a cost which

would, in the opinion of the rating authority, be reasonable, and where—

- (a) no building has been erected on the land; or
- (b) the extent of the land which is actually covered by buildings bears to the total extent of the land a proportion less than the prescribed proportion; or
- (c) the buildings on the land are of such a character or description that the annual value of the land and the buildings thereon is unduly small, having regard to the situation of the land,

the rating authority may, if it thinks fit, determine that the annual value of the land shall be ascertained by reference to the capital site value thereof.

(2) Notice of any determination under subsection (1) shall be served on the occupier of the land to which the determination relates, and any person aggrieved by any such determination may before the expiry of twenty-one days from the date of the service of such notice, appeal to the Commissioner against the determination. The decision of the Commissioner on any such appeal shall be final.

(3) Where no appeal is preferred under subsection (2) against a determination of the rating authority under subsection (1), or where such determination has been confirmed by the Commissioner upon appeal, the annual value of the land to which the determination relates may, in any draft quinquennial list or supplemental list which is subsequently deposited under section 27, be ascertained by reference to the capital site value thereof.

(4) Where the annual value of any rateable property is determined under this section, an entry to that effect shall be made in any quinquennial list or supplemental list or provisional list in which the property is included, and in the notice of valuation relating to that property.

(5) Where under the provisions of this section, the annual value of any land is to be determined by reference to the capital site value thereof, the annual value shall be deemed to be a sum equivalent to two and one-half *per centum* per annum of the capital site value of the land, and no account shall be taken of the value of any building on the land.

(6) Nothing in section 29 or section 35 or section 38 shall be deemed to enable any person to lodge any objection or to institute any action or to prefer any appeal in respect of the adoption by a rating authority of the method of determining the annual value of any land by reference to the capital site value thereof:

Provided, however, that nothing hereinbefore contained shall be deemed to prevent any such objection, action or appeal being instituted in any such case, with respect to any matter other than the adoption of the method hereinbefore mentioned.

(7) The rating authority may of its own motion, or upon application made in that behalf by the owner, cancel, with effect from such date as may be specified by the authority, any determination made under subsection (1) if it is satisfied that there has been any alteration of the conditions affecting the land which obtained at the time of the making of the determination. Where application for such cancellation is made to the rating authority, an appeal shall lie to the Commissioner against the refusal of the application, and the decision of the Commissioner on such appeal shall be final.

45. (1) At any time in the period during which a valuation list is in force, the rating authority may in its discretion amend the list—

Subdivision or consolidation of property for purposes of valuation lists.

- (a) by the division of any rateable property included therein into two or more separate parts and by the valuation of each such part as a separate rateable property ; or
- (b) by the consolidation of two or more rateable properties included therein into one property and by the

valuation of the property so consolidated as one rateable property:

purpose of an inquiry to be held with respect to any matter so specified.

Provided, however, that nothing hereinbefore contained shall be deemed to empower the rating authority, in amending any list under this section, to increase or reduce the annual value, or the aggregate of the annual values, as slated in the list, of the property or properties, as the case may be, to which the amendment relates.

(2) Every notice under subsection (1) shall be substantially in such one of the prescribed forms as may be appropriate to the case.

(2) Where any rateable property is divided, or any rateable properties are consolidated, under the provisions of subsection (1), a notice, which shall be substantially in the prescribed form, shall be served in the prescribed manner on the occupier of each of the properties affected by such division or consolidation.

(3) Every return furnished under subsection (1) shall be substantially in the prescribed form and shall be accompanied by a declaration that the particulars contained therein are true and accurate. Every such declaration shall be free of stamp duty.

(4) Where any person is present at any inquiry in pursuance of any notice referred to in subsection (1) (c), the rating authority or the Local Government Valuer or any officer duly authorized in that behalf by the authority or the Valuer, may examine such person on oath with respect to any matter specified in the notice.

RETURNS, INQUIRIES, POWERS OF ENTRY, &c.

Power to call for returns, documents and evidence.

46. (1) For the purpose of the preparation or revision of any quinquennial list, supplemental list, or provisional list for any rating area or division, the rating authority or the Local Government Valuer may, by notice, require any person who is the owner, occupier or lessee of any rateable property, or who, in the opinion of the rating authority or the Local Government Valuer, as the case may be, is liable to pay the amount due as rates on any rateable property or able to give any information with respect to such liability—

47. Any statement or declaration made by any person under section 46, with reference to the value of any rateable property in which such person is interested, or as to the value of his interest therein, shall be conclusive evidence in any proceeding or matter in which the value of such property or of such interest is in question, as against the person making the statement or declaration, that at the date at which, or with reference to which, the statement or declaration was made, such property or such interest was of the value attributed thereto in such statement or declaration.

Effect of statement or declaration as to value of property.

(a) to furnish a return containing such particulars as may be reasonably required for the purpose of the preparation or revision of such list; or

48. For the purpose of ascertaining or verifying any information as to the liability of any person to pay any rate or as to the annual value of any rateable property, it shall be lawful for the Local Government Valuer or any person authorized in that behalf by a rating authority or the Local Government Valuer to enter and inspect, at any reasonable time during the day, any premises liable or believed to be liable to any rate, and to do or to cause to be done therein all such acts as may be necessary for the purposes aforesaid.

Power to enter premises. &c.

(b) to produce for inspection, before a date specified in the notice, any such books of account or other documents relating to any rateable property or to any business carried on therein as may be in the possession or under the control of such person; or

(c) to be present at a time and place specified in the notice for the

Offences.

- 49.** (1) Any person who—
- (a) refuses to accept service of any notice addressed to him under section 46 ; or
 - (b) refuses, neglects or omits to furnish any return within one month of being required so to do by notice under that section, or makes in any such return any statement which he knows or has reason to believe is false in any material particular; or
 - (c) otherwise refuses, neglects or omits, without lawful excuse, to comply with any notice served on him under that section ; or
 - (d) resists or obstructs the rating authority or the Local Government Valuer or any other person in the exercise of the powers conferred by section 48,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees.

(2) No prosecution for any offence under subsection (1) shall be instituted at any time after the expiry of a period of twelve months from the date on which the offence is alleged to have been committed.

SUPPLEMENTARY

50. In any case where the Minister is satisfied that there is reason to apprehend that, by reason of default made by any rating authority in complying with any of the provisions of this Part, a valuation list or supplemental list for any rating area or division will not be duly prepared in accordance with those provisions so as to come into force on the proper date, the Minister may direct the Local Government Valuer to prepare and approve the list for that area or division or to do any such things as ought to have been done by the authority under this Part.

51. Any failure on the part of a rating authority or of the Local Government Valuer to complete any proceedings with respect to the preparation of a quinquennial

list or supplemental list within the time required by this Part or any omission from any such list of any matter required to be included therein, shall not of itself render the list invalid.

PART IV

PAYMENT AND RECOVERY OF RATES

52. The amount due for any year in respect of any rate made by any rating authority shall be payable to the authority in four equal quarterly instalments.

Rates to be payable quarterly.

53. (1) Every rating authority shall, before the end of the first quarter of each year, cause a demand note containing a demand of payment to be served in the prescribed manner on the occupier of every rateable property or to be left at the premises of such occupier.

Demand notes.

(2) Every demand note shall be substantially in the prescribed form and shall contain the following particulars in addition to such other particulars as may be required to be set out in that form :—

- (a) the situation of the property to which the note relates, together with such description thereof reasonably necessary for purposes of identification, as may be prescribed ;
- (b) the annual value of the property;
- (c) the year in respect of which the rate is made;
- (d) the amount of the instalment; payable, and the date on or before which payment of each instalment must be made.

(3) Where a special rate is made in respect of any year for any rating area or any part thereof, the demand of payment of the special rate on any rateable property shall be included in the demand note served under this section on the occupier of the property.

(4) Where in consequence of the determination of any objection, or of the

Preparation of lists in case of default by rating authority.

Lists not to be rendered invalid by certain failures or omissions.

decision in any action or appeal, any amount is deemed under section 40 to be arrears of any rate due in respect of any property, demand of payment of that amount shall be included in the demand note which is next served under this section on the occupier of that property.

Remission for unoccupied buildings.

54. (1) Where any building, other than a building containing furniture, is or remains unoccupied for any period, the rating authority may allow for that period a proportionate remission of the amount due on that building in respect of any rate or rates.

(2) Where any building containing furniture is registered with the rating authority as a building intended to be let furnished, or as a building not intended to be permanently occupied, and the building remains unoccupied for any period, the rating authority may allow for that period a proportionate remission of one-half of the amount due on that building in respect of any rate or rates.

(3) The period for which a remission may be allowed under subsection (1) or subsection (2) in respect of any building shall—

(a) commence on the date on which written notice is received by the rating authority to the effect that the building is unoccupied ; and

(b) end on the date on which the building is reoccupied :

Provided, however, that unless written notice of the date of the reoccupation of any building is given to the rating authority before the expiry of a period of three days from such date, the period for which such remission may be allowed in respect of that building shall be deemed to have terminated one month prior to the date of the reoccupation.

(4) Every person who gives notice under subsection (3) that any building is unoccupied, shall specify in the notice the address to which any communication may be sent to him by the rating authority for the purposes of this section.

(5) Where any question arises as to the period during which any building is or remains unoccupied, the decision of the rating authority thereon shall be final; notice of such decision shall be sent by post to the address specified in the notice relating to that building.

55. (1) If any amount due in respect of any rate on any rateable property or due as arrears of any rate is not paid into the office of the rating authority within the time fixed in the demand note issued in respect of that amount under section 53, a warrant which shall be substantially in the prescribed form and signed by the Mayor or Chairman of the authority, or by some other person duly authorized by the authority in that behalf, shall be issued to a collector or other officer of the authority directing him to levy such amount and the costs of recovery by seizure and sale of all and singular the movable or immovable property, wherever situate, of the owner of the rateable property, and of all movable property, to whomsoever belonging, which may be found in or upon the rateable property in respect of which such amount is due :

Warrant for recovery of rate.

Provided, however, that in any case where a warrant is issued for the levy of any amount due on any property belonging to the State and leased or let to any person, the warrant shall not direct the seizure and sale of the property or of the leasehold or other interest of any lessee or tenant of the property, but shall be limited to directing the seizure and sale of the movable or immovable property of the lessee or tenant.

(2) Where a warrant is issued by any rating authority under subsection (1) for the seizure and sale of any property, wherever situate, of any person, the officer or other person to whom the warrant is issued may, notwithstanding anything in any other law to the contrary, execute the warrant in any place in which any such property is situate, whether or not such place is within or outside the administrative area of the authority.

56. Notwithstanding anything to the contrary in this Ordinance, the rating authority may by resolution waive the whole or any part of any amount due on any

Power of local authority to waive amount due in respect of rates.

properly in respect of any rate, and any costs incurred for the purpose of recovering that amount, if it appears to the authority that the amount to be waived is inconsiderable or irrecoverable, or that it should be written off on the ground of the poverty of the person liable therefor; and, in any case where any such resolution is passed, no warrant shall be issued under this Part in respect of that amount, and any warrant that may have been issued in respect thereof shall be recalled.

(2) No property of any class or description set out hereunder shall be seized or sold in execution of any warrant issued under this Part;—

(a) the necessary wearing apparel, beds and bedding, and cooking utensils and implements of the person whose property is to be seized, and of his wife and children ;

(b) the tools, utensils and implements of trade or business of such person and, where such person is an agriculturist, the implements of husbandry and such cattle and seed grain as may be reasonably necessary to enable him to earn his livelihood as such;

(c) professional instruments and library, necessary for the carrying on of the profession or business of such person, to the value of five hundred rupees.

(3) Where a warrant is issued under this Part for the levy of any amount due on any rateable property in respect of any rate, no movable property which may be found in or upon such rateable property shall be seized or sold for the recovery of any arrears of such rate which became due in respect of any period prior to the two quarters next preceding the date of such seizure unless such movable property belongs to a person who was the owner or occupier of the property during the period in respect of which such arrears became due and payable.

59. (1) Subject to the provisions of section 58, it shall be the duty of the collector or other officer, to whom a warrant is issued under this Part for the seizure and sale of any property, to effect any such seizure as far as possible in accordance with the provisions of this section.

(2) Such movable property, wherever situate, of the owner as can be found, and as may, in the opinion of the collector or other officer, be sufficient to defray the amount leviable, shall be seized and sold before any other property is seized in execution of the warrant.

Order in which properly must be seized-

57. The amount of the costs of recovery authorized to be levied under any warrant issued under this Part shall be determined in accordance with the following provisions :—

(a) a charge of ten *per centum* of the amount of the rate to be levied under the warrant, shall be made in respect of the cost of issue of the warrant;

(b) a charge of ten *per centum* of the amount of the rate to be levied under the warrant may be made in any case where goods are removed after seizure under the warrant; and a further charge not exceeding five cents per day shall be made for keeping such goods in safe custody during detention, but so, however that no such charge shall be made in respect of detention for more than one month ;

(c) in the case of the seizure of immovable property, or where goods seized are not removed after seizure, a charge not exceeding one rupee per day shall be made for keeping a person in possession of the property or goods;

(d) where a sale takes place, a charge not exceeding two and one-half *per centum* of the proceeds of sale shall be made in respect of the costs of sale.

58. (1) No property whatsoever of the State, whether movable or immovable, shall be liable to be seized or sold in execution of any warrant issued under this Part.

Amount of costs leviable under warrant.

Restrictions as to seizure of property.

(3) Where no movable property of the owner is found, or where the amount realized by the sale of movable property seized under subsection (2) is insufficient to defray the amount leviable, such movable property as can be found in or upon the rateable property to which the warrant relates shall be seized and sold.

(4) Where no movable property has been seized and sold under the preceding provisions of this section, or where the proceeds of sale of any movable property so seized is insufficient to defray the amount leviable, the collector or other officer, in accordance with such directions as the rating authority shall issue in that behalf, shall seize and sell either—

(a) the rents and profits of the rateable property to which the warrant relates, for a period sufficient in the opinion of such collector or officer to defray the amount recoverable; or

(b) the rateable property to which the warrant relates.

(5) No collector or other officer shall be liable in damages by reason of his failure to carry out any seizure and sale in accordance with the provisions of this section, unless the person who claims such damages proves to the satisfaction of the court that at the time when that person's property was being seized, he or some other person on his behalf pointed out to the collector or officer free and unclaimed property, which would have been sufficient to defray the amount leviable, and which should lawfully have been seized in the first instance as hereinbefore provided, and that the collector or officer failed to seize the property so pointed out.

(6) In this section—

" owner " means the owner of the rateable property to which the warrant relates; and

" amount leviable " means the amount of the rates and costs for the recovery of which a warrant has been issued.

60. It shall be lawful for the collector or other officer, to whom a warrant is issued under this Part, at any time between sunrise and sunset to enter upon and break open any building for the purpose of seizing any property which he is directed by such warrant to seize.

Power to break open buildings.

61. (1) The property seized in execution of any warrant issued under this Part shall be sold by public auction in accordance with the provisions of this section by the collector or officer to whom the warrant was issued or by some other person authorized in that behalf by the rating authority.

Sale of property seized.

(2) No property which, in the opinion of the collector or officer seizing such property, exceeds one thousand rupees in value shall be sold under this section—

(a) except after the expiry of a period of twenty-four days from the date of such seizure; and

(b) unless notice of the date, time and place fixed for the sale has, not less than twenty-one days before the date so fixed, been published in the Gazette and in a daily newspaper circulating in Sri Lanka.

(3) No property which, in the opinion of the collector or officer seizing such property, exceeds twenty-five rupees, but does not exceed one thousand rupees, in value, shall be sold under this section—

(a) except after the expiry of a period of eight days from the date of such seizure; and

(b) unless notice of the date, time and place fixed for the sale has, not less than six days before the date so fixed, been published in the Gazette and in a daily newspaper circulating in Sri Lanka.

(4) No property which, in the opinion of the collector or other officer seizing such property, does not exceed twenty-five rupees in value shall be sold under this section—

(a) except after the expiry of a period of eight days from the date of such seizure; and

(b) unless notice of the date, time and place fixed for the sale has, not less than six days before the date so fixed, been given by beat of tomtom in the place at which the property was seized.

(5) No property seized in execution of any warrant shall be sold under this section if, at or before the time fixed for the sale of such property, payment of the amount and of the costs recoverable under the warrant, is duly made to the rating authority by which the warrant was issued.

(6) The preceding provisions of this section shall be in addition to and not in substitution or derogation of the provisions of section 68 (2).

Surplus of proceeds of sale to be paid to owner on demand.

62. Where any property seized in execution of a warrant is sold under this Part, the rating authority shall, after deducting from the proceeds of sale the amount and costs leviable under the warrant, on demand made by the owner of the property so seized, pay the surplus if any to the owner:

Provided, however, that where no such demand is made before the expiry of one year from the date of the sale of any movable property or of ten years from the date of the sale of any immovable property the amount of such surplus shall be credited to the fund of the rating authority, and no person shall thereafter be entitled to demand or receive such amount.

Power of rating authority to purchase immovable property sold under warrant.

63. (1) Whenever any immovable property is sold in execution of a warrant issued under this Part by a rating authority, it shall be lawful for the rating authority or any person authorized in that behalf by the authority to bid at the sale of the property and to purchase the property for and on behalf of the rating authority.

(2) Where any such immovable property is purchased for and on behalf of the rating authority, the authority shall be entitled to take credit for the amount and costs leviable under the warrant for the sate of that property, and shall be liable only to pay over to the owner or other person entitled to the property sold the balance of the

purchase price after deduction of the amount and costs so leviable ;

Provided, however, that in any case where the amount realized at the sale of any immovable property is less than the amount and costs leviable under the warrant, nothing herein contained shall be deemed to preclude the rating authority from recovering the balance due to the authority after deduction of the amount realized at the sale.

64. (1) Where any immovable property which is sold in execution of a warrant issued by a rating authority under this Part is purchased by any person other than the rating authority, a certificate which shall be substantially in the prescribed form and signed by the Mayor or Chairman of the authority shall be issued to the purchaser; and such certificate shall be sufficient to vest the property in the purchaser free of all encumbrances.

Certificate of sale to purchaser other than rating authority.

(2) Every certificate issued under subsection (1) shall be liable to the stamp duty and to any registration or other charges payable on conveyances of immovable property under the provisions of any written law for the time being in force, and such duty and charges shall be payable by the person to whom the certificate is issued.

65. (1) Where any immovable property which is sold in execution of a warrant issued by a rating authority is purchased by the rating authority, a certificate which shall be substantially in the prescribed form and signed by the Mayor or Chairman of the authority, shall vest the property absolutely in the authority, free from all encumbrances ; and such certificate shall be received in all courts as conclusive evidence of the title of the authority to such property.

Certificate of sale where purchaser is rating authority.

(2) Every such certificate shall be liable to the stamp duty and to any registration or other charges payable on conveyances of immovable property under the provisions of any written law for the time being in force.

66. (1) It shall be lawful for any rating authority to sell and convey to any person, for valuable consideration, any immovable property vested in the authority under section 65.

Power of authority to sell immovable property vested in the authority.

(2) Where any immovable property is sold under subsection (1), the rating authority shall, after deducting from the proceeds of such sale the aggregate of the amounts specified in subsection (6), pay the surplus, if any, on demand to the person entitled to the property.

(3) No surplus remaining from the proceeds of sale of any property shall be paid to any person under subsection (2) unless demand of payment thereof is made to the rating authority before the expiry of a period of (en years from the date of the sale and conveyance of thai property under subsection(1):

Provided, however, that where such surplus is payable to a person who is then a minor, the said period often years shall not commence to run until majority is attained.

(4) If no demand is made to the rating authority for the payment of any surplus in accordance with the provisions of subsection (3), the amount of such surplus shall be credited to the fund of the rating authority, and no person shall thereafter be entitled to demand or receive such amount.

(5) The amounts which may be deducted under subsection (2) from the proceeds of a sale under this section of any immovable property shall be—

- (a) the amount of the rates due on the property in respect of the period prior to the seizure and sale thereof in execution of the warrant under this Part and remaining unpaid or unrecovered at the time of the sale of the property under this section ;
- (b) the amount of the rates which would have been due and payable at the date of the sale and conveyance of the immovable property under this section, if the property had not been seized and sold, together with an additional ten *per centum* of such amount;
- (c) the costs incurred by the rating authority in connexion with the seizure, purchase, surveying, vesting, maintenance, improvement,

and the sale and conveyance of the property; and

(d) the amount of any balance which may have been paid over to the owner or other person entitled under subsection (2) of section 63.

(6) After any payment of any surplus is made in accordance with the provisions of this section, no further claim in respect of such surplus shall be allowed against the rating authority at the instance of any person whatsoever:

Provided, however, that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any such surplus to pay the same to the person lawfully entitled thereto.

(7) In this section, the expression " person entitled " means the person who would have occupied such position in respect of the immovable property sold and conveyed under this section, if title thereto had not vested in the rating authority under section 65.

67. Where the occupier of any rateable property not being the owner or joint owner thereof, whose property is seized in execution of a warrant under this Part, or who, to avoid such seizure or the sale of any property so seized, pays the amount and costs leviabie under the warrant, the occupier shall be entitled to deduct the sum so paid by him from the rent which may be or become due from him to the owner or joint owner of the rateable property; and the receipt given by the rating authority for the sum so paid shall be deemed to be an acquittance in full for the like amount of rent:

Deduction of rates paid by tenant.

Provided, however, that nothing herein contained shall authorize any occupier to make any such deduction from the rent due from him, in any case where the occupier is, under the lease or other agreement with the owner or joint owner of the rateable property, liable to pay the amount due in respect of rates on that property.

68. (I) Regulations may be made providing for the registration of mortgages of immovable property situated within the rating areas of rating authorities and of the addresses of the mortgagees of such property.

Provision for cases where mortgaged property is sci/ed.

(2) Where any mortgage of any immovable property has been registered under any regulations made in that behalf, it shall be the duty of the rating authority, if that property is seized in execution of a warrant issued under this Part, to cause a notice specifying the date fixed for the sale of that property to be sent by post to the mortgagee at his registered address not less than twenty-one days before the date so fixed.

(3) It shall be lawful for the mortgagee of any immovable property which is seized in execution of a warrant issued under this Part, to pay and discharge the amount and costs leviable under the warrant; and in any such case the mortgagee shall be entitled to add the sum so paid to the amount due on the mortgage, and the sum so added shall, notwithstanding anything to the contrary in any written or other law, be secured by that mortgage.

(4) All sums paid to the Deputy Secretary to the Treasury under this section shall be credited to the Consolidated Fund.

70. (1) All such sums as may be payable in any year by any rating authority under section 69 and all such other expenses as may be incurred by any rating authority in and for the purposes of the administration of this Ordinance shall be paid out of the funds of that authority.

Expenses of Ordinance to be met out of funds of authorities.

(2) All such sums and expenses as are required under subsection (1) to be paid out of the funds of any authority shall be deemed, for the purposes of the enactment by or under which the authority is constituted or established, to be expenses incurred in carrying out the provisions of that enactment.

71. (1) Any notice, demand note or other document required or authorized for the purposes of this Ordinance to be served on any person may be served—

Service of notices, &c-

PART V

EXPENSES, REGULATIONS, INTERPRETATION, REPEALS. &c,

69. (1) It shall be the duty of every rating authority, other than a Municipal Council, on or before the prescribed date in each year, to pay to the Deputy Secretary to the Treasury a proportion of the expenses incurred in the preceding year in and for the purposes of the exercise, discharge and performance of the powers, functions and duties conferred or imposed on the Local Government Valuer by or under the provisions of this Ordinance.

(2) The amount which shall be payable in any year by any rating authority under subsection (1) in respect of the expenses referred to in that subsection shall be determined in accordance with regulations.

(3) For the purposes of subsection (2), a statement under the hand of the Deputy Secretary to the Treasury of the amount of the expenses referred to in subsection (1), which have been incurred in any year, shall be conclusive proof of the amount of the expenses so incurred.

(a) by delivering it to that person; or

(b) by leaving it at the usual or last known place of abode of that person or, in the case of a company, at its registered office ; or

(c) by sending it by post addressed to that person at his usual or last known place of abode, or in the case of a company, at its registered office; or

(d) by delivering it to some adult person on the premises to which it relates, or where there is no adult person on those premises to whom it can be so delivered, by fixing it on some conspicuous part of those premises ; or

(e) without prejudice to the foregoing provisions of this subsection, where the property to which the document relates is the place of business of that person, by leaving it at, or by sending it by post addressed to that person at, the said place of business-

Payment by rating authorities of expenses of Local Government Valuer.

(2) Any notice, demand note or other document required or authorized for the purposes of this Ordinance to be served on or sent or transmitted to any public or rating authority shall be deemed to be duly served, sent or transmitted if in writing and delivered at or sent by registered post to the office of the authority.

(3) Any notice, demand note or other document required or authorized for the purposes of this Ordinance to be sent, transmitted or served by any rating authority shall be sufficiently authenticated if signed by any officer authorized in that behalf by the rating authority.

(4) Any notice, demand note or other document required or authorized for the purposes of this Ordinance to be sent, transmitted or served by any rating authority shall be in Sinhala and in Tamil.

Valuation, &c., not to be impeached for mistake or want of form.

72. No valuation, notice of valuation, demand note or other document made for the purposes of this Ordinance, and no seizure or sale of any property under this Ordinance, shall be deemed to be invalid or be impeached or otherwise affected by reason only of any mistake in the name of any person liable to be rated, or in the description of the property in respect of which the rate is made or levied, or in the amount of any valuation, or in the mode of seizure and sale, or by reason only of any other formal defect.

Appointment of Local Government Valuer and other officers.

73. (1) There may be appointed—

(a) a person by name or by office to be or to act as Local Government Valuer for the purposes of this Ordinance ;

(b) such Assistants to the Local Government Valuer and such other officers and servants as may be necessary for the purpose of assisting the Local Government Valuer in the exercise, discharge and performance of the powers, functions and duties conferred or imposed on him by or under this Ordinance.

(2) Any Assistant to the Local Government Valuer may, subject to the

general direction and control of the Local Government Valuer, exercise, perform and discharge any power, function or duty conferred or imposed on the Local Government Valuer by or under this Ordinance.

74. (1) The Minister may make Regulations. regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(2) Without prejudice to the generality of the powers hereinbefore conferred, the Minister may make regulations for or in respect of—

- (a) all matters stated or required in this Ordinance to be prescribed or in respect of which regulations are authorized or required to be made under this Ordinance;
- (b) the classes of plant and machinery which shall for the purposes of section 43 (1) be deemed to be part of a rateable property;
- (c) the form of any book, register, demand note, valuation list, notice, return, statement, warrant or other document required or authorized to be used for the purposes of this Ordinance, and the particulars to be set out in any such document;
- (d) all matters connected with or incidental to the matters specifically referred to in this subsection.

(3) No regulation shall have effect until it has been approved by Parliament, and until notification of such approval has been published in the Gazette.

(4) Every regulation shall, upon the publication of a notification of the approval of that regulation under subsection (3), be as valid and effectual as if it were herein enacted.

75. (1) In this Ordinance, unless the context otherwise requires— Interpretation.

" annual value ", except when determined under section 44, means the annual rent, which a tenant might

reasonably be expected, taking one year with another, to pay for any rateable property, if the tenant undertook to pay all public rates and taxes due thereon, and if the landlord undertook to bear the cost of repairs, maintenance and upkeep, if any, necessary to maintain the property in a state to command that rent;

"capital site value", when used with reference to any land, means the probable price which would be paid for the land, exclusive of all buildings thereon, if the land were sold in the open market free of all mortgages, leases, encumbrances or other charges;

"Commissioner" means the Commissioner of Local Government;

"local authority" means any Municipal Council, Urban Council, Town Council, or Village Council;

"owner", when used with reference to any rateable property, means the person for the time being receiving the rent of that property, whether on his own account or as agent or trustee for any other person, or who would so receive that rent if the property was let at a rent;

"prescribed" means prescribed by this Ordinance or any regulation ;

"rate" means any rate which a rating authority is empowered or required to make and levy by virtue of the provisions of any written law, and includes the assessment tax which may be imposed by a Village Council under section 37 of the Village Councils Ordinance;

"rating area" means any area declared by section 3 to be a rating area for the purposes of this Ordinance;

"rating authority" means any local authority which is declared by section 3 to be a rating authority for the purposes of this Ordinance ;

"rating division" means any part of a rating area which is constituted a rating division under section 21;

"regulation" means a regulation made by the Minister under this Ordinance;

"Urban Council" means an Urban Council constituted under the Urban Councils Ordinance, and includes any Council which is deemed by that Ordinance to be an Urban Council.

(2) In the computation and assessment of the annual value of any rateable property, no allowance or reduction shall be made for any period of non-tenancy whatsoever.

76. On and after the first day of January in the year specified in any Order under section 2 whereby the provisions of this Ordinance are applied in the case of the rate or rates which may be made or levied by the local authority for any area, being an area to which any enactment mentioned in the first column of the Schedule is applicable, the provisions of that enactment shall, in their application to that area, have effect subject to the amendments and modifications set out respectively in the corresponding entries in the second column of that Schedule:

Modification of Ordinances mentioned in the Schedule.

Provided, however, that, notwithstanding the preceding provisions of this section, any rate made or imposed for that area under any enactment mentioned in the Schedule in respect of any period prior to the appointed year, shall be levied and recovered under and in accordance with the provisions of that enactment in like manner as though that enactment had not been so amended or modified.

77. Notwithstanding the provisions of any other written law for the time being in force, the provisions of this Ordinance shall apply in the case of—

Application of Ordinance to rates, valuation lists, &c., made in respect of the appointed year.

(a) any rate made for any rating area, in respect of the period commencing on the first day of January in the appointed year, and the levy, payment and recovery of any such rate; and

(b) the preparation, revision, deposit and approval of every quinquennial list required by section 20 or section 21 to come into force for any such rating area or any division thereof on the first day of January in the appointed year, the service of notices of valuation of properties included in any such list, the making and determination of objections in respect of matters

included in any such list, and the institution and determination of actions for the revision of the decisions of the rating authority upon such objections.

78. Nothing in this Ordinance shall apply in the case of the levy, payment, collection or recovery of any tax imposed by or under the Police Ordinance.

Ordinance not to apply to taxes under Police Ordinance.

[Section 76.]

SCHEDULE

COLUMN I

COLUMN II

ENACTMENT

AMENDMENT OR MODIFICATION

The Municipal Councils Ordinance.

1. In section 327 (I), the definition of "annual value "shall be omitted.
2. In section 272—
 - (o) the words " and assessment " in paragraph (a) of subsection (7) shall be omitted ;
 - (b) the words " rates or ", in paragraph (d) of subsection (7), shall be omitted ;
 - (c) subsection (12) shall be repealed and the following shall be substituted therefor :—

"(12) Revenue, including the collection of taxes. "

3. The following section shall have effect in lieu of sections 230, 231 and 232:—

'Making and levy of rates, 230, (1) The Council shall, from time to time, make and levy a rate or rates on the annual value of rateable property situated within the town.

(2) In this section, " annual value " and " rateable property " have respectively the same meanings as in any enactment for the time being in force relating to the making and collection of rates by local authorities and to the valuation of property for the purposes of such rates.'

4. Sections 233 to 243 shall not have effect.
5. In section 244, the words "rate or", wherever they occur collectively in that section, shall be omitted.
6. The following section shall have effect in lieu of section 252 :—

" Warrant for recovery of taxes.

252. If the amount of any tax or taxes imposed under this Ordinance is not paid into the Municipal office within such time as the Mayor shall direct, a warrant signed by the Mayor shall be issued to some collector or other officer of the Council named therein directing him to levy such tax or taxes and the costs of recovery by seizure and sale of the property on account of which such tax or taxes may be due, and of all and singular the movable and immovable property of the defaulter; and the said warrant shall be substantially in the form contained in the Fifth Schedule, with such variations as the circumstances require :

Provided that the Council may by resolution waive the whole or any part of any tax and any costs incurred for the purpose of recovering that tax if it appears to the Council that the amount to be waived is inconsiderable or irrecoverable or that it should be written off on the ground of the poverty of the person liable therefor, and, in any case where any such resolution is passed, no warrant shall be issued and any warrant that may have been issued shall be recalled. "

COLUMN I

COLUMN II

ENACTMENT

AMENDMENT OR MODIFICATION

The Municipal
Councils
Ordinance
(contd.)

- 7. Section 254 shall not have effect.
- 8. In section 255, the words "rate or", wherever they occur collectively in that section, shall be omitted.
- 9. In section 256—
 - (a) the words " rate or rates or ". wherever they occur collectively in that section, shall be omitted ;
 - (h) the words " rate or ", in the proviso to that section, shall be omitted,
- 10. In section 259, the words " rate or ", in the proviso to that section, shall be omitted.
- 11. In sections 261, 262 and 264, the words " rates or ". wherever they occur collectively in any of those sections, shall be omitted.
- 12. In section 265, the words " rates and ", in subsection (2). shall be omitted.

The Village
Councils
Ordinance.

- 1. In section 37—
 - (a) for the words " may be imposed and levied under this section ", occurring in subsection (1), there shall be substituted the words " may be made or imposed, and levied, ";
 - (6) for the words " an assessment tax not exceeding nine *per i-enluni* of the annual value of all buildings and all lands ". occurring in paragraph {a} of subsection (2). there shall be substituted the following:
 - " a rate not exceeding nine *per centum* per annum on the annual value of rateable property";
 - (r) for the words " no assessment tax shall be imposed or levied", occurring in the first proviso to subsection (2), there shall be substituted the words " no rate shall be made or levied ":
 - (J) the words " assessment tax or", wherever they occur collectively in the second or the third proviso to subsection (2), shall be omitted ;
 - (f) for the words " land tax ", in subsection (3). there shall be substituted the words " acreage tax ",
 - (/) for the word "tax", in subsection (4), there shall be substituted the words "acreage tax ";
 - {g} for the words " land tax ", in subsection (5), there shall be substituted the words " acreage tax ".
- 2. In section 42 (2) the following paragraph shall be substituted for paragraph (iii) thereof:—
 - " (iii) taxation of land including the form of the returns, siaiemenis or information that may be called lor for ihc purposes of any acreage tat. and the manner in which ihe^ are to be called for by the Chairman and furnished by the inhabitants. "
- 3. In section 52 (1), for the words " land tax ", occurring in paragraph (/>) thereof, there shall be substituted the words " acreage tax ".
- 4. In section 58 (1) the definition of " annual value " shall be omitted.

The Urban
Councils
Ordinance.

- I. In subsection (5) of section 157—
 - (a) for the words " rates and charges, ". there shall be substituted the word " charges, ";
 - (A) for the words " rates, taxes or charges. ", there shall be substituted the words " taxes or charges. ".

COLUMN I

COLUMN II

ENACTMENT

AMENDMENT OR MODIFICATION

The Urban Councils Ordinance (contd.)

2. The following section shall have effect in lieu of section 160 :

" Power to make and levy rates.

160. (1) The Urban Council of a town may, subject to such limitations, qualifications, and conditions as may be prescribed by the Council, make and levy a rate on the annual value of rateable property situated within the town.

(2) The Urban Council of a town may under subsection (1) impose special rates for different areas or parts of the town in respect of any special public services provided for any such area or part.

(3) In this section and in section 161, "annual value" and "rateable property" have the same meaning as in any enactment for the time being in force relating to the making and collection of rates by local authorities and to the valuation of property for the purposes of such rates. "

3. The following section shall have effect in lieu of section 161 :—

" Exemption from special rate.

161. Where any special rate is made by the Urban Council of any town, in respect of any special public service provided for any specified area or part of the town, any rateable property, situated in that area or part, which is not benefited by such service, or within which other provision is made for the said or a like service to the satisfaction of the Council, shall be exempt from the special rate. "

4. Section 166 shall not have effect.

5. In sections 167, 168, 169 and 172, the words " rate or " wherever they occur collectively in any of those sections, shall be omitted.

6. In section 170—

(a) the words " rates and " where they occur collectively in subsection (1), and the words " rates ", wherever it occurs therein, shall be omitted ;

(A) subsection (2) shall be omitted.

The Town Councils Ordinance.

1. In subsection (5) of section 156—

(a) for the words " rates and charges ", there shall be substituted the word " charges ";

(b) for the words " rates, taxes or charges ", there shall be substituted the words " taxes or charges ".

2. In subsection (1) of section 159, there shall be substituted for all the words from "of the annual value" to " town ", the words " on the annual value of rateable property situated within the town ".

3. Sections 160 and 165 shall not have effect.

4. In sections 166, 167, 168 and 171, the words " rate or" wherever they occur collectively shall be omitted.

5. In section 169—

(a) the words " rates and " where they occur collectively in subsection (I), and the word " rates ", wherever it occurs therein, shall be omitted ;

(b) subsection (2) shall be omitted.

6. In section 244 (1) the definition of " annual value " shall be omitted.

CHAPTER 477

RAILWAY BENEFIT ASSOCIATION

Ordinances AN ORDINANCE TO INCORPORATE THE CEYLON RAILWAY BENEFIT ASSOCIATION.
 Nos. 16 of 1908,
 15 of 1931,
 4 of 1938,
 40 of 1946.

[26th October. 1908]

Short title. **1.** This Ordinance may be cited as the Ceylon Railway Benefit Association Ordinance.

Ceylon Railway Benefit Association incorporated.

2. From and after the passing of this Ordinance such and so many persons as now are members of the Ceylon Railway Benefit Association (hereinafter referred to as "the association"), or shall hereafter be admitted members of the corporation hereby constituted, whose names shall be inscribed in the register mentioned in section 12, shall be and become a corporation with continuance for ever under the name of "The Ceylon Railway Benefit Association", (hereinafter referred to as "the corporation") and by that name shall and may sue and be sued in all courts, and shall have full power and authority to have and to use a common seal, and change and alter the same at their will and pleasure.

General objects.

3. The general objects for which the corporation is constituted are hereby declared to be to promote thrift, to give relief to the members in times of sickness or distress, and ultimately, on or after the death, or the retirement, resignation or dismissal from the public service, or the withdrawal from membership, of any member, to pay to such member or to his nominee or to his widow and children or if there is no widow or child surviving him to his heirs-at-law, such portion of his contributions to the funds of the corporation and such donation, if any, as may be authorized by the rules of the corporation made as hereinafter provided.

Affairs of the corporation to be administered by a committee of management.

4. (1) The affairs of the corporation shall, subject to the rules of the corporation made as hereinafter provided, be administered by a committee of

management consisting of the following:—

Ex officio members :-

- (i) the president of the corporation (hereinafter referred to as "the president") elected each year by the members of the corporation from among their own number at the annual general meeting of the corporation; and
- (ii) the two senior clerks, according to the seniority list of the Government Railway, being members of the corporation, who are employed respectively in the offices of the General Manager and the Chief Accountant of the Government Railway, or the persons for the time being acting for them.

(b) Elected members:—

twelve persons elected each year by the members of the corporation from among their own number at the annual general meeting of the corporation:

Provided that a member of the corporation who is not employed in Colombo shall not be eligible for election and shall not remain as the president, or as a member of the committee of management.

(2) The first committee of management shall consist of the president, secretary, and treasurer, and members of the committee of

management holding office at the time of the coming into operation of this Ordinance.

Secretary to the Treasury, be appointed by the said committee on such terms and conditions as may be approved by the committee.

Powers of committee.

5. The committee of management shall, subject to the provisions of this Ordinance and of any rules made under section 15, have full power and authority generally to govern, direct, and decide all matters whatsoever connected with the appointment and dismissal of officers, agents, and servants, and with the administration of the affairs of the corporation and the accomplishment of the objects thereof and to defray out of the funds of the corporation all expenses necessary for the purposes of such appointments and administration ;

(4) If at any time it is necessary provisionally to fill the joint office of secretary and treasurer any person may be appointed in that capacity for a period of three months by the said committee on such terms and conditions as may be agreed upon from time to time.

Provided that the said committee shall not exercise any powers which are by this Ordinance or by any rules made under section 15 declared to be exercisable by the corporation in general meeting;

7. The person appointed to the joint office of secretary and treasurer (in this Ordinance and in any rules made thereunder referred to as " the secretary and treasurer ") shall receive and keep account of all the moneys and funds of the corporation and shall act as secretary of the committee of management and shall pay, subject to the provisions of section 22 (2), all claims, loans, advances and expenses authorized by the said committee. He shall also prepare and submit monthly to the said committee an account of the transactions of the corporation and generally act under the direction of the ex officio members of the said committee.

Duties of secretary and treasurer.

Provided also that no rule made by the corporation in general meeting shall invalidate any prior act of the said committee which would have been valid if such rule had not been made,

8. Meetings for the transaction of the business of the said committee shall be held at least once in every month, and the president, on the requisition of two committee members, shall call a meeting of the committee at any time for the transaction of such business as may be mentioned in the requisition.

Committee meetings.

Secretary and treasurer.

6. (1) The committee of management shall select a person employed in the public service for appointment to the joint office of secretary and treasurer of the corporation.

(2) The appointment of such person as secretary and treasurer of the corporation shall be subject to the approval of the Secretary to the Treasury, and after such approval has been obtained, he shall be seconded for service as secretary and treasurer, and appointed by the said committee in that capacity on such terms and conditions as may be agreed upon from time to time between the Government and the committee.

9. (1) The president shall, where possible, preside at all meetings of the said committee, and in his absence the ex officio members of the committee shall in order of seniority be entitled to preside. If the president and the ex officio members are absent, the members present shall elect a chairman for the occasion.

Who shall preside, quorum, &c.

(3) If at any time it is not possible in the opinion of the said committee to appoint a suitable person in the public service to the joint office of secretary and treasurer, a person who is not employed in the public service may, subject to the approval of the

(2) The president, or in his absence the chairman, shall have a casting vote in addition to his original vote.

(3) Seven members of the said committee shall form a quorum at any meeting thereof.

RAILWAY BENEFIT ASSOCIATION

[Cap. 477

Vacancies how filled.

10. On the death or absence from Sri Lanka of the president or any elected member of the committee of management, or in the event of such member absenting himself from three consecutive meetings of the committee or ceasing to be a member of the committee, it shall be lawful for the remaining members of the said committee to elect any member of the corporation resident in Colombo as his successor, and the member so elected shall continue in office until the annual general meeting of the corporation next following his election.

Membership.

11. -Every person holding an appointment in the service of the Government Railway who fulfils the requirements of the rules shall be eligible for admission as a member, and may, in the discretion of the said committee, be admitted a member.

Register of members.

12. (1) The committee of management shall cause a register to be kept in which every person who at the date of the passing of this Ordinance is a member of the association, and every person thereafter duly admitted a member of the corporation hereby constituted, shall have his name inscribed.

(2) The register shall contain the following particulars:—

- (a) the name, age on admission, address, and occupation of each member;
- (b) the date at which the name of any person was inscribed in the register as a member;
- (c) the date at which any person commenced or ceased to be a member.

(3) All members of the association whose names are inscribed in the register shall be deemed to have been members of the corporation from the date referred to in subsection (1).

Books of account.

13. The committee of management shall also cause proper books of account to be kept, which shall be open at all reasonable times to the inspection of members of the corporation, and of any person or persons whom the Secretary to the Treasury may at any time appoint to examine the same.

14. It shall be lawful for the corporation by resolution passed at any general meeting to remunerate the services of any member or members of the committee of management, and from time to time to fix the amount of such remuneration, and to require such security from such member or members so remunerated as may be deemed sufficient.

Remuneration to member or member of committee'

15. It shall be lawful for the corporation from time to time at any general meeting of the members and by a majority of votes to make rules for the admission, withdrawal, or expulsion of members, for the imposition of fines and forfeitures for breaches of rules, for the conduct of the duties of the committee of management and of the various officers, agents, and servants of the corporation, for the procedure in the transaction of business, for the establishment and regulation of a provident fund for the benefit of the employees of the corporation or any of them and for all matters incidental thereto, including the determination of the amounts from time to time to be paid into such provident fund, whether by such employees or by the corporation from its funds, on account of contributions, bonus, interest, or otherwise, and the manner and conditions of making payments from such provident fund, for the payment of gratuities from the funds of the corporation to specified employees of the corporation upon the retirement of such employees from the service of the corporation or for the benefit of the dependants of the specified employees who have died on or after the 1st day of January, 1945, while in the service of the corporation and for all matters incidental thereto, including the method of calculation and the conditions of payment of such gratuities, for the regulation of the extraordinary loans to be given to members under section 22 and for prescribing the conditions of such loans including the nature and situation of the immovable property that may be accepted as security, and otherwise generally for the management of the affairs of the corporation and the accomplishment of its objects. Such rules when made may at a like meeting be altered, amended, or cancelled, subject however to the requirements of section 20:

Rules.

Provided that no rule or alteration, amendment, or cancellation of any rule shall have effect until the same is confirmed by

the Minister. Notice of such confirmation shall be published in the Gazette, and thereupon the same shall be as valid and effectual as if it had been herein enacted,

General meetings.

16. (1) The secretary and treasurer, upon the request of the committee of management, or upon the written requisition of twelve or more members of the corporation, shall call a general meeting.

(2) No general meeting shall be held unless the quorum of members prescribed by the rules be present, and unless at least seven days' notice, specifying the time and place of such meeting and the purpose for which it is to be held, has been given by advertisement in two or more of the local newspapers, or in such other manner as may be required by any rule made by the corporation; and no business shall be brought before or transacted at such meeting other than the business specified in such notice.

Annual general meeting.

17. (1) An annual general meeting of the members of the corporation shall be held not later than the thirty-first day of October in each year, at which there shall be submitted a balance sheet, containing a statement of the assets and liabilities of the corporation on the preceding thirtieth day of June and an account of the income and expenditure of the corporation during the twelve months ending on the said thirtieth day of June.

(2) The said balance sheet, statement and account shall—

- (a) be prepared by the secretary and treasurer; and
- (b) be duly examined and audited and the correctness thereof certified, prior to the annual general meeting at which the same are submitted, by one or more auditors elected for that purpose by the members of the corporation at the preceding annual general meeting; and
- (c) be forwarded in duplicate to the Minister through the Secretary to the Treasury within one month of the annual general meeting.

(3) If no auditor is elected under subsection (2) (b), or if any auditor elected under that subsection is unable to act as such through death or any other cause, or refuses or neglects to perform his duties, the committee of management may elect an auditor, who shall be deemed to have been duly elected under subsection (2) (b).

(4) Every auditor elected by the members of the corporation or by the committee of management shall receive such remuneration for his services as may be fixed by the members of the corporation, or by the committee, as the case may be, at the time of his election.

(5) If no election of an auditor or auditors is made as aforesaid, the Secretary to the Treasury may, on the application of any member of the corporation, appoint an auditor or auditors for the purpose of examining and auditing any such balance sheet, statement, and account as aforesaid, and may fix the remuneration to be paid to him or them by the corporation, and such remuneration shall be paid accordingly. Any auditor or auditors so appointed shall be deemed to have been duly elected under subsection (2) (b).

(6) At every such annual general meeting all business shall be transacted of which due notice has been given, and there shall also be elected the president, and the required number of members of the committee of management, who shall respectively hold office as such until the next subsequent annual general meeting.

(7) No person shall be appointed auditor under this section unless he is—

- (a) a member of the Institute of Chartered Accountants in England and Wales, or of any similar society incorporated by Royal Charter whose members are entitled to use the designation "Chartered Accountant";
- (b) a member of the Society of Incorporated Accountants and Auditors of Great Britain, or

(c) a public auditor appointed under section 18 of the Societies Ordinance.

committee of management from time to time to invest such part of the said funds as is not required for loans, advances and other current expenses—

Who shall preside at general meetings.

18. The president shall, where possible, preside at all general meetings of the corporation and in his absence the members present shall elect a chairman for the occasion. The president, or in his absence the chairman, shall have a casting vote in addition to his original vote.

(a) in fixed deposits in one or more of the local banks, or in securities of the Government of Sri Lanka; or

Security from officers, agents, and servants.

19. It shall be lawful for the committee of management to require security to be given by any of the officers, agents, or servants appointed by them, and to determine the nature and value of such security.

(b) in extraordinary loans to members of the corporation to be secured by mortgage of immovable property situated within such limits as may be prescribed by rules made under section 15; or

Mode in which rule or order once made may be subsequently altered, amended, or cancelled.

20. No rule passed and no decision come to by the corporation in general meeting shall be altered, amended, or cancelled, except by at least a majority of two-thirds of the members present and voting at any subsequent general meeting.

(c) in such other manner as the Secretary to the Treasury may from time to time approve.

(2) All cheques and orders against the said funds shall be signed by at least two of the following four persons :—

Property vested in corporation.

21. (I) On the coming into operation of this Ordinance, all and every the property belonging to the association, whether held in the name of the association or in the name of any person or persons in trust for the association, shall be and the same are hereby vested in the corporation hereby constituted, and the same, together with all after-acquired property and all subscriptions, contributions, donations, fines, amounts of loans and advances received or to be received, shall be held by the said corporation for the purposes of this Ordinance.

(a) the three ex officio members of the committee of management; and

(b) the secretary and treasurer of the corporation.

23. Subject to and in accordance with rules made under section 15, it shall be lawful for the corporation out of its funds to contribute to any provident fund duly established for the benefit of its employees and to pay gratuities to its employees upon their retirement and to the dependants of employees dying on or after the 1st day of January, 1945, while in the service of the corporation.

Power to contribute to provident fund and to play gratuities

Debts due by and payable to association.

(2) All debts and liabilities of the association existing at the time of the coming into operation of this Ordinance shall be paid by the corporation hereby constituted, and all debts due to and subscriptions, contributions, fines, and amounts of loans and advances payable to the association shall be paid to the said corporation for the purposes of this Ordinance.

24. The committee of management may from time to time under the common seal of the corporation appoint such officer or officers, agent or agents, as they may consider necessary for recovering all dividends, interest, or other revenue to be derived from such investments, or for otherwise carrying out the provisions of this Ordinance; and all persons so appointed shall hold office during the pleasure of, and shall be entitled to such remuneration as may be determined by, the said committee.

Appointment of officers, agents, &c-

Funds of the corporation how to be kept, paid out, and invested.

22. (1) The funds of the corporation shall be placed in the name of the corporation at one or more of the local banks, and it shall be lawful for the

Seal of the corporation how to be affixed to instruments.

25. The seal of the corporation shall not be affixed to any instrument whatsoever, except in the presence of at least two of the four persons mentioned in section 22 (2), who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

(2) A copy of every such petition shall be served on the Attorney-General at least fourteen days before the hearing of the petition.

Corporation may hold property, movable and immovable.

26. The corporation shall be able and capable in law to take and hold any property movable or immovable which may become vested in it by virtue of any grant, gift, testamentary disposition, or otherwise, and all such property shall be held by the corporation for the purposes of this Ordinance.

(3) The Attorney-General may oppose the prayer of the petition, and if, after hearing him upon such opposition, the said court shall be of opinion that it will be for the general advantage of the corporation to grant the prayer of the petition, a decree may be made to that effect, and if the court decline to grant the prayer of the petitioner, it shall be competent for the petitioner to appeal to the Court of Appeal; and any land so sold or exchanged or any land which, having been mortgaged, is sold in execution under a mortgage decree obtained from a competent court, shall be held by the purchaser or person taking the same in exchange free of the trusts created by this Ordinance-

Corporation may demise lands on lease.

27. It shall be lawful for the corporation to demise any of the lands vested in it for building or other purposes, on lease for any term not exceeding ninety-nine years, reserving the best yearly or monthly rental procurable for the same, and with the ordinary covenants for re-entry in case of non-payment of rent, breach of covenant, or otherwise.

29. In case any doubt or ambiguity shall arise, and any controversy shall take place among the members of the corporation and of the committee of management, or either of them, as to the interpretation of this Ordinance or as to the powers of the said committee, the same shall be referred to the Secretary to the Treasury whose decision shall be final and conclusive.

Doubt or ambiguity how decided.

Corporation may not sell, exchange, or mortgage lands without leave of court.

28. (1) It shall not be lawful for the corporation to sell, exchange, or mortgage any of the lands vested in it without the leave of the District Court of Colombo, which leave shall be applied for by petition addressed to the said court setting out the facts and reasons for which the corporation desires to sell, exchange, or mortgage such lands, and praying for a decree of the said court.

30. Nothing in this Ordinance contained shall affect or be deemed to affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in the foregoing provisions of this Ordinance and those claiming by, from, or under them.

Saving of rights of the Republic and others.

CHAPTER 231

ROME CONVENTION

Act AN ACT TO GIVE EFFECT TO THE ROME CONVENTION DATED 7TH OCTOBER, 1952, ON
 No. 17 of 1955. DAMAGE CAUSED BY FOREIGN AIRCRAFT TO THIRD PARTIES ON THE SURFACE.

[14th April, 1955.]

Short title. **1.** This Act may be cited as the Rome Convention Act. (iv) that any such bank as may be specified in the Order has been authorized by the Government to act as a depository for the purposes of the said Article 15 ; and

Provisions of Rome Convention to have force of law. **2.** On and after such date* as the Governor-General may, by Proclamation published in the Gazette, declare to be the date on which the Rome Convention dated 7th October, 1952, hereinafter referred to as "the Convention", comes into force as regards Ceylon, the provisions of the Convention, which are set out in the Schedule to this Act, shall have the effect of law in Ceylon or Sri Lanka, as the case may be. (v) that any such bank as may be specified in the Order has been authorized by the Government to give a guarantee for the purposes of the said Article 15 and that its financial responsibility has been verified by the Government;

Power of Minister to make Orders. **3.** (1) The Minister may by Order published in the Gazette—

- (a) certify—
 - (i) that any such State as may be specified in the Order is a Contracting State under the Convention in respect of any such territory as may be so specified ;
 - (ii) that any such person as may be specified, by name or by office, in the Order is an appropriate authority for the purposes of any such provision of the Convention as may be so specified ;
 - (iii) that any such insurer as may be specified in the Order has been authorized by the Government to effect insurance for the purposes of Article 15 of the Convention and that his financial responsibility has been verified by the Government;
- (b) require that any aircraft in flight over Sri Lanka to which the Convention applies and which is registered in any Contracting State other than Sri Lanka shall, subject to paragraph 6 of the said Article 15, carry such insurer's certificate and such appropriate authority's certificate or endorsement as are referred to in paragraph 5 of the said Article 15 ; and
- (c) make such other provision as may be necessary to give full force and effect to the Convention.

(2) Every Order made under this section and in force shall have the effect of law.

4. In the event of any conflict or inconsistency between the provisions of the Convention and the provisions of any other law, the provisions of the Convention shall prevail over the provisions of such other law. Provisions of the Convention to prevail over other law.

*6th May, 1960, declared by the Governor-General by Proclamation in Gazette No. 12,125 of May 6, 1960.

ROME CONVENTION

SCHEDULE

[Section 2.]

ROME CONVENTION DATED 7TH OCTOBER, 1952, ON DAMAGE CAUSED BY FOREIGN AIRCRAFT TO THIRD PARTIES ON THE SURFACE

CHAPTER I

PRINCIPLES OF LIABILITY

Article 1

1. Any person who suffers damage on the surface shall, upon proof only that the damage was caused by an aircraft in flight or by any person or thing falling therefrom, be entitled to compensation as provided by this Convention. Nevertheless there shall be no right to compensation if the damage is not a direct consequence of the incident giving rise thereto, or if the damage results from the mere fact of passage of the aircraft through the airspace in conformity with existing air traffic regulations.

2- For the purpose of this Convention, an aircraft is considered to be in flight from the moment when power is applied for the purpose of actual take-off until the moment when the landing run ends. In the case of an aircraft lighter than air the expression "in flight" relates to the period from the moment when it becomes detached from the surface until it becomes again attached thereto.

Article 2

1. The liability for compensation contemplated by Article I of this Convention shall attach to the operator of the aircraft.

2. (a) For the purposes of this Convention the term "operator" shall mean the person who was making use of the aircraft at the time the damage was caused, provided that if control of the navigation of the aircraft was retained by the person from whom the flight to make use of the aircraft was derived, whether directly or indirectly, that person shall be considered the operator.

(b) A person shall be considered to be making use of an aircraft when he is using it personally or when his servants or agents are using the aircraft in the course of their employment, whether or not within the scope of their authority.

3. The registered owner of the aircraft shall be presumed to be the operator and shall be liable as such unless, in the proceedings for the determination of his liability, he proves that some other person was the operator and, in so far as legal procedures permit, takes appropriate measures to make that other person a party in the proceedings.

Article 3

If the person who was the operator at the time the damage was caused had not the exclusive right to use the aircraft for a period of more than fourteen days, dating from the moment when the right to use commenced, the person from whom such right was derived shall be liable jointly and severally with the operator, each of them being bound under the provisions and within the limit of liability of this Convention.

Article 4

If a person makes use of an aircraft without the consent of the person entitled to its navigational control, the latter, unless he proves that he has exercised due care to prevent such use, shall be jointly and severally liable with the unlawful user for damage giving rise to compensation under Article 1, each of them being bound under the provisions and within the limits of liability of this Convention.

Article 5

Any person who would otherwise be liable under the provisions of this Convention shall not be liable if the damage is the direct consequence of armed conflict or civil disturbance, or if such person has been deprived of the use of the aircraft by act of public authority.

Article 6

1. Any person who would otherwise be liable under the provisions of this Convention shall not be liable for damage if he proves that the damage was caused solely through the negligence or other wrongful act or omission of the person who suffers the damage or of the latter's servants or agents. If the person liable proves that the damage was contributed to by the negligence or other wrongful act or omission of the person who suffers the damage, or of his servants or agents, the compensation shall be reduced to the extent to which such negligence or wrongful act or omission contributed to the damage. Nevertheless there shall be no such exoneration or reduction if, in the case of the negligence or other wrongful act or omission of a servant or agent, the person who suffers the damage proves that his servant or agent was acting outside the scope of his authority.

2. When an action is brought by one person to recover damages arising from the death or injury of another person, the negligence or other wrongful act or omission of such other person, or of his servants or agents, shall also have the effect provided in the preceding paragraph.

Article 7

When two or more aircraft have collided or interfered with each other in flight and damage for which a right to compensation as contemplated in Article 1 results, or when two or more aircraft have jointly caused such damage, each of the aircraft concerned shall be considered to have caused the damage and the operator of each aircraft shall be liable, each of them being bound under the provisions and within the limits of liability of this Convention.

Article 8

The persons referred to in paragraph 3 of Article 2 and in Article 3 and 4 shall be entitled to all defences which are available to an operator under the provisions of this Convention.

Article 9

Neither the operator, the owner, any person liable under Article 3 or Article 4, nor their respective servants or agents, shall be liable for damage on the surface caused by an aircraft in flight or any person or thing falling therefrom otherwise than as expressly provided in this Convention. This rule shall not apply to any such person who is guilty of a deliberate act or omission done with intent to cause damage.

Article 10

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

CHAPTER II**EXTENT OF LIABILITY***Article 11*

1. Subject to the provisions of Article 12, the liability for damage giving a right to compensation under Article 1, for each aircraft and incident, in respect of all persons liable under this Convention, shall not exceed :

- (a) 500,000 francs for aircraft weighing 1,000 kilogrammes or less;
- (b) 500,000 francs plus 400 francs per kilogramme over 1,000 kilogrammes for aircraft weighing more than 1,000 but not exceeding 6,000 kilogrammes;
- (c) 2,500,000 francs plus 250 francs per kilogramme over 6,000 kilogrammes for aircraft weighing more than 6,000 but not exceeding 20,000 kilogrammes ;
- (d) 6,000,000 francs plus 150 francs per kilogramme over 20,000 kilogrammes for aircraft weighing more than 20,000 but not exceeding 50,000 kilogrammes ;
- (e) 10,500,000 francs plus 100 francs per kilogramme over 50,000 kilogrammes for aircraft weighing more than 50,000 kilogrammes;

2. The liability in respect of loss of life or personal injury shall not exceed 500,000 francs per person killed or injured.

3. "Weight" means the maximum weight of the aircraft authorized by the certificate of airworthiness for take-off excluding the effect of lifting gas when used.

4. The sums mentioned in francs in this Article refer to a currency unit consisting of 65¹/₁₀₀ milligrammes of gold of millesimal fineness 900. These sums may be converted into national currencies in round figures. Conversion of the sums into national currencies other than gold shall, in case of judicial proceedings, be made according to the gold value of such currencies at the date of the judgment, or, in cases covered by Article 14, at the date of the allocation.

Article 12

1. If the person who suffers damage proves that it was caused by a deliberate act or omission of the operator, his servants or agents, done with intent to cause damage, the liability of the operator shall be unlimited ; provided that in the case of such act or omission of such servant or agent, it is also proved that he was acting in the course of his employment and within the scope of his authority.

2. If a person wrongfully takes and makes use of an aircraft without the consent of the person entitled to use it, his liability shall be unlimited.

Article 13

1. Whenever, under the provisions of Article 3 or Article 4, two or more persons are liable for damage, or a registered owner who was not the operator is made liable as such as provided in paragraph 3 of Article 2, the persons who suffer damage shall not be entitled to total compensation greater than the highest indemnity which may be awarded under the provisions of this Convention against any one of the persons liable.

2. When the provisions of Article 7 are applicable, the person who suffers the damage shall be entitled to be compensated up to the aggregate of the limits applicable with respect to each of the aircraft involved, but no operator shall be liable for a sum in excess of the limit applicable to his aircraft unless his liability is unlimited under the terms of Article 12.

Article 14

If the total amount of the claims established exceeds the limit of liability applicable under the provisions of this Convention, the following rules shall apply, taking into account the provisions of paragraph 2 of Article 11 :—

- (a) If the claims are exclusively in respect of loss of life or personal injury or exclusively in respect of damage to property, such claims shall be reduced in proportion to their respective amounts.
- (b) If the claims are both in respect of loss of life or personal injury and in respect of damage to property, one-half of the total sum distributable shall be appropriated preferentially to meet claims in respect of loss of life and personal injury and, if insufficient, shall be distributed proportionately between the claims concerned. The remainder of the total sum distributable shall be distributed proportionately among the claims in respect of damage to property and the portion not already covered of ir ' claims in respect of loss of life and personal injury.

CHAPTER III

SECURITY FOR OPERATOR'S LIABILITY

Article 15 _

1. Any Contracting State may require that the operator of an aircraft registered in another Contracting State shall be insured in respect of his liability for damage sustained in its territory for which a right to compensation exists under Article 1 by means of insurance up to the limits applicable according to the provisions of Article 11.

2. (a) The insurance shall be accepted as satisfactory if it conforms to the provisions of this Convention and has been effected by an insurer authorized to effect such insurance under the laws of the State where the aircraft is registered or of the State where the insurer has his residence or principal place of business, and whose financial responsibility has been verified by either of those States.

(6) If insurance has been required by any State under paragraph 1 of this Article, and a final judgment in that State is not satisfied by payment in the currency of that State, any Contracting State may refuse to accept the insurer as financially responsible until such payment, if demanded, has been made.

3. Notwithstanding the last preceding paragraph the State overflown may refuse to accept as satisfactory insurance effected by an insurer who is not authorized for thai purpose in the Contracting Slate.

4. Instead of insurance, any of the following securities shall be deemed satisfactory if the security conforms to Article 17 :-

- (a) a cash deposit in a depository maintained by the Contracting State where the aircraft is registered or with a bank authorized to act as a depository by that State ;
- (b) & guarantee given by a bank authorized to do so by the Contracting State where the aircraft is registered, and whose financial responsibility has been verified by that State ;
- (c) a guarantee given by the Contracting State where the aircraft is registered, if that State undertakes that it will not claim immunity from suit in respect of that guarantee.

5. Subject to paragraph 6 of this Article, the State overflown may also require that the aircraft shall carry a certificate issued by the insurer certifying that insurance has been effected in accordance with the provisions of this Convention, and specifying the person or persons whose liability is secured thereby, together with a certificate or endorsement issued by the appropriate authority in the State where the aircraft is registered or in the State where the insurer has his residence or principal place of business certifying the financial responsibility of the insurer. If other security is furnished in accordance with the provisions of paragraph 4 of this Article, a certificate to that effect shall be issued by the appropriate authority in the State where the aircraft is registered.

6. The certificate referred to in paragraph 5 of this Article need not be carried in the aircraft if a certified copy has been filed with the appropriate authority designated by the State overflown or, if the International Civil Aviation Organization agrees, with that Organization, which shall furnish a copy of the certificate to each Contracting State.

7. (a) Where the State overflown has reasonable grounds for doubting the financial responsibility of the insurer, or of the bank which issues a guarantee under paragraph 4 of this Article, that State may request additional evidence of financial responsibility, and if any question arises as to the adequacy of that evidence the dispute affecting the States concerned shall, at the request of one of those States, be submitted to an arbitral tribunal which shall be either the Council of the International Civil Aviation Organization or a person or body mutually agreed by the parties.

(b) Until this tribunal has given its decision the insurance or guarantee shall be considered provisionally valid by the State overflown.

8. Any requirements imposed in accordance with this Article shall be notified to the Secretary-General of the International Civil Aviation Organization who shall inform each Contracting State thereof.

9. For the purpose of this Article the term " insurer " includes a group of insurers, and for the purpose of paragraph 5 of this Article, the phrase " appropriate authority in a State " includes the appropriate authority in the highest political subdivision thereof which regulates the conduct of business by the insurer.

Article 16

1. The insurer or other person providing security required under Article 15 for the liability of the operator may, in addition to the defences available to the operator, and the defence of forgery, set up only the following defences against claims based on the application of this Convention ;—

- (a) That the damage occurred after the security ceased to be effective. However, if the security expires during a flight, it shall be continued in force until the next landing specified in the flight plan, but no longer than twenty-four hours, and if the security ceases to be effective for any reason other than the expiration of its term, or a change of operator, it shall be continued until fifteen days after notification to the appropriate authority of the State which certifies the financial responsibility of the insurer or the guarantor that the security has ceased to be effective, or until effective withdrawal of the certificate of the insurer or the certificate of guarantee if such a certificate has been required under paragraph 5 of Article 15, whichever is the earlier,
- (b) That the damage occurred outside the territorial limits provided for by the security, unless flight outside of such limits was caused by *force majeure*, assistance justified by the circumstances, or an error in piloting, operation or navigation.

2. The State which has issued or endorsed a certificate pursuant to paragraph 5 of Article 15 shall notify the termination or cessation, otherwise than by the expiration of its term, of the insurance or other security to the interested Contracting States as soon as possible.

3. Where a certificate of insurance or other security is required under paragraph 5 of Article 15 and the operator is changed during the period of the validity of the security, the security shall apply to the liability under this Convention of the new operator, unless he is already covered by other insurance or security or is an unlawful user, but not beyond fifteen days from the time when the Insurer or guarantor notifies the appropriate authority of the State where the certificate was issued that the security has become ineffective or until the effective withdrawal

of the certificate of the insurer if such a certificate has been required under paragraph 5 of Article 15, whichever is the shorter period.

4. The continuation in force of the security under the provisions of paragraph 1 of this Article shall apply only for the benefit of the person suffering damage.

5. Without prejudice to any right of direct action which he may have under the law governing the contract of insurance or guarantee, the person suffering damage may bring a direct action against the insurer or guarantor only in the following cases :—

- (a) where the security is continued in force under the provisions of paragraph 1 (a) and (b) of this Article;
- (b) the bankruptcy of the operator.

6. Excepting the defences specified in paragraph 1 of this Article, the insurer or other person providing security may not, with respect to direct actions brought by the person suffering damage based upon application of this Convention, avail himself of any grounds of nullity or any right of retroactive cancellation.

7. The provisions of this Article shall not prejudice the question whether the insurer or guarantor has a right of recourse against any other person.

Article 17

1. If security is furnished in accordance with paragraph 4 of Article 15, it shall be specifically and preferentially assigned to payment of claims under the provisions of this Convention.

2. The security shall be deemed sufficient if, in the case of an operator of one aircraft, it is for an amount equal to the limit applicable according to the provisions of Article 11, and in the case of an operator of several aircraft, if it is for an amount not less than the aggregate of the limits of liability applicable to the two aircraft subject to the highest limits.

3. As soon as notice of a claim has been given to the operator, the amount of the security shall be increased up to a total sum equivalent to the aggregate of—

- (a) the amount of the security then required by paragraph 2 of this Article, and
- (b) the amount of the claim not exceeding the applicable limit of liability.

This increased security shall be maintained until every claim has been disposed of.

Article 18

Any sums due to an operator from an insurer shall be exempt from seizure and execution by creditors of the operator until claims of third parties under this Convention have been satisfied.

CHAPTER IV

RULES OF PROCEDURE AND LIMITATION OF ACTIONS

Article 19

if a claimant has not brought an action to enforce his claim or if notification of such claim *has* not been given to the operator within a period of six months from the date of the incident which gave rise to the damage, the claimant shall only be entitled to compensation out of the amount for which the operator remains liable after all claims made within that period have been met in full.

Article 20

1. Actions under the provisions of this Convention may be brought only before the courts of the Contracting State where the damage occurred. Nevertheless, by agreement between any one or more claimants and any one or more defendants, such claimants may take action before the courts of any other Contracting State, but no such proceedings shall have the effect of prejudicing in any way the rights of persons who bring actions in the State where the damage occurred. The parties may also agree to submit disputes to arbitration in any Contracting State.

2. Each Contracting State shall take all necessary measures to ensure that the defendant and all other parties interested are notified of any proceedings concerning them and have a fair and adequate opportunity to defend their interests.

3. Each Contracting State shall so far as possible ensure that all actions arising From a single incident and brought in accordance with paragraph 1 of this Article are consolidated for disposal in a single proceeding before the same court.

4. Where any final judgment, including a judgment by default, is pronounced by a court competent in conformity with this Convention, on which execution can be issued according to the procedural law of that court, the judgment shall be enforceable upon compliance with the formalities prescribed by the laws of the Contracting State, or of any territory, Stale or province thereof, where execution is applied for—

- (a) in the Contracting State where the judgment-debtor has his residence or principal place of business or,
- (b) if the assets available in that State and in the State where the judgment was pronounced are insufficient to satisfy (he judgment, in any other Contracting Slate where the judgment-debtor has assets.

5. Notwithstanding the provisions of paragraph 4 of this Article, the court to which application is made for execution may refuse to issue execution if it is proved that any of the following circumstances exist :—

- (a) the judgment was given by default and the defendant did not acquire knowledge of the proceedings in sufficient time to act upon it;
- (b). the defendant was not given a fair and adequate opportunity to defend his interests ;
- (c) the judgment is in respect of a cause of action which had already, as between the same parties, formed the subject of a Judgment or an arbitral award which, under the law of the State where execution is sought, is recognized as final and conclusive ;
- (d) the judgment has been obtained by fraud of any of the parties ;
- (e) the right to enforce the judgment is not vested in the person by whom the application for execution is made.

6. The merits *of* the case may not be reopened in proceedings for execution under paragraph 4 of this Article.

7. The court to which application for execution is made may also refuse to issue execution if the judgment concerned is contrary to the public policy of the State in which execution is requested.

8- If, in proceedings brought according to paragraph 4 of this Article, execution of any judgment is refused on any of the grounds referred to in sub-paragraphs (a), (&) or (d) of paragraph 5 or paragraph 7 of this Article, the claimant shall be entitled to bring a new action before the courts of the State where execution has been refused. The judgment rendered in such new action may not result in the total compensation awarded exceeding the limits applicable under the provisions of this Convention. In such new action the previous judgment shall be a defence only to the extent to which it has been satisfied. The previous judgment shall cease to be enforceable as soon as the new action has been started.

The right to bring a new action under this paragraph shall, notwithstanding the provisions of Article 21, be subject to a period of limitation of one year from the date on which the claimant has received notification of the refusal to execute the judgment.

9. Notwithstanding the provisions of paragraph 4 of this Article, the court to which application for execution is made shall refuse execution of any judgment rendered by a court of a State other than that in which the damage occurred until all the judgments rendered in that State have been satisfied.

The court applied to shall also refuse to issue execution until final judgment has been given on all actions filed in the State where the damage occurred by those persons who have complied with the time-limit referred to in Article 19, if the judgment-debtor proves that the total amount of compensation which might be awarded by such judgments might exceed the applicable limit of liability under the provisions of this Convention.

Similarly such court shall not grant execution when, in the case of actions brought in the State where the damage occurred b> those persons who have complied with the time-limit referred to in Article 19, the aggregate of the .Judgments exceeds the applicable limit of liability, until such judgments have been reduced in accordance with Article 14.

10. Where a judgment is rendered enforceable under this Article, payment of costs recoverable under the judgment shall also be enforceable. Nevertheless the court applied to for execution may, on the application of the judgment-debtor, limit the amount of such costs to a sum equal to ten *per centum* of the amount for which the judgment is rendered enforceable. The limits of liability prescribed by this Convention shall be exclusive of costs.

11. Interest not exceeding four *per centum* per annum may be allowed on the judgment-debt from the date of the judgment in respect of which execution is granted.

12. An application for execution of a judgment to which paragraph 4 of this Article applies must be made within five years from the date when such judgment became final.

Article 21

1. Actions under this Convention shall be subject to a period of limitation of two years from the date of the incident which caused the damage.

2. The grounds for suspension or interruption of the period referred to in paragraph 1 of this Article shall be determined by the law of the court trying the action ; but in any case the right to institute an action shall be extinguished on the expiration of three years from the date of the incident which caused the damage.

Article 22

In the event of the death of the person liable, an action in respect of liability under the provisions of this Convention shall lie against those legally responsible for his obligations.

CHAPTER V

APPLICATION OF THE CONVENTION AND GENERAL PROVISIONS

Article 23

1. This Convention applies to damage contemplated in Article 1 caused in the territory of a Contracting State by an aircraft registered in the territory of another Contracting State.

2. For the purpose of this Convention a ship or aircraft on the high seas shall be regarded as part of the territory of the State in which it is registered.

Article 24

This Convention shall not apply to damage caused to an aircraft in flight, or to persons or goods on board such aircraft.

Article 25

This Convention shall not apply to damage on the surface if liability for such damage is regulated either by a contract between the person who suffers such damage and the operator or the person entitled to use the aircraft at the time the damage occurred, or by the law relating to workmen's compensation applicable to a contract of employment between such persons.

Article 26

This Convention shall not apply to damage caused by military, customs or police aircraft.

Article 27

Contracting States will, as far as possible, facilitate payment of compensation under the provisions of this Convention in the currency of the State where the damage occurred.

Article 28

If legislative measures are necessary in any Contracting State to give effect to this Convention, the Secretary-General of the International Civil Aviation Organization shall be informed forthwith of the measures so taken.

Article 29

As between Contracting States which have also ratified the International Convention for the Unification of Certain Rules relating to Damage caused by Aircraft to Third Parties on the Surface opened for signature at Rome on the 29th May, 1933, the present Convention upon its entry into force shall supersede the said Convention of Rome.

Article 30

For the purposes of this Convention—

" person " means any natural or legal person, including a State;

" Contracting State " means any State which has ratified or adhered to this Convention and whose denunciation thereof has not become effective;

" territory of a State " means the metropolitan territory of a State and all territories for the foreign relations of which that State is responsible, subject to the provisions of Article 36.

CHAPTER VI

FINAL PROVISIONS

Article 31

This Convention shall remain open for signature on behalf of any State until it comes into force in accordance with the provisions of Article 33.

Article 32

1. This Convention shall be subject to ratification by the signatory States.
2. The instruments of ratification shall be deposited with the International Civil Aviation Organization.

Article 33

1. As soon as five of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the fifth instrument of ratification, it shall come into force, for each State which deposits its instrument of ratification after that date, on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Convention comes into force, it shall be registered with the United Nations by the Secretary-General of the International Civil Aviation Organization.

Article 34

1. This Convention shall, after it has come into force, be open for adherence by any non-signatory State.
2. The adherence of a State shall be effected by the deposit of an instrument of adherence with the International Civil Aviation Organization and shall take effect as from the ninetieth day after the date of the deposit.

Article 35

1. Any Contracting State may denounce this Convention by notification of denunciation to the International Civil Aviation Organization.
2. Denunciation shall take effect six months after the date of receipt by the International Civil Aviation Organization of the notification of denunciation ; nevertheless, in respect of damage contemplated in Article 17 arising from an incident which occurred before the expiration of the six months period, the Convention shall continue to apply as if the denunciation had not been made.

Article 36

1. This Convention shall apply to all territories for the foreign relations of which a Contracting State is responsible, with the exception of territories in respect of which a declaration has been made in accordance with paragraph 2 of this Article or paragraph 3 of Article 37.
2. Any State may, at the time of deposit of its instrument of ratification or adherence, declare that its acceptance of this Convention does not apply to any one or more of the territories for the foreign relations of which such State is responsible.
3. Any Contracting State may subsequently, by notification to the International Civil Aviation Organization, extend the application of this Convention to any or all of the territories regarding which it has made a declaration

in accordance with paragraph 2 of this Article or paragraph 3 of Article 37. The notification shall take effect as from the ninetieth day after its receipt by the Organization.

4. Any Contracting State may denounce this Convention, in accordance with the provision* of Article 35, separately for any or all of the territories for the foreign relations of which such State is responsible.

Article 37

1. When the whole or part of the territory of a Contracting State is transferred to a non-contracting State, this Convention shall cease to apply to the territory so transferred, as from the date of the transfer.

2. When part of the territory of a Contracting State becomes an independent State responsible for its own foreign relations, this Convention shall cease to apply to the territory which becomes an independent State, as from the date on which it becomes independent.

3. When the whole or part of the territory of another State is transferred to a Contracting State, the Convention shall apply to the territory so transferred as from the date of the transfer; provided that, if the territory transferred does not become part of the metropolitan territory of the Contracting State concerned, that Contracting State may, before or at the time of the transfer, declare by notification to the International Civil Aviation Organization that the Convention shall not apply to the territory transferred unless a notification is made under paragraph 3 of Article 36.

Article 38

The Secretary-General of the International Civil Aviation Organization shall give notice to all signatory and adhering States and to all States members of the Organization or of the United Nations—

- (a) of the deposit of any instrument of ratification or adherence and the date thereof, within thirty days from the date of the deposit, and
- (b) of the receipt of any denunciation or of any declaration or notification made under Article 36 or 37 and the date thereof, within thirty days from the date of the receipt.

The Secretary-General of the Organization shall also notify these States of the date on which the Convention comes into force in accordance with paragraph 1 of Article 33.

Article 39

No reservations may be made to this Convention.

In witness whereof the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

Done at Rome on the seventh day of the month of October of the year One Thousand Nine Hundred and Fifty-Two in the English, French and Spanish languages, each text being of equal authenticity.

This Convention shall be deposited with the International Civil Aviation Organization where, in accordance with Article 31, it shall remain open for signature, and the Secretary-General of the Organization shall send certified copies thereof to all signatory and adhering States and to all States members of the Organization or the United Nations.

Here follow signatures on behalf of the following countries :—

- Argentine,
- Belgium,
- Brazil,
- Denmark.
- The Republic of Dominica,
- Egypt,
- Spain,
- France,
- Israel,
- Italy,
- Liberia,
- Luxembourg,
- Mexico,
- Pays-Bas,
- Portugal,
- Philippines,
- Suisse,
- Thailand.

CHAPTER 361

REVENUE COLLECTION

Ordinance
No. 14 of 1925.

AN ORDINANCE TO AUTHORIZE THE COLLECTION OF REVENUE IN MONEY INSTEAD OF BY STAMPS.

[27th October. 1925.]

Short title.

1. This Ordinance may be cited as the Revenue Collection Ordinance.

fit, from time to time make regulations, to be published in the Gazette, requiring or permitting such revenue to be paid or collected in money, either throughout Sri Lanka or in a specified area or office, and in such manner and subject to such conditions as may be specified in the regulations.

Interpretation.

2. In this Ordinance " revenue " includes any rent, royalty, duty, fee, fine, penalty, tax, or revenue payable to the Government, or to any Government department, court, board, authority, or person on behalf of or for the use of the Government, or for any public purpose.

Regulations may provide for collection of revenue in money.

3. (1) Where under any written law, whether passed before or after the commencement of this Ordinance, any revenue is required or authorized to be paid or collected by means of stamps, then, notwithstanding anything contained in such written law, the Minister may, if he thinks

(2) All such regulations shall, as soon as conveniently may be, be laid before Parliament, and may, at any of the next following three meetings, be rescinded by resolution of Parliament, but without prejudice to anything already done thereunder, and if not so rescinded shall be deemed to be valid-

CHAPTER 441

ROMAN CATHOLIC ARCHBISHOP

Ordinances AN ORDINANCE FOR THE INCORPORATION OF THE ROMAN CATHOLIC ARCHBISHOP AND BISHOPS IN SRI LANKA. Nos. 19 of 1906, 24 of 1943, Act No. 28 of 1980.

[28th March, 1906.]

Short title. 1. This Ordinance may be cited as the Roman Catholic Archbishop and Bishops of Ceylon Ordinance.

Incorporation of Roman Catholic Archbishop and Bishops. 2. The Roman Catholic Archbishop and Bishops of Ceylon, to wit, the Most Reverend Antony Coudert, Archbishop of Colombo; the Right Reverend Clement Pagnani, Bishop of Kandy; the Right Reverend Henry Joulain, Bishop of Jaffna; the Right Reverend Joseph Van Reeth, Bishop of Galle; and the Right Reverend Charles Lavigne, Bishop of Trincomalee, and their respective successors duly appointed according to the laws and usages of the Roman Catholic Church, shall each be independently from another one corporate body, and shall for all the purposes of this Ordinance, have respectively the names of the Archbishop of Colombo, the Bishop of Kandy, the Bishop of Jaffna, the Bishop of Galle, and the Bishop of Trincomalee, and by these respective names they shall have perpetual succession, and shall have full power to acquire, purchase, take, hold and enjoy movable and immovable property of every description, and to sell or otherwise dispose of the same, and may sue and be sued in respect of such property in all Courts of Justice.

Incorporation of the Bishop of Chilaw. 3. The Roman Catholic Bishop of Chilaw, to wit, the Right Reverend Edmund Peiris, and his successors duly appointed according to the laws and usages of the Roman Catholic Church, shall be a body corporate and shall, for all the purposes of this Ordinance, have the name of the Bishop of Chilaw, and by such name shall

have perpetual succession and shall have full power to acquire, purchase, take, hold and enjoy movable and immovable property of every description and to sell or otherwise dispose of the same, and may sue or be sued in respect of such property in all Courts of Justice.

3A. The Roman Catholic Bishop of Badulla, to wit, the Right Reverend Doctor Don Leo Nanayakkara, O.S.B., and his successors duly appointed according to the laws and usages of the Roman Catholic Church, shall be a body corporate and shall, for all the purposes of this Ordinance, have the name of the Bishop of Badulla, and by such name shall have perpetual succession and shall have full power to acquire, purchase, take, hold and enjoy movable and immovable property of every description and to sell or otherwise dispose of the same, and may sue or be sued in respect of such property in all Courts of Justice.

Incorporation of the Bishop of Badulla. [§ 28 of 1980.]

4. All property, both movable and immovable, already acquired, held, or possessed by the said Most Reverend Antony Coudert, Right Reverend Clement Pagnani, Right Reverend Henry Joulain, Right Reverend Joseph Van Reeth, and Right Reverend Charles Lavigne, respectively, in their official capacity or by their respective predecessors in office shall, subject to any trust or condition affecting the same, vest in the said respective corporations.

Vesting of Property-

5. All property, both movable and immovable, already acquired, held or possessed by the said Right Reverend

Vesting of property in the Bishop of Chilaw.

ROMAN CATHOLIC ARCHBISHOP

[Cap.441

Edmund Peiris in his official capacity shall, subject to any trust or condition affecting the same, vest in the said Bishop of Chilaw.

Badulla, shall be deemed to be an instrument chargeable under Part I, item 23 (7), of Schedule A to the Stamp Ordinance.*

Vesting of property in the Bishop of Badulla. [§ 3, 28 of 1980.]

5A. All property, both movable and immovable, already acquired, held or possessed by the said Right Reverend Doctor Don Leo Nanayakkara, O.S.B., in his official capacity shall, subject to any trust or condition affecting the same, vest in the said Bishop of Badulla.

7. Provided, however, that in case of a vacancy in the see in any of the said Roman Catholic dioceses, the person temporarily administering such diocese shall, until the appointment of a new Archbishop or Bishop, as the case may be, be deemed to be the successor of the preceding Archbishop or Bishop of such diocese for all the purposes of this Ordinance :

Vacancies in see.

Stamp duty on conveyances, &c.

6. (1) Any instrument of conveyance, transfer or assignment executed by the Archbishop of Colombo in favour of the Bishop of Chilaw of all the property movable or immovable which by reason of the erection of the Diocese of Chilaw becomes subject to the administration of the Bishop of Chilaw, shall be deemed to be an instrument chargeable under Part I, item 23 (7), of Schedule A to the Stamp Ordinance.*

Provided, further, that the temporary absence from Sri Lanka of any of them, the said Archbishop and Bishops, shall be deemed to create a temporary vacancy in the see until the return to Sri Lanka of the absent Archbishop or Bishop, as the case may be; and the person temporarily administering such diocese shall during the period of absence be deemed to be the successor of the said Archbishop or Bishop for all the purposes of this Ordinance.

[§ 4, 28 of 1980.]

(2) Any instrument of conveyance, transfer or assignment executed by the Bishop of Kandy in favour of the Bishop of Badulla of all the property movable or immovable which by reason of the creation of the Diocese of Badulla becomes subject to the administration of the Bishop of

8. Nothing in this Ordinance contained shall affect the rights of the Republic.

Saving of rights of the Republic.

* See also the Stamp Duty Act, No. 43 of 1982.

CHAPTER 88

RIOT DAMAGES

Ordinances AN ORDINANCE TO MAKE PROVISION FOR THE PAYMENT OF COMPENSATION IN THE CASE
 Nos. 23 of 1915. OF DAMAGE CAUSED BY RIOTS.
 6 of 1916.
 14 of 1916.
 61 of 1939,
 3 of 1946.
 29 of 1947.

[18th October, 1915.]

Short title. **1.** This Ordinance may be cited as the Riot Damages Ordinance.

CHAPTER I

PRELIMINARY

Interpretation. **2.** In this Ordinance the expression " administrative division " means—

- (a) in the case of a village, the grama seva niladhari's division;
- (b) in the case of any town or village within the jurisdiction of an Urban Council or a Town Council the area contained within the administrative limits thereof.

Provision of compensation for damage by riots.

3. Where any house, shop, or building has been injured or destroyed, or the property therein has been injured, stolen, or destroyed, by any persons riotously and tumultuously assembled together, compensation shall be payable to the owners thereof for the damage so caused in such manner as is provided by this Ordinance.

CHAPTER II

COMMISSIONERS

Minister may appoint Commissioners.

4. (1) For the purpose of assessing any damage so caused and for awarding compensation in respect thereof, the Minister may appoint Commissioners, with such powers and duties as are hereinafter defined.

(2) Where a Commissioner has been appointed, damages shall not be recoverable by any person in respect of any matter specified in section 3 which is within the Jurisdiction of the Commissioner, except in pursuance of the provisions of this Ordinance, and all actions already instituted for the recovery of such damages shall abate accordingly.

5. It shall be the duty of the Duties of Commissioners so appointed— Commissioners.

- (a) to ascertain by personal inquiry the amount of the damage;
- (b) to report the amount of such damage to the Minister;
- (c) to apportion to any area for which they may be appointed the shares respectively payable by the administrative divisions comprised in such area;
- (d) to allot the sums payable as compensation for such damage among the persons residing or owning property within each administrative division.

6. (1) The Commissioners so Powers of appointed shall have the following commis- sioners. powers:—

- (a) all the powers of a Magistrate for the purpose of summoning witnesses and enforcing the attendance of persons, the production of documents, the administration of oaths, and the issue of search

warrants, and any other powers belonging to a Magistrate which may be reasonably required for the discharge of their duties under this Ordinance;

(b) the power to call upon any person to declare on oath the amount of any damage which he may have sustained and in respect of which he claims compensation;

(c) the power to require any person to furnish to them in such form as they may demand a full return in writing of all movable and immovable property of which such person is possessed, as well as his total annual income from all sources.

(2) Any person who within any time fixed by the Commissioner for the purpose (without reasonable excuse, the proof whereof shall be on him) refuses or neglects to furnish to a Commissioner any return demanded by the Commissioner under the last preceding subsection shall be guilty of an offence, and liable on conviction to a fine not exceeding one hundred rupees, and in default to rigorous imprisonment not exceeding three months.

(3) Any person who in any inquiry held by a Commissioner, or in any document furnished upon his demand, or in any declaration made before him or presented to him, makes any statement which he knows, or has reason to believe, to be false shall be deemed to be guilty of the offence of giving false evidence in a judicial proceeding, and shall be punishable in accordance with the Penal Code.

CHAPTER III

ASSESSMENT OF COMPENSATION

Notice of assessment.

7. Before assessing any damage the Commissioner shall give public notice in such manner as may be prescribed by Order under section 12, or in the absence of such Order in such manner as he may deem appropriate, either generally with reference to damage in any administrative division or part thereof, or particularly with reference to any special premises, stating—

(a) the time and place at which he proposes to make the assessment;

(b) the manner in which claims for assessment shall be presented to him;

" (c) a date (not being less than one month from the date of the notice) beyond which no claims for the assessment of damage will be entertained.

8. No claim for assessment of damages which is presented after the date fixed in any notice given under the last preceding section shall be entertained by the Commissioner, unless on good cause shown he in his discretion shall otherwise order..

Limit of time for claims for assessment.

9. In any case in which a Commissioner receives notice that two or more persons claim adversely to be entitled to compensation in respect of any damage which he is assessing or which he proposes to assess, he shall serve upon each of the persons so claiming adversely a notice requiring him to take such steps as may be necessary to obtain a judicial decision on the matter at issue between them, and shall, pending such decision, proceed to assess the damage in question subject thereto.

Notice of adverse claims.

10. Any assessment of damage made by a Commissioner or Commissioners in pursuance of this Ordinance shall be conclusive as to the amount of such damage:

Assessment to be conclusive.

Provided that the Minister may in his discretion in any case direct a re-assessment,

CHAPTER IV

APPORTIONMENT OF COMPENSATION

11. (1) For the purpose of the recovery of compensation in respect of damage for which provision is made by this Ordinance, the Minister may declare any area of Sri Lanka to be a riot area, and (subject to the provisions of Chapter IX) may direct the recovery from the persons resident or owning property within such area—

Riot areas.

(a) of the amount of all such damage in such area; and

(b) of the costs of suppressing within such area the riots or disturbances within such area, by which such damage was occasioned.

(2) A certificate under the hand of the Secretary to the Treasury shall be conclusive as to the amount of such costs:

Provided that the Minister may direct that such costs shall in any case be deemed to be such percentage of the amount of the assessed damage as he shall specify.

Power of Minister.

12. (1) The Minister may, either generally with regard to any damage caused in the manner referred to in section 3 of this Ordinance, or particularly with regard to any special damage so caused, by Order give directions in respect of all or any of the following matters:—

- (a) the assessment of damages;
- (b) the apportionment of the shares recoverable from the several administrative divisions of a riot area;
- (c) the allotment of such shares among the persons resident or owning property in such area;
- (d) the classification of such persons for the purpose of such allotment;
- (e) the dates on which the sums due in respect of compensation shall be paid, and the instalments, if any, in which they shall be so paid ;
- (f) generally, with respect to the exercise of the powers and the performance of the duties of Commissioners under this Ordinance.

(2) The Minister may exempt any class of persons from liability to pay compensation under this Ordinance, or may direct that special terms shall be granted to any class of persons, or to any administrative division, or may exempt any administrative division or any part thereof within a riot area from such liability.

13. (1) Subject to any directions that may be contained in any Order made under the last preceding section, the total amount of all damages and costs directed to be recovered in respect of any riot area shall, if such area comprise more than one administrative division, be apportioned among the administrative divisions of the area in such proportion as shall be directed under the last preceding section.

Apportionment among administrative divisions.

(2) The Minister may at any time cancel any apportionment and direct a fresh apportionment, or may revise any apportionment.

14. The Minister, by Order published in the Gazette, may direct that any sums so apportioned, or, in the case of a riot area comprising only a single administration area, any sums directed to be recovered under section 11, shall be a charge payable by the administrative division in respect of which the apportionment or direction is made.

Amount of apportionment to be a charge on the administrative division.

CHAPTER V

ALLOTMENT OF LIABILITY

15. Any sum declared to be a charge upon an administrative division by Order under the last preceding section (together with the costs of any proceedings under this Chapter) shall be allotted by the Commissioner or Commissioners in manner in this Chapter provided.

Allotment among persons liable.

16. In each administrative division the Commissioner or Commissioners appointed for such division—

- (a) shall cause lists to be made of all males of eighteen years and upwards residing within such division, and of all persons owning immovable property therein;

shall divide the persons contained in such lists into classes, in accordance with such principles of classification as may be prescribed by the Minister under section 12, having regard to the means and ability to pay of the persons comprised in each class;

- (c) shall assign to each class a proportion of the amount charged, in accordance with such principles as may be prescribed by the Minister under section 12;
- (d) shall allot the amount of the proportion assigned to each class equally among the persons comprised in such class.

Exemptions and modifications.

17. (1) The Commissioner or Commissioners, for good cause shown, may exempt any person in whole or in part from any liability to which he may be subject under the last preceding section, or may extend the time for the discharge of any such liability.

(2) Where any person included in any list in any administrative division has been included or is liable to be included in any other list in some other administrative division, the Commissioner or Commissioners shall have regard to such inclusion or to such liability in any allotment made.

Publication of notice of allotment.

18. (1) The Commissioner or Commissioners shall cause to be published in the administrative division in respect of which any allotment under this Chapter is made a notice to the effect—

- (a) that such allotment has been made;
- (b) that the sums allotted shall be payable before such dates and in such instalments, if any, as may be specified in the notice;
- (c) that lists showing the amount payable by each person are open to inspection at such place or places within the limits of the administrative division as may be specified in the notice.

(2) Every such notice shall be published by beat of tom-tom in such administrative division, and copies of such notice, in the Sinhala and Tamil languages, shall be posted up in conspicuous places within such administrative division.

» Repealed by Ordinance No. 16 of 1932.

19. A list showing the amounts allotted by a Commissioner or Commissioners certified by the Commissioner or Commissioners as being made in accordance with this Chapter, and signed by the Commissioner or Commissioners, shall be conclusive as to the liability of the persons contained in the list to pay the sums therein stated:

Provided that the Minister may in any case in his discretion direct that a fresh allotment shall be made or may revise any allotment;

Provided further that nothing contained in this section shall preclude any person in any proceedings for or relating to the recovery of enforcement from such person of any such sum from showing that he was not liable to be included in the said list.

20. Where the full amount of the sum declared to be a charge upon the administrative division cannot be recovered owing to the default in payment on the part of persons to whom liabilities have been allotted under this Chapter, the Commissioner may make a supplementary allotment in the manner provided in this Chapter, and all the provisions of this Chapter shall apply to any allotment so made.

Supplementary allotment

21. Any person liable to pay any sum in accordance with any allotment list under this Chapter shall have the same right to commute the money payment due from him by the performance of labour as a person liable in accordance with "The Repression of Crime (Consolidation) Ordinance, 1903",* under section 13 of that Ordinance and all the provisions of that section shall, with the necessary modifications, apply to the case as if they had been embodied in this section.

Commutation of liability by the performance of labour.

CHAPTER VI

ENFORCEMENT OF LIABILITY

22. If any sum allotted as payable by any person under this Ordinance, or any instalment thereof, is not duly paid, the amount shall be recovered by the

Recovery of amounts allotted.

Government Agent in whose district the administrative division is situated, in manner provided by section 41 and sections 49 to 54 of the Police Ordinance, and all the relevant provisions of the said sections shall, with the necessary modifications, apply, as if they had been embodied in this section.

Alternative method of enforcement.

23. In addition to, or in lieu of, proceeding in manner provided under the last preceding section the Government Agent may proceed in manner provided for in sections 14 and 15 of "The Repression of Crime (Consolidation) Ordinance, 1903";* and all the relevant provisions of the said sections shall, with the necessary modifications, apply, as if they had been embodied in this section:-

Provided that in any such case the scale of punishment shall, in lieu of that prescribed by section 15 (2) of the said Ordinance, be as follows:—

- (i) for any sum not exceeding one hundred rupees, one month,
- (ii) for any sum of one hundred rupees or over, but not exceeding one thousand rupees, not less than one month and not more than six months,
- (iii) for any sum exceeding one thousand rupees, not less than one month and not more than twelve months;

Provided further, that subject to the furnishing of such bail and sureties as he may order, the Magistrate to whom application is made under this section may suspend the execution of any order of imprisonment subject to the payment of the sum due in such instalments extending over a period not exceeding six months as he may deem fit.

CHAPTER VII

VOLUNTARY CONTRIBUTIONS

Power of village to discharge liability by money payment or bond.

24. In lieu of taking proceedings for the allotment of liability under Chapter V, the Commissioner or Commissioners appointed in respect of any administrative division may agree to accept from the inhabitants and owners of property thereof, or such

inhabitants or owners of property as may present themselves on behalf of the division, either payment in money of such amount as he or they may be authorized by the Minister to receive in discharge of the liability of the division, or a mortgage bond or other obligation executed by such inhabitants or owners of property and secured in such manner as the Commissioner or Commissioners may approve, pending full payment of such amount by instalments or otherwise.

25. (1) In the following cases, that is to say— Substitution of allotment under Ordinance.

- (a) where the amount secured by any such bond or obligation, or any instalment thereof, is not paid or not completely paid;
- (b) where the Commissioner or Commissioners shall be satisfied that any person or persons among the inhabitants or owners of property in any administrative division have refused to contribute the share equitably due from him or them in respect of any payment made, or of any bond or obligation accepted;
- (c) where the Commissioner or Commissioners shall be satisfied that it is the general desire of the signatories of any bond or obligation to be relieved of their liability thereunder, and to have the liability of the division allotted in manner hereinbefore provided,

the Commissioner or Commissioners may, and in case (c) shall, proceed to allot the compensation payable by the inhabitants and owners of property in such division as though such payment had not been made or as though such bond or obligation had not been accepted.

* Repealed by Ordinance No. 16 of 1932.

(2) In any such case credit shall be given in the allotment lists to all persons in respect of any sum or sums they may have paid, and the balance due, if any, shall be alone recoverable.

(3) Where such allotment takes place in pursuance of paragraph (b) of subsection (1) of this section, the costs of the allotment (or such proportion thereof as the Commissioner or Commissioners may deem reasonable) may in the discretion of the Commissioner or Commissioners be charged against any person who in the opinion of the Commissioner or Commissioners shall have been responsible for the necessity of such allotment, and shall be added to, and shall be recoverable in the same manner as, the amount allotted to such person in the allotment list.

(4) In any case under the said paragraph in which the Commissioner or Commissioners shall be satisfied that a general allotment is not necessary, the Commissioner or Commissioners may make a special allotment in respect of the liability of the person or persons refusing as aforesaid, and the amount of such allotment and (subject to the discretion of the Commissioner or Commissioners) the costs of making the same shall be recoverable in the same manner as a sum allotted in an allotment list, and shall be disposed of in such manner as the Minister shall direct.

CHAPTER VIII

PAYMENT OF COMPENSATION

Riot Damages Fund.

26. (1) Subject to the provisions of the next succeeding Chapter, in the case of any riot or disturbance in respect of which this Ordinance shall be applied there shall be established a fund, to be called "The Riot Damages Fund", and to be kept by the Deputy Secretary to the Treasury, and there shall be paid into such fund—

- (a) all sums collected in discharge of any liability under this Ordinance ;
- (b) all other contributions towards the defrayal of the damage occasioned ;
- (c) all fines or other sums collected in connection with the said riot or disturbance which the Minister may direct to be so credited.

(2) There shall be paid out of such fund all sums payable for or in respect of compensation, and any other sums on account of expenses incurred in connection with the said riot or disturbance which the Minister may direct to be so paid.

27. (1) Subject as aforesaid, in any case in which a Commissioner is satisfied that any person is entitled to any sum as compensation in respect of any damage which has been assessed under this Ordinance, he may (subject to the direction of the Minister) pay to such person such sum, in such manner, and in such instalments as he may determine.

Payment of compensation.

(2) In the case of adverse claims the Commissioner shall withhold payment pending a settlement or a judicial decision upon such claims.

28. Upon the payment of any such sum no subsequent claim shall be entertained in respect of the same matter:

Subsequent claims barred

Provided that the person receiving such sum shall be deemed to receive it on behalf of the person who would be entitled thereto if the claim to compensation had been a right enforceable by a civil action.

CHAPTER IX

MUNICIPALITIES

29. In any case in which the Municipal limits of any Municipality have been declared a riot area, the damage shall be assessed and compensation shall be payable in accordance with the provisions of this Chapter.

Special provisions for Municipalities.

30. (1) The Commissioner or Commissioners shall be appointed by the Mayor of the Municipal Council, who may appoint himself a Commissioner.

Appointment of Commissioners.

(2) A Commissioner appointed under this Chapter shall have all the powers accorded to a Commissioner under section 6 of this Ordinance, and all the provisions of that section shall apply to a Commissioner so appointed.

(3) All the provisions of sections 4 (2), 7 to 10, 36, 37, 39 and 40 shall, with the necessary modifications, apply as if they had been embodied in this Chapter.

(4) A scheme under this section may provide for all or any of the following matters:—

- (a) the use or adaptation, for the purpose of the scheme, of any provisions of the Municipal Councils Ordinance, or any by-laws made thereunder, relating to the collection and enforcement of rates and taxes or of the commutation of any tax;
- (b) the enforcement of any liability imposed by this section in accordance with Chapter VI, or any modification or adaptation thereof;
- (c) the exemption of any area or of any class of persons from the operation of the scheme, and the grant of special terms to any class of persons;
- (d) the liquidation of the charge imposed upon the Municipal fund by instalments; and
- (e) any other matter which in the opinion of the Minister may be necessary or desirable for the purpose of the scheme.

Amount of assessment to be a charge upon Municipal revenue.

31. (1) Upon the completion of the assessment, particulars thereof shall be published in the Gazette. Such particulars shall specify the several premises in respect of which the assessment is made, the amount of the assessment in each case, and (subject to the provisions of section 9) the person to whom compensation is due; and thereupon the total amount of the assessment so published shall - become a charge upon the Municipal fund of the Municipality in respect of which it is made.

(2) The Minister may direct that such charge shall be increased by the addition of such percentage as he may deem reasonable, as a contribution to the costs of suppressing the riot or disturbance by which the damage assessed was occasioned. The amount of such increase shall be deemed to be part of the charge, and shall be payable out of the Municipal fund to the Deputy Secretary to the Treasury, and shall be disposed of in such manner as the Minister shall direct.

Municipal Council may frame scheme.

32. (1) The Municipal Council may frame a scheme for the liquidation of the charge imposed upon its revenues under the last preceding section.

(2) Every such scheme shall be subject to the approval of the Minister, and any scheme so approved, on being published in the Gazette, shall have the force of law.

(3) A scheme under this section may provide for the recovery of the amount payable by means of—

- (a) the levying of a rate on all property assessed for the purpose of Municipal rates;
- (b) a tax on all males over the age of eighteen, or on such other persons as the Council may determine ;
- (c) any combination of any of the above methods of taxation;
- (d) any other method approved by the Minister.

(5) A Municipal Council, subject to the approval of the Minister, may from time to time frame a supplemental scheme for the amendment of any scheme framed under this Ordinance, and all the provisions of this section shall apply to such supplemental scheme.

Power of Municipal Council to frame supplemental scheme.

33. (1) It shall be lawful for any Municipal Council on whose fund any charge is imposed under this Chapter, with the sanction of the Minister, to borrow such sum or sums as may be necessary for the purpose of discharging the same, on such terms and conditions as may be approved by the Minister,

Power to borrow.

(2) The limitation on the borrowing powers of a Municipal Council prescribed by sections 191 and 192 of the Municipal Councils Ordinance, shall not apply to a loan made under this section.

Rate to be
Municipal rate.

34. A rate imposed in accordance with a scheme under this Chapter shall be deemed to be a Municipal rate, and all the relevant provisions of the Municipal Councils Ordinance, shall apply thereto:

Provided that in any agreement between any owner and any occupier by which provision is made for the incidence of Municipal rates or tax imposed by any Municipal Council falling upon the occupier, such provision shall not apply to a rate imposed under this Chapter.

Action by
claimants for
compensation.

35. (1) Where any scheme has been approved under this Chapter, any person to whom compensation is declared to be due in the assessment published in pursuance of section 30, or in the case of adverse claims any person to whom it is declared to be due in pursuance of section 36, whose claim is not discharged by the Municipal Council in accordance with the scheme, may bring an action against the Municipal Council for the payment of any sum due to him in accordance with the scheme.

(2) If no scheme is approved within three months of the publication of the assessment under section 31 of this Chapter, any such person may bring an action against the Municipal Council for the amount declared to be due to him, as aforesaid.

(3) Section 307 of the Municipal Councils Ordinance shall apply to any such action.

(4) Where judgment has been recovered against the Municipal Council in any such action, the amount of such Judgment shall be payable out of the Municipal fund of such Council in accordance therewith.

(5) Upon the payment of any sum in pursuance of any scheme or assessment under this Chapter, whether upon final judgment or otherwise, no subsequent claim shall be entertained in respect of the same matter:

Provided that the person receiving such sum shall be deemed to receive it on behalf of the person legally entitled thereto.

CHAPTER X

MISCELLANEOUS PROVISIONS

36. In any case in which adverse claims are made to compensation under this Ordinance, any person so claiming may petition the District Court for a declaration of the respective rights of the persons so claiming, and the court shall have jurisdiction to make order accordingly. Adverse claims

37. Nothing in this Ordinance shall be deemed to render any person liable to taxation in respect of any immovable property by law exempt from taxation, or exempt from the payment of local or police rates. Exemptions.

38. (1) The Minister may quarter a special force of police in any administrative division in which he considers that it is desirable so to do, pending the assessment of damage and the recovery of compensation under this Ordinance, and for such longer period as he may consider necessary for the securing of good order in such administrative division. Power to quarter special police force.

(2) Such sum as shall be certified by the Secretary to the Treasury to be the cost of the maintenance of such special force within the administrative division may from time to time be allotted and recovered in the same manner as any sum allotted under Chapter V of this Ordinance.

(3) For any administrative division in which such special force is quartered the Minister may make such regulations as he may deem fit for the maintenance of good order in such division, and any person committing a breach of any such regulation shall be guilty of an offence, and shall be liable on summary conviction to imprisonment of either description for a period not exceeding six months, with or without fine not exceeding one hundred rupees.

39. The Commissioners appointed under this Ordinance shall be deemed to be public servants within the meaning of the Penal Code, and public officers within the meaning of the Civil Procedure Code. Status of Commissioners.

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RIOT DAMAGES

Protection of
Commissioners.

40. No Commissioner appointed under *this* Ordinance shall be liable, either civilly or criminally, in respect of anything which he may have done or may have omitted to

do, when acting in good faith, in pursuance or in supposed pursuance of his powers **under** this Ordinance.

CHAPTER 479

**RAILWAY DAILY-PAID WORKERS'
BENEVOLENT ASSOCIATION**

Act
No. 3 of 1965,
Law
No. 10 of 1975.

AN ACT TO INCORPORATE THE CEYLON RAILWAY DAILY-PAID WORKERS' BENEVOLENT ASSOCIATION.

[29th July. 1965.]

Short title. **1.** This Act may be cited as the Ceylon Railway Daily-paid Workers* Benevolent Association (Incorporation) Act.

Incorporation. **2.** The persons who, at the time of the coming into operation of this Act, are members of the Ceylon Railway Daily-paid Workers' Benevolent Association (hereinafter referred to as "the Association ") and such other persons as are hereafter enrolled as members of the Association, shall be a body corporate (hereinafter referred to as "the Corporation ") with perpetual succession, a common seal, and the name "The Ceylon Railway Daily-paid Workers' Benevolent Association". The Corporation may sue and be sued by that name.

General objects. **3.** The general objects of the Corporation shall be—

- (a) to promote thrift among its members;
- (b) to give relief to its members in times of distress;
- (c) to pay to each member on his retirement or resignation from the service of the Government Railway, such portion of his contributions to the funds of the Corporation and such donations, if any, as may be authorized by the rules of the Corporation for the time being in force; and
- (d) in the event of the death of any member prior to his ceasing to be an employee of the Government

Railway, to pay to his nominee appointed in accordance with the rules of the Corporation, or in the absence of a properly appointed nominee, to his heirs-at-law, such portion of his contributions to the funds of the Corporation and such donation, if any, as may be authorized by the rules of the Corporation.

4. The affairs of the Corporation shall, subject to the provisions of this Act and of the rules for the time being in force of the Corporation, be administered by a Committee of Management (hereinafter referred to as "the Committee ") consisting of the President, the Vice-President, the Secretary, and the Treasurer, respectively, of the Corporation, and seventeen other members to be elected, respectively, by the members of the Corporation, in accordance with the rules of the Corporation (hereinafter referred to as "the elected members of the Committee ").

5. The first Committee of Management shall consist of the President, the Vice-President, the Secretary, and the Treasurer of the Association and the seventeen elected members of the Committee of the Association holding office at the time of the coming into operation of this Act, and that Committee of Management shall continue to function until the first annual general meeting of the Corporation held after the coming into operation of this Act.

6. (1) There shall be elected each year by the members of the Corporation from among their number at the annual general

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meeting of the Corporation the President, the Vice-President, the Secretary and the Treasurer, respectively, of the Corporation and the seventeen elected members of the Committee.

(2) No member shall be eligible to be elected or to continue as the President, the Vice-President, the Secretary, or the Treasurer of the Corporation or as an elected member of the Committee if he does not reside within a radius of fifteen miles of the city of Colombo.

Qualifications of the Secretary and the Treasurer.

7. No member shall be eligible to be elected the Secretary or the Treasurer of the Corporation unless—

- (a) he has been employed in the public service for not less than ten years;
- (b) he has been a member of the Association for not less than five years;
- (c) he has passed the Junior School Certificate examination in Sinhala, Tamil or English;
- (d) where he has passed the Junior School Certificate examination in Sinhala, he has passed the sixth standard in English and possesses a fair knowledge of the Tamil language;
- (e) where he has passed the Junior School Certificate examination in Tamil, he has passed the sixth standard in Sinhala and in English;
- (f) where he has passed the Junior School Certificate examination in English, he has passed the sixth standard in Sinhala and possesses a fair knowledge of the Tamil language.

Duties of the Committee.

8. The Committee shall, subject to the provisions of this Act and the rules of the Corporation, have full power and authority generally to govern, direct and decide all matters whatsoever connected with the appointment and dismissal of officers and servants of the Corporation, the administration of the affairs of the

Corporation, and the accomplishment of the objects thereof, and to defray out of the funds of the Corporation all expenses necessary for the purposes of such appointments and administration:

Provided that the Committee shall not exercise any powers which are by this Act or by the rules of the Corporation declared to be exercisable by the Corporation in general meeting:

Provided also that any rules made by the Corporation in general meeting shall not invalidate any prior act of the Committee which would have been valid if such rule had not been made.

9. (1) Meetings for the transaction of the business of the Committee shall be held at least once in every month, and the Secretary on the requisition of three members of the Committee shall call a meeting of the Committee at any time for the transaction of such business as may be mentioned in the requisition.

Meetings of the Committee.

(2) It shall be lawful for the President or the General Manager of Railways to convene a special meeting of the Committee whenever the President or the General Manager, as the case may be, shall consider it desirable. Where the General Manager convenes a meeting, he or his representative shall have the right to be present at such meeting and address the members present thereat, but shall not have the right to vote.

[§ 2, Law 10 of 1975.]

(3) Any member of the Committee who does not attend three consecutive meetings thereof shall cease to be a member thereof.

10. (1) The President shall, if present, preside at meetings of the Committee. In the absence of the President, the Vice-President shall preside. In the absence of the President and the Vice-President, such member of the Committee as may be elected for the purpose by the members present at the meeting shall preside.

Who shall preside, quorum, &c.

(2) The President, or in his absence the member presiding, shall have a casting vote in addition to his original vote.

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(3) The quorum for meetings of the Committee shall be nine members of the Committee.

Vacancies how filled.

11. (1) In the event of the death or resignation of any member of the Committee or in the event of any member ceasing to be a member of the Committee under section 9 (3), it shall be lawful for the remaining members of the Committee to elect—

(a) where the vacancy is in respect of the office of President, the Vice-President, the Secretary or the Treasurer, any member of the Committee to fill the vacancy ; and

(6) where the vacancy is in respect of an elected member of the Committee, any member of the Corporation who resides within a radius of fifteen miles of the city of Colombo.

(2) Any person elected under subsection (1) shall continue in office until the annual general meeting of the Corporation next following his election.

Duties of the Secretary.

12. The Secretary shall—

(a) act as secretary of the Committee and shall be responsible for summoning all meetings of the Committee and the meetings of the Corporation;

(b) have disciplinary control of the staff employed by the Corporation, subject to the general or special directions of the Committee ;

(c) be responsible for the administration of the affairs of the Corporation, subject to the provisions of this Act, the rules of the Corporation and the general or specific directions of the Committee; and

(d) prepare and submit to the Corporation annually the annual report of the Corporation.

13. The Treasurer shall—

Duties of the Treasurer.

(a) receive and keep an account of all moneys and funds of the Corporation;

(b) pay, subject to the provisions of this Act and the rules of the Corporation, all claims, loans, advances and expenses authorized by the Committee;

(c) prepare and submit monthly to the Committee an account of the transactions of the Corporation; and

(d) prepare and submit annually to the Corporation a statement of income and expenditure of the funds of the Corporation.

14. Every person holding a permanent appointment in the service of the Government Railway who fulfils the requirements of the rules of the Corporation shall be eligible for admission as a member of the Corporation and may, in the discretion of the Committee, be admitted a member. Membership.

15. (1) The Committee shall cause to be kept a register in which every person who, at the date of the coming into operation of this Act, is a member of the Association, and every person thereafter duly admitted as a member of the Corporation hereby constituted shall have his name inscribed. Register of members-

(2) The register shall contain the following particulars:—

(a) the name, the age at admission, the address and occupation of each member;

(b) the date on which the name of any person was inscribed in the register of members;

(c) the date on which any person commenced to be a member;

(d) the date on which any person ceased to be a member •

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(e) the name, the relationship and the address of the nominee appointed.

(g) the administration and management of the property of the Corporation;

Books of account.
[§ 3, Law 10 of 1975.]

16. The Committee shall cause appropriate books of account to be kept which shall be open at all reasonable times for inspection by members of the Corporation and by any person or persons whom the Secretary to the Ministry charged with the subject of Government Railways (hereinafter referred to as the "Secretary to the Ministry") or the General Manager of Railways may at any time appoint to examine the same.

(h) the establishment of savings schemes, provident funds and other superannuation schemes for the benefit of members, officers, employees and servants of the Corporation;

(i) generally, for the management of the affairs of the Corporation and the accomplishment of its objects.

Remuneration of members of the Committee.

17. The Corporation may, by resolution passed at any general meeting, decide to remunerate the services of any member or members of the Committee and from time to time to fix the amount of such remuneration.

(2) Any rule made by the Corporation may be amended or rescinded in like manner as a rule may be made under subsection (1).

Power to make rules.

18. (1) The Corporation may, subject to the provisions of this Act, from time to time, at any general meeting and by a majority of not less than three-fourths of the number of members present and voting make such rules as it may deem expedient for any of the following purposes;—

(3) The rules of the Association in force at the time this Act comes into operation shall be deemed to be rules of the Corporation made under this section and may accordingly be amended, rescinded or replaced by new rules so made.

(a) the admission, resignation or expulsion of members;

(4) The members of the Corporation shall be subject to the rules of the Corporation.

(b) the imposition of fines and forfeitures for breaches of rules;

(5) No rule or amendment or rescission of any rule shall have effect unless the same is confirmed by the Secretary to the Ministry. Notice of such confirmation shall be published in the Gazette and thereupon the same shall be as valid and effectual as if it had been herein enacted. [§ 4, Law 10 of 1975]

(c) the amount of subscription payable by members, the payment of moneys due to them, the payment of donations to members and the granting of loans to members;

(d) the regulation of loans to be given to members and the prescribing of conditions relating to the grant of such loans;

18A. (1) Notwithstanding the provisions of section 18, it shall be lawful for the General Manager of Railways to make, amend or rescind any rule of the Corporation. Power of General Manager of Railways to make, amend or rescind rules of the Corporation. [§ 5, Law 10 of 1975.]

(e) the powers, conduct and duties of the Committee and of the various officers, agents and servants of the Corporation;

(2) No such rule, amendment or rescission shall have effect unless it is published in the Gazette.

(f) the procedure relating to the transaction of business at general and annual general meetings of the Corporation;

(3) Where there is any conflict or inconsistency between any rule made by the General Manager and any rule made by the Corporation, the provisions of the rule made by the General Manager shall prevail.

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General meetings.

19. (1) The Secretary, upon the request of the Committee or upon the written request of not less than seventy-five members of the Corporation, shall call a general meeting of the members of the Corporation.

(2) No general meeting shall be held unless a quorum of members prescribed by the rules of the Corporation be present and unless at least fourteen days' notice specifying the time and place of such meeting and the purpose for which it is to be held has been given by advertisement in three local newspapers or in such other manner as may be required by any rule of the Corporation, and no business shall be brought up or transacted at such meeting other than the business specified in such notice.

Power of General Manager of Railways to summon general meetings of the Corporation. [§ 6, Law 10 of 1975.]

19A. (1) Notwithstanding the provisions of section 19, it shall be lawful for the General Manager of Railways to convene by giving at least seven days' notice, a general meeting of the members of the Corporation whenever he shall consider it desirable.

(2) The General Manager or his representative shall have the right to be present at such meeting and address the members present thereat but shall not have the right to vote.

Annual general meeting.

20. (1) An annual general meeting of members of the Corporation shall be held not later than the thirty-first day of March of each year, at which there shall be submitted the annual report, together with the balance sheet containing a statement of assets and liabilities of the Corporation as on the preceding thirtieth day of September and an account of income and expenditure of the Corporation during the twelve months ending on the thirtieth day of September of the preceding year.

(2) The balance sheet and statement of accounts shall—

- (a) be prepared by the Treasurer;
- (b) be duly examined and audited and the correctness thereof certified prior to the annual general meeting

at which the same are submitted by one or more auditors elected at the preceding annual general meeting; and

- (c) be forwarded in triplicate to the Secretary to the Ministry not later than one month from the date of the annual general meeting.

(3) There shall be elected at every annual general meeting one or more auditors for the purpose of auditing the accounts of the Corporation for the ensuing year, and the expenses incurred by such auditor or auditors shall be met out of the funds of the Corporation.

(4) The election of an auditor under subsection (3) shall not be valid until it is approved by the Secretary to the Ministry.

(5) No person shall be elected auditor under subsection (3) unless he is—

- (a) a member of the Institute of Chartered Accountants of Sri Lanka;
- (b) a member of the Institute of Chartered Accountants in England and Wales or of any society incorporated by Royal Charter whose members are entitled to use the designation "Chartered Accountant";
- (c) a member of the Society of Incorporated Accountants and Auditors of Great Britain; or
- (d) a public auditor appointed under section 18 of the Societies Ordinance.

(6) If no auditor is elected under subsection (3) or if any auditor elected under that subsection is unable to act as such owing to death or any other cause, or refuses or neglects to perform his duties, the Committee may elect an auditor who shall be deemed to have been duly elected under subsection (3).

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(7) Every auditor elected by the members of the Corporation or by the Committee shall receive such remuneration for his services as may be fixed by the members of the Corporation or the Committee, as the case may be, at the time of his election.

[51, Law 10 of 1975.]

(8) If no election of an auditor is made as aforesaid, the Secretary to the Ministry may, whether on the application of a member of the Corporation or not, appoint an auditor or auditors for the purpose of examining and auditing any such balance sheet and statement of accounts and may fix the remuneration to be paid to him or them by the Corporation and such remuneration shall be paid accordingly. Any auditor or auditors so appointed shall be deemed to have been duly elected under subsection (3).

(9) At every such annual general meeting all business shall be transacted of which due notice has been given, and there shall also be elected the President, the Vice-President, the Secretary, the Treasurer, and the required number of elected members of the Committee who shall respectively hold office as such until the next subsequent annual general meeting.

Who shall preside at general meetings.

21. The President shall preside at all general meetings of the Corporation and, in his absence, the Vice-President shall preside. If both the President and the Vice-President are absent, the members present shall elect one of themselves to be chairman for the occasion. Whoever presides at the general meeting shall have a casting vote in addition to his own vote as a member.

Security from officers and servants.

22. It shall be lawful for the Committee to require security to be given by any of the officers, agents or servants appointed by it and to determine the nature and value of such security.

Property to be held by the Corporation.

23. Any property acquired by the Corporation after the coming into operation of this Act, and all subscriptions, contributions, donations, grants, loans and advances received or to be received, shall be held by the Corporation for the purposes of this Act.

24. All debts and liabilities of the said "Ceylon Railway Daily-paid Workers' Benevolent Association existing at the time of the coming into operation of this Act shall be paid by the Corporation hereby constituted, and all debts due to, and subscriptions and contributions payable to, the said Association shall be paid to the Corporation.

Debts due by and payable to the Corporation

25. The Corporation shall have power to acquire and hold any movable or immovable property which may become vested in it by right of purchase, grant, gift, testamentary disposition or otherwise and all such property shall be held by the Corporation for the purposes of this Act, with power to sell, mortgage, lease, exchange or otherwise dispose of the same, subject to any provision in that behalf contained in this Act or in the rules of the Corporation.

Power to hold property

26. (1) The funds of the Corporation shall be placed in the name of the Corporation at one or more of the local banks, and it shall be lawful for the Committee from time to time to invest such part of such funds as is not required for loans, advances or other current expenses in fixed deposit in one or more of the local banks or in securities of the Government of Sri Lanka, or in such other manner as the Secretary to the Ministry may from time to time determine.

Funds of the Corporation, how to be accounted, paid out and invested.

(2) All cheques and orders against the said funds shall be signed by the President, the Secretary and the Treasurer, and in the absence of any one of the three officers, the Vice-President may sign in place of such absent officer.

27. The Committee may from time to time under the common seal of the Corporation appoint such officers or agents as it may deem necessary for the recovering of dividends, interest or other revenue to be derived from the investment of the funds of the Corporation or for otherwise carrying out the provisions of this Act, and all persons who are so appointed shall hold office during the pleasure of, and shall be entitled to such remuneration as may be determined by, the Committee.

Appointment of officers and agents.

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Seal of the Corporation,

28. The seal of the Corporation may be altered at the pleasure of the Corporation. It shall not be affixed to any instrument except in the presence of at least two of the following three office-bearers: the President, the Secretary and the Treasurer. The two office-bearers shall sign their names on the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

Corporation may not sell, exchange, or mortgage, land without leave of court.

29. (1) It shall not be lawful for the Corporation to sell, exchange, or mortgage any land vested in it without the leave of the District Court of Colombo. Such leave shall be applied for by the Committee on behalf of the Corporation by petition addressed to the said court setting out the facts and the reasons for which the Corporation desires to sell, exchange, or mortgage such land, and praying for an order of the said court.

(2) If the said court is of opinion that it is to the general advantage of the Corporation to grant the prayer of the petition, an order may be made to that effect, and if the court declines to grant the prayer, it shall be competent for the Committee to appeal against such decision to the Court of Appeal-

Powers vested in the Secretary to the Ministry. [§ 8, Law 10 of 1975.]

30. (1) The Secretary to the Ministry may at any time, either on his own motion or on representations made to him, appoint one or more persons to constitute a board of inquiry to investigate and report upon the administration of the affairs of the Corporation and the finances of the Corporation and to make recommendations for improvements in the administration of the affairs of the Corporation.

(2) Where such board is appointed it shall have the power to examine all books and records of the Corporation and to question any office-bearer or member of the Corporation and to make all such investigations relating to the affairs of the Corporation as the board may consider necessary for the purpose.

[§ 8, Law 10 of 1975.]

(3) Every such board shall, as soon as may be possible after the investigation, submit a report to the Secretary to the Ministry who shall cause copies of such report to be sent to every office-bearer and every member of the Corporation.

(4) All expenses incurred by the Secretary to the Ministry and the board in connexion with any inquiry under this section shall be a charge on the funds of the Corporation. [§ 8, Law 10 of 1975-]

(5) It shall be the duty of every office-bearer and member of the Corporation to furnish all information required by the board of inquiry and to make available all books of account and records pertaining to the affairs of the Corporation.

30A. (1) Where a report of the board of inquiry appointed under section 30 discloses—

- (a) grave irregularities in the administration of the affairs of the Corporation; or
- (b) gross mismanagement of the funds of the Corporation,

Secretary to the Ministry to direct appointment of Special Committee of Administrators in the event of mismanagement by the Committee. [§ 9, Law 10 of 1975.]

the Secretary to the Ministry shall direct the General Manager of Railways to dissolve the Committee elected under section 6, and to appoint a Special Committee of Administrators consisting of three persons, to administer the affairs of the Corporation until new office-bearers and a new Committee are elected in accordance with the provisions of subsection (5).

(2) Where a direction is given under subsection (1) the General Manager shall—

- (a) by Order published in the Gazette, dissolve the Committee; and
- (b) appoint a Special Committee of Administrators.

(3) Where a Committee is dissolved by the General Manager by Order published in the Gazette, such Committee shall for all purposes be deemed to have been dissolved with effect from the date of publication of such Order in the Gazette.

(4) A Special Committee of Administrators appointed by the General Manager under subsection (2) shall have full power and authority, until new office-bearers and a new Committee are elected, to carry out the functions and exercise the powers ordinarily carried out and exercised by an elected Committee.

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(5) The General Manager shall, not later than six months from the date of dissolution of the elected Committee, convene a special general meeting of the members of the Corporation for the purpose of electing new office-bearers and a new Committee.

Winding up
of the
Corporation.

31. (1) Where the Committee decides that the Corporation shall be wound up, the Secretary shall summon a special general meeting of the Corporation. Two months' notice of such meeting shall be given by the Secretary to each member of the Corporation and the notice convening such meeting shall be published in one Sinhala newspaper, one Tamil newspaper, and one English newspaper not less than two months prior to the date of such meeting. A resolution to wind up the Corporation shall not be deemed to have been passed unless it is approved by three-fourths of the members on roll of the Corporation.

(2) Where the resolution to wind up the Corporation is passed with the requisite majority, the granting of loans shall be stopped forthwith, and a liquidator shall be appointed by the Secretary to the Ministry for the purpose of winding up the affairs and distributing the assets of the Corporation. After meeting the liabilities of the Corporation, the assets, if any, shall be distributed among the members of the Corporation proportionately according to the contributions and donations lying to the credit of each member of the Corporation. [§ 10, Law 10 of 1975-]

32. Nothing in this Act shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Act and those claiming by, from, or under them. Savings of rights of the Republic and others.

CHAPTER 269

REGULATED EQUIPMENT FOR AGRICULTURAL PROJECTS

Act
No. 26 of 1971.

AN ACT TO PROVIDE FOR THE VESTING IN THE GOVERNMENT UNDER CERTAIN CIRCUMSTANCES OF MOTOR VEHICLES, AGRICULTURAL PLANTS, MACHINERY OR EQUIPMENT IMPORTED FOR AGRICULTURAL PROJECTS, FOR THE PAYMENT OF COMPENSATION THEREFOR, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[28 th June, 1971.]

Short title.

1. This Act may be cited as the Regulated Equipment for Agricultural Projects (Special Provisions) Act.

Motor vehicles, agricultural plants, machinery and equipment to which this Act is applicable.

2. (1) The provisions of this Act shall apply to any motor vehicle, agricultural plant, machinery or equipment (in this Act referred to as a "regulated equipment") imported by any person under the authority of an import licence issued to such person on or after January 1, 1965, upon the recommendation of an officer authorized by the competent authority, on an application made by such person that such regulated equipment is necessary in connexion with or for the purposes of any agricultural project.

(2) The person in whose favour the import licence was issued is hereinafter referred to as the "owner".

Vesting of regulated equipment in the Government.

3. (1) Where the Secretary to the Ministry is satisfied—

(a) that the owner of a regulated equipment has in contravention of the terms and conditions of the import licence issued in respect of that regulated equipment sold, mortgaged, transferred or in any other form alienated such regulated equipment; or

(b) that such regulated equipment is not necessary or has not been or is not used in connexion with or for the purposes of the agricultural project for which the regulated equipment was imported; or

(c) that any disposition of State land for any agricultural project, whether by way of grant, lease, agreement, permit or licence or other instrument of disposition, in connexion with or for the purposes for which the regulated equipment was imported, is or has been terminated, cancelled, surrendered or has lapsed,

the Secretary to the Ministry may, by Order published in the Gazette (hereinafter referred to as a "vesting Order"), vest such regulated equipment in the Director of Government Supplies for and on behalf of the Government.

(2) It shall be deemed to be a condition of every import licence referred to in subsection (1) of section 2 that any sale, mortgage, transfer or alienation in any other form of any regulated equipment in contravention of the terms and conditions of such licence shall be null and void, and accordingly—

(a) any such sale, mortgage, transfer or alienation in any other form of any regulated equipment shall at all times be deemed to have been and to be null and void and of no effect in law; and

(b) no right, title or interest whatsoever shall be deemed to have passed to the purchaser, mortgagee, transferee or alienee of such regulated equipment.

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(3) No vesting Order shall be made under subsection (1) except after notice to the owner to show cause why such Order should not be made, and except on his failure to show such cause or to show sufficient cause to the satisfaction of the Secretary to the Ministry.

(4) A vesting Order shall have the effect of giving the Government absolute title to any regulated equipment specified in the Order free from all encumbrances.

(5) Where any vesting Order has been made under subsection (1), a copy of such Order shall be transmitted to the Director of Government Supplies, and, where such regulated equipment is a motor vehicle, a copy of such Order shall also be transmitted to the Commissioner of Motor Traffic.

Taking possession of regulated equipment vested in the Government.

4. Any officer specially or generally authorized by the Secretary to the Ministry (hereinafter referred to as an "authorized officer") may take possession of any regulated equipment vested in the Director of Government Supplies for and on behalf of the Government.

Written directions may be given by authorized officer in writing relating to taking possession of regulated equipment vested in Government.

5. (1) Where a vesting Order has been made in respect of any regulated equipment, it shall be lawful for an authorized officer to give to the owner of the regulated equipment or the person in whose possession or custody the regulated equipment is, such written directions as appear to him to be necessary or expedient in connexion with the taking possession of such regulated equipment, and the owner or person in whose possession or custody the regulated equipment is, shall comply with all such written directions.

(2) Any police officer, if requested by an authorized officer to do so, shall take such steps and use such force as may be necessary for securing compliance with any direction given under subsection (1).

Prevention of or obstruction to taking possession of regulated equipment for and on behalf of the Government.

6. (1) Every person who—
(a) prevents, obstructs or resists; or
(b) directly or indirectly causes anyone to prevent, obstruct or resist,

any person from or in taking possession of any regulated equipment for and on behalf of the Government under section 4 ; or

(c) fails to comply with any written direction given under section 5,

shall be guilty of an offence under this Act.

(2) Any person guilty of an offence under subsection (1) shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding two years or to a fine not exceeding two thousand rupees or to both such imprisonment and fine; and the Magistrate may, where such offence is committed by the owner of a regulated equipment or his agent or servant, order the forfeiture of such regulated equipment, in respect of which the offence is committed, to the State.

(3) Notwithstanding anything to the contrary, every offence under subsection (1) shall be a cognizable offence within the meaning and for the purposes of the Code of Criminal Procedure Act.

(4) Where an authorized officer is unable or apprehends that he will be unable to take possession of any regulated equipment for and on behalf of the Government because of any obstruction or resistance that has been or is likely to be offered, he shall, on his making an application in that behalf to the Magistrate's Court having jurisdiction over the place where the regulated equipment is kept, be entitled to an order of the Court directing the Fiscal to deliver possession of that regulated equipment to him for and on behalf of the Government.

(5) Where an order under subsection (4) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute the order and shall in writing report to the Court the manner in which that order was executed.

(6) For the purpose of executing an order issued by a Magistrate's Court under subsection (4), the Fiscal or any person acting under his direction may use such force as may be necessary to enter any place where the regulated equipment to which that order relates is kept and seize such

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regulated equipment, and to deliver possession thereof to the authorized officer for and on behalf of the Government.

7. Where a regulated equipment is vested in the Government, the Secretary to the Ministry shall by notice published in the Gazette and in such other manner as may be determined by him, direct every owner of such regulated equipment to make within a period of one month from the date specified in the notice a written claim to the compensation payable under this Act in respect of such equipment and specify in his claim—

- (a) his name and address ;
- (b) the particulars of his claim; and
- (c) the amount of compensation claimed by him.

8. (1) Upon the receipt of any claim made under section 7 to the compensation payable under this Act in respect of any regulated equipment vested in the Government, the Secretary to the Ministry shall make a determination as to the amount payable in respect of such claim and shall give written notice of such determination made by him.

(2) The determination under subsection (1) as to the amount of compensation payable shall be made having regard to the imported cost of the regulated equipment to the owner, the depreciation in value for the period of its use and the condition of the equipment at the time of taking possession thereof.

(3) The determination of the Secretary to the Ministry, subject to any appeal under section 9, shall be final and conclusive and shall not be questioned in any court of law.

9. (1) Any person aggrieved by the decision of the Secretary to the Ministry on a determination made by him on a claim to compensation in respect of any regulated equipment vested in the Government may within fourteen days of the receipt of the notice of determination under section 8

appeal to the Minister from such determination.

(2) The decision of the Minister on such appeal shall be final and conclusive and shall not be questioned in any court of law.

10. Any notice or direction to be given to any person under any provision of this Act shall be deemed to be given to him, if such notice or direction is sent to him by registered letter through the post.

11. Where any offence under this Act is committed by a body of persons, then—

- (a) if that body is a body corporate, every director of that body corporate shall be deemed to be guilty of that offence, and
- (b) if that body is a firm, every partner of that firm shall be deemed to be guilty of that offence :

Provided, however, that no such director or partner shall be deemed to be guilty of an offence under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of that offence.

12. In this Act—

" agricultural plant, machinery or equipment" includes tractors, bulldozers or any other contraptions used for the purpose of or in connexion with the clearing and cultivation of land ;

" agricultural project" includes any project for rearing livestock or poultry;

" competent authority" means the Secretary to the Ministry charged with the subject or function of Agriculture at the time of the issue of any import licence referred to in section 2(1);

" motor vehicle " has the same meaning as in the Motor Traffic Act.

Manner in which notice or direction may be served on persons.

Offences by bodies of persons.

Interpretation.

Notice to persons entitled to make claims to the compensation payable under this Act in respect of any regulated equipment vested in the Government.

Determination of compensation in respect of claim.

Appeal from a determination of compensation under section 8.

**RAILWAY GUARDS' AND LOCOMOTIVE ENGINEMEN'S
PROVIDENT ASSOCIATION** [Cap. 478]

CHAPTER 478

**RAILWAY GUARDS' AND LOCOMOTIVE ENGINEMEN'S
PROVIDENT ASSOCIATION**

Act AN ACT TO INCORPORATE THE CEYLON RAILWAY GUARDS' AND LOCOMOTIVE
No. 15 of 1969. ENGINEMEN'S PROVIDENT ASSOCIATION,

[1st June. 1969.]

- Short title. 1. This Act may be cited as the Ceylon Railway Guards' and Locomotive Enginemens' Provident Association (Incorporation) Act.
- Incorporation. 2. The persons who, on the date of the commencement of this Act, are members of the Ceylon Railway Guards' and Locomotive Enginemens' Provident Association (hereinafter referred to as "the Association") and such other persons as are hereafter enrolled as members of the Association shall be a body corporate (hereinafter referred to as "the Corporation") with perpetual succession, a common seal and the name "The Ceylon Railway Guards' and Locomotive Enginemens' Provident Association". The Corporation may sue or be sued by that name.
- General objects. 3. The general objects of the Corporation shall be—
- (a) to promote thrift among its members;
 - (b) to aid members in pecuniary difficulties and to give relief to them by way of financial assistance in times of need;
 - (c) to grant loans to members for such purposes as the Corporation may from time to time determine in accordance with the rules of the Corporation made as hereinafter provided;
 - (d) on retirement, resignation, dismissal or termination of services in any other way or on the death, of any member, to pay him or to his widow and children, heirs or nominees, as the case may be, such portion of his contributions to the funds of the Corporation and such donations, as may be authorized by the rules of the Corporation; and
- (e) generally to assist financially the members of the Corporation.
4. (1) Every person of the age of thirty years or under holding an appointment in the Government Railway in any of the undermentioned grades shall be eligible for admission as a member of the Corporation—
- (a) Guards, Locomotive Enginemens, Engine Drivers and Locomotive Enginemens Trainees;
 - (b) Officers of the Supervisory Grades, members of the Security Service and Special Apprentices-
- (2) Any member who may be transferred to a different grade or department but still continues in the service of the Sri Lanka Government may retain his membership of the Corporation.
5. (1) The affairs of the Corporation shall be administered, subject to the rules made as hereinafter provided, by a Committee of Management consisting of a President, two Vice-Presidents and fourteen members elected once a year at the annual general meeting.

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(2) The Committee of Management shall appoint a Joint Secretary and Treasurer of the Corporation in accordance with such rules as may be made for the purpose by the Corporation.

(3) The first members of the Committee of Management shall consist of the President, the two Vice-Presidents, the Secretary, the Treasurer and the other members of the Committee of Management of the Association holding office at the time of the coming into operation of this Act and that Committee of Management shall continue to function until the first annual general meeting of the Corporation is held after the coming into operation of this Act.

(4) The quorum for meetings of the Committee of Management shall be nine.

General meetings.

6. (1) An annual general meeting of the members of the Corporation shall be held not later than the 31st day of July in each year at which shall be submitted a Balance Sheet, a Profit and Loss Account, and an account of receipts and disbursements of the Corporation during the twelve months ending on the 31st day of March preceding, all of which shall be prepared by the Joint Secretary and Treasurer and duly audited. In exceptional circumstances, it shall be lawful for the Committee of Management to postpone the holding of the annual general meeting to a date not later than the 31st day of October.

The Joint Secretary and Treasurer shall, not less than seven days before the date fixed for the meeting, issue to all members the agenda for that meeting.

(2) The Joint Secretary and Treasurer shall, on the direction of the Committee of Management or upon the written requisition of thirty or more members of the Corporation, call a special general meeting.

(3) The quorum for a general meeting of the members of the Corporation shall be fifty.

(4) Notice of not less than fourteen days shall be given of every general meeting by

advertisement in at least one local daily newspaper or in the Railway Weekly Notice.

(5) Voting at a general meeting shall be by a show of hands unless otherwise decided at such meeting. The President shall have a casting vote in addition to his original vote.

7. (1) The Committee of Management shall cause a register to be kept in which the name of every person who has been a member of the Corporation and of every person who is duly admitted a member of the Corporation shall be entered.

Register of members.

(2) The register shall contain the following particulars:—

- (a) the name, age on admission, address and designation, of each member,
- (b) the date on which the name of any person was entered in the register as a member,
- (c) the date on which any person ceased to be a member,
- (d) such other information as may be required by the Committee of Management.

8. (1) It shall be lawful for the Corporation from time to time at any general meeting and by a majority of not less than two-thirds of such members of the Corporation entitled to vote as are present at the meeting to make rules for any of the following purposes:—

Rules.

- (a) the admission, suspension, withdrawal or expulsion of members;
- (b) the election of members to the Committee of Management and the definition of their powers and duties and the duties of the various officers, agents and servants of the Corporation;
- (c) the determination and collection of contributions or other calls payable by members and the payment of monies due to them and the

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imposition of fines, forfeitures and penalties for breaches of rules and the withdrawal or refunding of contributions;

- (d) the granting of loans and the regulation of the terms and conditions of their grant;
- (e) the establishment and the regulation of schemes for the benefit of the employees and the establishment of any funds; and
- (f) the procedure for the transaction of business at general meetings of the Corporation and at meetings of the Committee of Management and for the management of the affairs of the Corporation and the accomplishment of its objects.

(2) Any rule made by the Corporation may be amended or rescinded in like manner as a rule may be made under subsection (1).

(3) No rule or amendment or rescission of a rule shall have effect unless the same is confirmed by the Minister in charge of the subject of Finance and notice of such confirmation is published in the Gazette.

(4) The rules of the Association in force at the time this Act comes into operation shall be deemed to be rules of the Corporation made under this section, and may accordingly be amended, rescinded or replaced by new rules so made.

Property to be held by the Corporation.

9. Any property, movable or immovable, held by the Association before the coming into operation of this Act, or acquired by the Corporation after the coming into operation of this Act, and all subscriptions, contributions, donations, fines, loans and advances received or to be received shall be held by the Corporation for the purposes of this Act.

Debts due by, and payable to, the Corporation.

10. All debts and liabilities of the Association existing at the time of the coming into operation of this Act shall be paid and discharged by the Corporation hereby constituted and all debts due to, and subscriptions, contributions, fines, and loans and advances payable to, the Association shall be paid to the Corporation.

11. The Corporation shall have power to take and hold any property, movable or immovable, upon or by virtue of any instrument of purchase, grant, gift or lease or upon or by virtue of any testamentary disposition or otherwise, and all such property shall be held by the Corporation for the purposes of this Act with power to sell, mortgage, lease, exchange or otherwise dispose of, encumber or charge the same subject only to the provisions of section 12.

Corporation may hold property, movable and immovable.

12. (1) It shall not be lawful for the Corporation to sell, exchange, or mortgage any land vested in it without the leave of the District Court of Colombo, which leave shall be applied for by the Committee of Management by petition addressed to the said court setting out the facts and reasons for which the Corporation desires to sell, exchange, or mortgage such land, and praying for an order of the said court.

Corporation may not sell, exchange or mortgage lands without leave of court.

(2) A copy of every such petition shall be served on the General Manager of Railways at least fourteen days before the hearing of the petition.

(3) The General Manager of Railways may oppose the prayer of the petition, and if, after hearing him upon such opposition, the said court is of opinion that it is to the general advantage of the Corporation to grant the prayer of the petition, an order may be made to that effect.

13. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of two members of the Committee of Management, authorized in that behalf by such Committee, who shall sign their names on the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness. Any instrument sealed with the seal of the Corporation and signed by two members of the Committee of Management shall be deemed to be duly executed.

Seal of Corporation how affixed.

14. The funds of the Corporation shall be placed in the name of the Corporation in one or more banks in Sri Lanka as may be determined by the Committee of Management and it shall be lawful for the Committee of Management from time to time to invest such part of the funds as is

Investment of funds-

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not immediately required for any purpose of the business of the Corporation or in connexion with the management of the affairs of the Corporation and the achievement of its objects in such manner as the Committee of Management may determine,

- (a) in fixed or savings deposits in one or more local banks; or
- (b) in any bonds, debentures or other securities of the Government of Sri Lanka; or
- (c) in any other investment as may from time to time be approved by the Secretary to the Treasury,

15. The Corporation shall not be dissolved except with the consent of at least four-fifths of the members on the roll. If the Corporation is dissolved, the funds of the Corporation shall, after payment of all claims, be divided among the members in proportion to the amount lying to the credit of each member in the books of the Corporation.

16. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or any other persons, except such as are mentioned in this Act and those claiming by, from, or under them. Saving of the rights of the republic and others.

CHAPTER 342

RADIOACTIVE MINERALS

Act
No. 46 of 1968.

AN ACT TO PROVIDE FOR THE REGULATION AND CONTROL OF THE MINING, PRODUCTION AND TREATMENT OF RADIOACTIVE MINERALS AND SUBSTANCES, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[14th December, 1968.]

Short title.

1. This Act may be cited as the Radioactive Minerals Act.

for believing that work is being carried out for the mining, production or treatment of radioactive minerals and substances.

Power to obtain information of prescribed substances.

2. (1) Any public officer authorized by the Secretary may, by written notice served on any person, require such person to make such returns, at such times, and containing such particulars as may be specified in the notice, of all or any of the following:—

(2) If any person wilfully obstructs any other person exercising powers conferred on that other person by subsection (1), he shall be guilty of an offence.

(a) any such prescribed substance specified in the notice as is in his possession or under his control;

4. (1) Subject to the other provisions of this section, any person authorized by the Minister in that behalf may on producing, if so required, a document signed by the Minister and showing that such person is so authorized, do on, over or below the surface of any land such work as the Minister considers necessary for the purpose of discovering whether there is present in or on the land any minerals from which in the opinion of such person any prescribed substance can be obtained, and the extent to which any such mineral is so present.

Power to cause work to be done for discovering minerals from which prescribed substances can be obtained.

(b) any such minerals specified in the notice as are in his possession or under his control or present in or on land owned or occupied by him, being minerals from which, in the opinion of the Secretary, any of the prescribed substances can be obtained.

(2) If any person—

(2) Before any powers are exercised under subsection (1) in relation to any land, the Minister shall cause to be served on every owner, lessee and occupier of the land a written notice specifying the nature of the work proposed to be done and the time, not being less than twenty-eight days, within which and the manner in which objections can be made thereto, and no such power shall be exercised otherwise than in pursuance of the notice or before the expiry of the time prescribed therein for making objections.

(a) fails to comply with any notice served on him under subsection (1), or

(b) knowingly makes any untrue statement in any return made in pursuance of such notice,

he shall be guilty of an offence.

Powers of entry and inspection.

3. (1) Any person authorized by the Secretary in that behalf may, on producing, if so required, a document signed by the Secretary and showing that such person is so authorized, enter at all reasonable hours, for the purpose of inspection, any premises where such person has reasonable grounds

(3) If any person on whom a notice under subsection (2) is served makes an objection and does not withdraw it, the Minister shall, before the person authorized in that behalf

by the Minister under subsection (1) exercises any powers under that subsection, afford an opportunity to the person making the objection of appearing before and being heard by a person appointed by the Minister for the purpose and, if the person making the objection avails himself of that opportunity, the Minister may afford to any other person, to whom it appears to the Minister expedient to afford it, an opportunity of appearing and being heard on the same occasion.

(4) The Minister may, after considering the objections, if any, made by any of the persons on whom a notice under subsection (2) is served and the report made on such objections by the person appointed under subsection (3), cause to be served on the persons on whom that notice was served a further written notice withdrawing or confirming the original notice, or modifying the terms thereof, and, in the case of modification, no power shall be exercised under subsection (1) otherwise than in pursuance of the original notice as so modified.

(5) The powers conferred by subsection (1) shall be deemed to include the power to remove any work constructed or other thing placed on, over or below the surface of the land in the course of the exercise of those powers, and to do such work as the Minister or any person authorized in that behalf by the Minister thinks fit for the purpose of restoring the land wholly or partly to the condition in which it would have been but for the exercise of those powers.

(6) For the purpose of exercising the powers conferred by the preceding provisions of this section, any person authorized in that behalf by the Minister may pass, with or without animals or vehicles, over any land.

(7) If any person wilfully obstructs or interferes with the exercise of powers under this section, he shall be guilty of an offence.

(8) Compensation shall be determined and paid by the Minister in accordance with the First Schedule to this Act in respect of any land on which powers under this section are exercised.

5. (1) Where it appears to the Minister that any minerals from which in his opinion any prescribed substance can be obtained are present in or on any land, the Minister may, subject to the provisions of section 6, by Order published in the Gazette compulsorily acquire the exclusive right in respect of that land, so long as the Order remains in force, to prospect for, mine and remove all minerals from which in his opinion any prescribed substance can be obtained.

The Minister to have the exclusive right to prospect for, mine and remove minerals from which any prescribed substance can be obtained.

(2) Where an Order under subsection (1) is in force in respect of any land, the Minister shall have all the rights ancillary to the exclusive right acquired by him by that Order. Such ancillary rights shall, without prejudice to the generality of the preceding provisions of this subsection, include—

- (a) rights necessary for the purpose of access to or conveyance of the aforesaid minerals or the ventilation or drainage of the mines;
- (b) rights to use and occupy the surface of any land for the purpose of erecting any necessary buildings and installing any necessary plant in connexion with the extraction of the aforesaid minerals; and
- (c) rights to obtain a supply of water for purposes connected with the operations for the extraction of the aforesaid minerals, or to dispose of water or other liquid matter obtained in consequence of such operations,

(3) An Order made under this section shall provide for the payment of compensation by the Minister in such cases and subject to such conditions as may be specified in the Order or determined thereunder, in respect of loss suffered as the result of the exercise of rights under such Order including rights under subsection (2), but in calculating such compensation no account shall be taken of the value of any minerals present in or on the land affected by such Order, being minerals from which in the opinion of the Minister any prescribed substance can be obtained.

(4) Compensation in respect of any minerals removed by the Minister from a land, other than land disposed of by the State with an express or implied reservation to minerals in favour of the State, in pursuance of an Order under subsection (1) which is in force in respect of that land shall be paid by the Minister in accordance with the Second Schedule to this Act.

prescribed substance can be obtained; and

(c) any treatment plant designed or adapted for the production of radioactive minerals and substances.

(2) In the case of any such plant affixed to any land as is compulsorily acquired by the Minister under subsection (1), the Minister may cause it to be severed from the land, and shall, if such severance is made, cause any damage caused by such severance to be made good.

(3) Compensation in respect of the acquisition of any article under this section shall be paid by the Minister in accordance with the Second Schedule to this Act.

6. (1) Before an Order is made and published under subsection (1) of section 5, notice of the Order as proposed to be made shall be caused by the Minister to be published in the Gazette and in at least one Sinhala, one Tamil and one English newspaper circulating in Sri Lanka.

(2) For the purpose of subsection (1), a notice shall be sufficient notice of a proposed Order if it sets out the purport of such Order and specifies a place where copies of such Order may be inspected free of charge at all reasonable hours,

(3) A notice under subsection (1) shall contain a statement to the effect that objections may be made to the proposed Order within such time, not being less than twenty-eight days, and in such manner as shall be specified in the notice, and if any such objection is duly made and is not withdrawn, the Minister shall afford an opportunity to the person making the objection of appearing before and being heard by a person appointed by the Minister for the purpose. The person so appointed shall make a report on such objections to the Minister.

(4) The Minister shall consider the objections duly made in consequence of a notice under subsection (1) and the report made on such objections under subsection (3).

8. (1) The Minister may by Order published in the Gazette provide for prohibiting except under the authority of a licence granted by the Minister and subject to such conditions as may be specified in the licence, the mining, production, treatment and transport of minerals specified in the Order, being minerals from which in the opinion of the Minister any prescribed substances can be obtained. Any such Order may contain such incidental and supplementary provisions as the Minister considers necessary.

Control of mining, production, treatment and transport of radioactive minerals and substances.

(2) An Order under subsection (1) may provide for the seizure of any article in respect of which there are reasonable grounds for suspecting that a contravention of the Order has been committed, and for the retention of any such article pending the institution and final determination of proceedings in respect of the contravention, and for the disposal, if the proceedings lead finally to a conviction, of any such article.

(3) Any person who contravenes or fails to comply with an Order under subsection (1) or any condition subject to which a licence was granted under such an Order shall be guilty of an offence.

7. (1) The Minister may, subject to and in accordance with the Third Schedule to this Act, compulsorily acquire all or any of the following:—

- (a) any prescribed substances;
- (b) any minerals from which in the opinion of the Minister any

9. Any notice required or authorized by or under this Act to be served on any person may be served—

Service of notice.

- (a) by delivering it to that person; or

Proceedings preceding the making of an Order under section 5.

Compulsory acquisition by the Minister of prescribed substances and minerals and plant.

(b) by leaving it, or sending it by post in a registered letter addressed to him, at his usual or last known residence or place of business; or

(c) in the case of a corporation, by delivering it to the secretary or any other officer of that corporation at its registered or principal office, or by sending it by post in a registered letter addressed to him at that office; or

(d) in the case of a notice to be served on an owner, lessee, or occupier of land, if it is not practicable after reasonable inquiry to ascertain his name or address, by addressing it to him by the description "owner", "lessee" or "occupier" of the land (describing it) to which it relates, and by delivering it to some person on the premises, or, if there is no person on the premises to whom it may be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

Expenses and compensation.

10. Any expenses incurred by the Minister or the Secretary in the exercise of powers or the performance of functions under this Act and any sums required by or under any provision of this Act to be paid to any person by way of compensation or interest thereon shall be defrayed or paid out of moneys granted for the purpose by Parliament.

Punishment for offences under this Act.

11. (1) Any person who is guilty of an offence under this Act shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding three months or to a fine not exceeding one thousand rupees or to both such imprisonment and such fine.

(2) Where any offence under this Act has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of that body, or was purporting to act in any such capacity, shall be deemed to be guilty of the offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such

diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

12. (1) The Minister may make regulations generally for the purpose of giving effect to the principles and provisions of this Act and particularly in respect of any matter which is stated or required by this Act to be prescribed or for which regulations are required by any provision of this Act to be made.

Regulations.

(2) No regulation made under this section shall have effect until it is approved by Parliament and notice of such approval is published in the Gazette.

13. The provisions of this Act shall be in addition to and not in substitution for or derogation of the provisions of any other written law relating to mines, quarries and minerals or the employment of persons or the conditions of workers in relation thereto:

Provisions of this Act to be supplemental to other law.

Provided that, where the provisions of this Act are in conflict with any such other provision or written law, the provisions of this Act shall prevail.

14. In this Act Unless the context otherwise requires—

Interpretation,

"minerals" include all substances obtained or obtainable from the soil by underground or surface working;

"Secretary" means the Secretary to the Ministry of which the Minister is in charge;

"prescribed substance" means uranium, thorium, beryllium, lithium or any of their compounds, or any other substance which the Minister may by notification in the Gazette prescribe, being a substance which, in his opinion, is or may be used for the production or use of atomic energy or research into matters connected therewith;

"treatment plant" includes any machinery, equipment or appliance, whether affixed to land or not.

FIRST SCHEDULE

[Section 4 (8).]

COMPENSATION FOR WORK DONE ON A LAND IN SEARCHING FOR MINERALS

1. When compensation is payable under subsection (8) of section 4 of this Act in respect of powers exercised under that section on any land, the compensation shall be—

- (a) a sum equal to the rent which might reasonably be expected to be payable by a tenant in occupation of the land, during the period when powers under section 4 of this Act are exercised on the land, under a lease granted immediately before the beginning of that period, whereby the tenant undertakes to pay all usual rates and taxes and to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the land in a state to command that rent, and
- (b) a sum equal to the cost of making good any damage to the land which may have occurred during the aforesaid period in consequence of the exercise of the aforesaid powers, except in so far as the damage has been made good during the aforesaid period by the Minister.

2. Any compensation under sub-paragraph (a) of paragraph 1 of this Schedule shall accrue due on the last day of each month in the period for which that compensation is payable, and shall be paid to the person who would be entitled to occupy the land during that period but for the exercise of powers under section 4 of this Act on the land.

3. Any compensation under sub-paragraph (b) of paragraph 1 of this Schedule shall accrue due at the end of the period during which powers under section 4 of this Act are exercised on the land, and shall be paid to the person who is then the owner of the land.

4. Any compensation payable in accordance with this Schedule shall carry interest, as from the time at which it accrues due, until payment, at such rate per annum as the Minister in charge of the subject of Finance may from time to time by Order published in the Gazette prescribe.

5. Any dispute as to whether any compensation is payable in accordance with this Schedule, or as to the amount of such compensation, or the persons to whom it is payable shall be referred to and determined by an arbitrator to be appointed by agreement between the parties to the dispute or, in default of such agreement, by an arbitrator appointed by the District Judge of Colombo. The arbitrator may, if he thinks fit, be assisted by not more than two assessors, and the fees of the arbitrator and assessors shall be payable by the parties to the dispute in such proportion as the arbitrator determines.

SECOND SCHEDULE

[Section 5 (4)
and 7 (3).]COMPENSATION FOR THE REMOVAL OF MINERALS FROM A LAND OR FOR THE
COMPULSORY ACQUISITION OF ANY ARTICLE

1. Where compensation is payable under subsection (4) of section 5 of this Act in respect of any minerals removed from a land, or under subsection (3) of section 7 of this Act in respect of any article compulsorily acquired, the compensation shall be a sum equal to the price which the owner thereof might reasonably have been expected to obtain upon a sale thereof effected by him—

- (a) in the case of such minerals, immediately before the date of publication in the Gazette of the Order in pursuance of which such minerals are removed, and
- (b) in the case of such article, immediately before the date of the service of the notice of acquisition.

Such compensation shall accrue due, in the case of such minerals, on the date of removal of such minerals from the land, and, in the case of such article, on the date of the service of the notice of acquisition, and shall be paid to the owner.

2. Any dispute as to whether any compensation is payable in accordance with this Schedule, or as to the amount of such compensation, or the persons to whom it is payable shall be referred to and determined by an arbitrator to be appointed by agreement between the parties to the dispute or, in default of such agreement, by an arbitrator appointed by the District Judge of Colombo. The arbitrator may, if he thinks fit, be assisted by not more than two assessors, and the fees of the arbitrator and assessors shall be payable by the parties to the dispute in such proportion as the arbitrator determines.

3. Any compensation payable in accordance with this Schedule shall carry interest, as from the time at which it accrues due, until payment, at such rate as the Minister in charge of the subject of Finance may from time to time by Order published in the Gazette prescribe.

- 4. " Notice of acquisition " has the same meaning as in the Third Schedule.

THIRD SCHEDULE

COMPULSORY ACQUISITION OF ARTICLES

1. Where the Minister proposes to acquire any article under section 7 of this Act the Secretary shall cause to be served upon the person appearing to the Secretary to be the owner thereof a notice in writing (hereinafter and in the Second Schedule referred to as a " notice of acquisition ") specifying the article to be acquired and requiring that person to make to the Secretary within a time specified in the notice a written declaration containing such particulars as may be so specified in regard to the ownership of that article and to any agreement or charge by virtue of which any other person has an interest in that article,

2. Upon the service of a notice of acquisition under paragraph 1 of this Schedule no article to which the notice relates shall be removed from the premises in which the article is situate at the time of the service of the notice without the consent of such person as is specified in the notice ; and if any person knowingly removes, or causes or permits to be removed, any article in contravention of this paragraph, he shall be guilty of an offence.

3. If it appears to the Secretary in consequence of any written declaration made to the Secretary in pursuance of paragraph 1 of this Schedule or otherwise that any person other than the person on whom the notice of acquisition was served is the owner of, or has any interest in, any article to which the notice relates, the Secretary shall cause to be served a copy of the notice of acquisition on that other person.

4. A notice of acquisition shall contain a statement to the effect that objection may be made thereto within such time (not being less than twenty-eight days) and in such manner as may be specified in the notice, and if any such objection is duly made and not withdrawn, the Secretary shall afford an opportunity to the person making the objection of appearing before and being heard by a person appointed by the Secretary for the purpose, and, if the person making the objection avails himself of the opportunity, the Secretary may afford to any other person to whom it appears to the Secretary expedient to afford h, an opportunity of being heard on the same occasion.

5. If any such objection as aforesaid is duly made and not withdrawn, the Secretary shall, after considering such objection and the report of the person appointed by the Secretary under paragraph 4 of this Schedule, cause to be served on the person upon whom the notice of acquisition or a copy thereof was served a further notice in writing either withdrawing the notice of acquisition or confirming it as respects all the articles to which it relates or such of those articles as may be specified.

6. Any article with respect to which a notice of acquisition is served under this Schedule shall—

- (a) if no objection is duly made to the notice, vest, absolutely and free from all encumbrances, in the Minister at the expiration of the time for making such an objection, and
- (b) if such an objection is duly made and the notice is confirmed as respects that article by a notice served under paragraph 5 of this Schedule, vest, absolutely and free from all encumbrances, in the Minister on the service of the last-mentioned notice.

CHAPTER 456

RAMAKRISHNA MISSION

Ordinance
No. 8 of 1929.

AN ORDINANCE TO INCORPORATE THE RAMAKRISHNA MISSION (CEYLON BRANCH).

[17th July, 1929.]

Short title.

1. This Ordinance may be cited as the Ramakrishna Mission (Ceylon Branch) Ordinance.

(e) to undertake and carry on all such works as may appear necessary to attain the aims and objects of the corporation.

Incorporation of the Ramakrishna Mission (Ceylon Branch).

2. From and after the passing of this Ordinance, the president, vice-president, and members of the board of management for the time being of the Ramakrishna Mission (Ceylon Branch), as hereinafter constituted, and such and so many persons as now are or shall hereafter be admitted as members of the Ramakrishna Mission (Ceylon Branch), shall be a corporation, hereinafter called "the corporation", and shall have the name of "The Ramakrishna Mission (Ceylon Branch)", and in that name shall have perpetual succession and shall and may sue and be sued in all courts in Sri Lanka, and may have and use a common seal and alter the same at their pleasure.

4. (1) The affairs of the corporation shall, subject to any rules made or deemed to be made under this Ordinance, be administered by a board of management, consisting of the president, the vice-president, the secretary, and the treasurer, respectively of the corporation, and not more than thirty-six nor less than twelve other members, to be nominated and elected respectively in accordance with the rules in the Schedule*, or any rules amending the same.

(2) The first members of the board of management shall be;—

(1) His Holiness Swami Sharvananda, President.

(2) Swami Avinasananda, Vice-President.

(3) Swami Vipulananda, Secretary.

(4) The Hon, Mailvahana Mudaliar Subramanyam, M. L. C., Treasurer.

(5) The Hon. Supramaniam Rajaratnam, M. L. C.

(6) The Hon. Kothandaram Natesa Iyer, M. L. C.

(7) The Hon. Thambiah Mudaliar Sabaratnam, M. L. C.

(8) Mudaliar Chellappah Rasanayakam, C.C.S.

(9) Mr. Carthigesu Ariyanayakam.

(10) Mr. Arumugam Sellamuttu,

(11) Dr. Sinnatamby Subramaniam,

(12) Mudaliar Subramaniam Tiru Chittambalam.

General objects of the corporation.

3. The general objects for which the corporation is constituted are hereby declared to be—

(a) to impart and promote the study of Hinduism and all its scriptures and the teachings of Ramakrishna Paramahansa;

(b) to promote the study of comparative theology in its widest form and assist in bringing about the harmony of all religions;

(c) to carry on educational work among the masses in all branches of knowledge;

(d) to establish, maintain, and otherwise assist *mutts* or monasteries, schools, orphanages, and similar educational and charitable institutions ; and

* Schedule omitted.—Private enactment.

- (13) Mr; Subramaniam Vythialingam, B. A,
- (14) Mr. Canagasabai Perumalpillai.
- (15) Dr. Catfairithamby Sabapathy.
- (16) Mr. Kandavanam Ayadurai.
- (17) Mr. Kunjalam Subramanyam Kanagarayar.
- (18) Mr. Marimuttu Shanmugam Eliyathamby.
- (19) Mr. Vairamuttu Nagalingam.
- (20) Mr. Kantappar Muttucumar.
- (21) Mr. Kathirgamathamby Sitravel Chandrasegarampillai.
- (22) Mr. Saravanamuttu Achalingam.
- (23) Mr. Kathiravelpillai Gnanasambanthar.
- (24) Mr. Kampannar Palaniandy Somasundram.
- (25) Mr. Thevar Appavoo Devanayagampillai.
- (26) Mr. Nallathambi Swaminathapillai.
- (27). Mr. Murugappar Somanathapillai.
- (28) Mr. Thaiyalpagar Oppillamony.
- (29) Mr. Subramaniam Katiappa.
- (30) Mudaliar Kasinathar Vythiyalingam Marcandan,
- (31) Mr. Saravanamuttu Cumaraswami.
- (32) Mr. Murugappar Chinniah.
- (33) Mr. Candappa Muttiah.
- (34) Notary Kanapathipillai Nallatamby.
- (35) Notary Seenithamby Selladurai.
- (36) Mr. Kathiramathamby Odayar Velupillai.
- (37) Mr. Kanapper Kandiah.
- (38) His Holiness Swami Yatiswarananda.
- (39) Bramachari Shivadas.
- (40) Bramachari Raroan Nambiar.

- (b) for the conduct of the duties of the board of management and of the various local committees, office-bearers, agents, and servants of the corporation;
- (c) for the procedure in the transaction of business;
- (d) for the election or appointment of the officers of the corporation or of the members of the board of management and for their tenure of office; and
- (e) otherwise generally for the management of the affairs of the corporation and the accomplishment of its objects.

(2) The rules in the Schedule* to this Ordinance shall for all purposes be deemed to be the rules of the corporation in force at the commencement of this Ordinance, and to have been made under this Ordinance, and may be altered, added to, amended, or rescinded by rules to be made under this Ordinance.

(3) All rules and resolutions other than those relating to finance or property made by the board of management after the commencement of this Ordinance shall be subject to the approval of the president of the Ramakrishna Mission at Belur, near Calcutta, before coming into operation.

(4) All members of the corporation shall be subject to any rules made or deemed to be made under this Ordinance.

6. On the coming into operation of the Ordinance, all and every property belonging to the Ramakrishna Mission (Ceylon Branch) or in the name or names of any person or persons in trust for the Ramakrishna Mission (Ceylon Branch) shall be, and the same are hereby vested in the corporation, and shall be held by the corporation in its corporate name, and the same together with all property hereafter to be acquired by the corporation, both movable and immovable, and all subscriptions, contributions, donations, amounts of loans, and advances received or to be received, shall be held by the corporation for the purpose of this

Property vested in the corporation.

Rules.

5. (1) It shall be lawful for the board of management at any of its meetings, held after due notice, by a majority of votes of the members present and voting at such meeting, to make rules—

- (a) for the admission, withdrawal, or expulsion of members;

* Schedule omitted.—Private enactment.

Ordinance, subject to the rules made or deemed to be made under this Ordinance and subject to any trusts under which such property may have been received.

lease, exchange, or otherwise dispose of the same.

Debts, &c., due by and payable to the Mission.

7. All debts and liabilities of the said Ramakrishna Mission (Ceylon Branch) which were in existence before the coming into operation of this Ordinance, shall be paid by the corporation, and all debts due to and subscriptions and contributions payable to the said Ramakrishna Mission (Ceylon Branch) shall be paid to the corporation for the purposes of this Ordinance,

10. The income and property of the corporation whencesoever derived shall be applied solely towards the promotion of the objects of the corporation as set forth in this Ordinance, and in no event shall the assets belonging to the corporation be taken outside the limits of Sri Lanka or used for any purposes outside the said limits or contrary to the conditions of any trust under which the property is received :

Application of the funds of the corporation.

Seal.

8. The seal of the corporation shall not be affixed to any instrument whatsoever, except in the presence of three members of the board of management, of whom one shall be the president or the vice-president, who shall sign their names to the instrument in token of their presence, and such signature shall be independent of the signing of any person as a witness.

Provided that funds or property donated for local purposes shall be utilized for the purposes for which they are granted and shall not be utilized outside the local limits without the sanction of the local committees.

Corporation may hold property, movable and immovable.

9. The corporation shall be able and capable in law to take and hold any property, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition, or otherwise, and all such property shall be held by the corporation for the purposes of this Ordinance and subject to any rules made or deemed to be made under this Ordinance with full power to sell, mortgage,

11. Except so far as is provided in this Ordinance or in any rules made or deemed to be made thereunder, any dispute or doubt as to any matter or question affecting or relating to the principles or policy of the Ramakrishna Mission shall be referred to the governing body of the Ramakrishna Mission in India, whose decision thereon shall be final.

Decision of disputes, &c., as to principles or policy.

12. Nothing in this Ordinance shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Ordinance, and those claiming by, from, or under them.

Saving of rights of the Republic and other rights.

CHAPTER 130

REGISTRATION OF DEATHS (EMERGENCY)

Ordinance
No. 24 of 1945,
Act
No. 37 of 1952.

AN ORDINANCE TO MODIFY CERTAIN PROVISIONS OF LAW RELATING TO THE REGISIRATION OF DEATHS, INQUIRIES INTO DEATHS AND TO THE BURIAL AND CREMATION OF DEAD BODIES IN THEIR APPLICATION IN THE CASE OF THE DEATHS OF PERSONS SUBJECT TO MILITARY LAW OR OF MEMBERS OF THE ARMED FORCES OF THE ENEMY.

[7th September, 1945.]

Short title.

1. This Ordinance may be cited as the Registration of Deaths (Emergency Provisions) Ordinance.

otherwise disposed of, in any cemetery or burial ground or other place, as he may think fit:

Modification of statutory requirements relating to information and registration of deaths.

2. In the event of the death of a person subject to military law or of a member of the armed forces of the enemy, whether in consequence of war operations or otherwise—

Provided, however, that such body shall not be buried, cremated, or otherwise disposed of, in any cemetery or burial ground duly established or registered under the Cemeteries and Burials Ordinance for any proclaimed area, unless a certificate with respect to such body has been duly issued by a proper authority in accordance with the provisions of this Ordinance.

(a) it shall not be necessary for any person subject to military law to give information concerning the death to a registrar or to attend before the registrar and sign the register or to deliver a certificate stating the cause of death to a registrar or to any other person; and

4. In the event of the death of a person subject to military law or of a member of the armed forces of the enemy, otherwise than in consequence of war operations—

Disposal of bodies where deaths have occurred otherwise than in consequence of war operations.

(b) a registrar shall not register the death, unless he is directed to do so by the Registrar-General.

(a) an inquirer who holds an inquiry into such death shall, on the production of a certificate with respect to the death body of any such person duly issued by a proper authority, make his order for the burial of such body by affixing his signature in the space provided for the purpose at the foot of the form set out in the Schedule to this Ordinance; and

Modification of certain statutory requirements relating to information and inquiries and of burials and cremations in cases of deaths in consequence of war operations.

3. (1) In the event of the death of a person subject to military law or of a member of the armed forces of the enemy in consequence of war operations—

(a) it shall not be obligatory on any person to give information concerning the death to an inquirer; and

(b) the dead body of any such person may, if with respect to such body a certificate has been duly issued by a proper authority, be removed to and buried, cremated, or otherwise disposed of, in any cemetery or burial ground duly established or registered under the Cemeteries and Burials Ordinance for any proclaimed area, whether or not such death occurred within the limits of such proclaimed area.

(b) an inquirer shall not take any action in relation to the death.

(2) In the case of any death referred to in subsection (1), a proper authority may cause the dead body to be buried, cremated, or

Duty of keeper of a cemetery or burial ground.

5. The keeper or other person in charge of any cemetery or burial ground, duly established or registered under the Cemeteries and Burials Ordinance, shall, on the production of a certificate with respect to a dead body duly issued by a proper authority, permit such body to be buried, cremated, or otherwise disposed of in such cemetery or burial ground.

Form of certificate to be issued by a proper authority.

6. A certificate with respect to a dead body issued by a proper authority under this Ordinance shall be substantially in the form set out in the Schedule to this Ordinance, and shall contain all the particulars required to be set out in that form :

Provided, however, that a certificate with respect to the dead body of a person who was at the time of his death a member of the armed forces of the enemy may contain only such of those particulars as are available at the time of the issue of the certificate.

Registration of deaths on receipt of records from proper authority.

7. (1) On the receipt of any record or a certified copy of, or extract from, any record kept by a proper authority containing the particulars concerning the death of any person subject to military law or of a member of the armed forces of the enemy, the Registrar-General shall forthwith issue an order for the registration of that death.

(2) On the receipt of any order for the registration of a death issued by the Registrar-General under subsection (1), a registrar shall, subject to such general or special directions as may be given by the Registrar-General for determining the manner in which such death is to be registered, register such death forthwith in the manner prescribed in the Births and Deaths Registration Act,

Any entry made in a register of deaths by a registrar under this section shall, for the purposes of the Births and Deaths Registration Act, be deemed to have been signed by a proper authority acting as the informant required by that Act.

The provisions of section 35 of that Act shall not apply to the registration of any such death.

Proof of death.

8. For the purposes of the proof of the death of any person subject to military law whose death has not been registered by a registrar, a certificate issued by or on behalf of a proper authority stating that that person has died shall be prima facie evidence of the fact of such death ; and any document, purporting to be such a certificate and to be signed by or on behalf of such authority shall, unless the contrary be proved, be deemed to be a certificate issued by or on behalf of such authority, and shall be received in evidence accordingly.

Construction of Ordinance.

9. This Ordinance shall be read and construed as one with the Births and Deaths Registration Act and with any other written law relating to the registration of deaths, inquiries into deaths and the burial, cremation or other disposal of dead bodies :

Provided, however, that in the event of any conflict or inconsistency between the provisions of the Births and Deaths Registration Act or such other written law and the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

Application of Ordinance.

10. This Ordinance shall apply during the continuance of any war in which the Republic may be engaged.

Interpretation.

11. In this Ordinance, unless the context otherwise requires—

" a person subject to military law" includes a person subject to the naval, military, or air force law of any foreign power allied with the Republic of Sri Lanka or of any foreign authority recognized by the Republic of Sri Lanka as competent to maintain naval, military, or air forces for service in association with the Armed Forces of Sri Lanka, but does not include—

(a) a member of the Sri Lanka Army, Navy, or Air Force, who is absent from his unit on leave or otherwise than on duty; or

(b) a member of the Sri Lanka Army, Navy, or Air Force, who is on the Reserve thereof;

" body " includes part of a body;

" inquirer " includes a Magistrate;

" proclaimed area " means any area or areas defined in an Order under section 40 of the Births and Deaths Registration Act;

" proper authority "—

(a) for the purposes of the provisions of this Ordinance relating to the issue of a certificate with respect to, or to the burial of, the dead body of a person who was at the time of his death subject to military law, means the officer commanding the naval, military, or air force hospital at which the death of such person occurred or the registrar of that hospital, if any, or, where the death of such person occurred in a place other than such hospital, the medical officer of the unit to which such person was at the time of his death attached, or the officer commanding that unit;

(b) for the purposes of the provisions of this Ordinance relating to the issue of a certificate with respect to, or to the burial of, the dead body of a person who was at the time of his death a member of the armed forces of the enemy, means the officer commanding the naval, military, or air force hospital at which the death of such person occurred or the registrar of that hospital, if any, or, where the death of such person occurred in a place other than such hospital, any commissioned officer in the Armed Forces of Sri Lanka;

(c) for the purposes of the provisions of this Ordinance relating to the keeping of a record

containing the particulars concerning the death, or the issue of a certificate with respect to the proof of death, of a person subject to military law, means the officer in charge of the records of the unit to which such person was at the time of his death attached or the officer commanding that unit; and

(d) for the purposes of the provisions of this Ordinance relating to the keeping of a record containing the particulars concerning the death of a member of the armed forces of the enemy, means any commissioned officer in the Armed Forces of Sri Lanka;

" registrar " means a Registrar of Births and Deaths duly appointed under the Births and Deaths Registration Act and includes any District Registrar, Additional District Registrar, or deputy registrar duly appointed under that Act;

" Registrar-General " means the Registrar-General of Births and Deaths duly appointed under the Births and Deaths Registration Act, and includes a Deputy Registrar-General; [§§ 2 & 3, Law 23 of 1978-]

" war operations " means—

(a) operations of the armed forces of the enemy; or

(b) operations of any forces of any foreign power allied with the Republic of Sri Lanka, or of any forces of any foreign authority recognized by the Republic of Sri Lanka as competent to maintain naval, military, or air forces for service in association with the Armed Forces of Sri Lanka while in action against the enemy or while acting in the course of their duty upon any warning of the imminence of an attack by the enemy.

SCHEDULE

FORM OF CERTIFICATE OF DEATH

[Sections 3, 5 and 6.]

Service:.....

Regiment or corps:.....

No.:..... Rank:.....

Name (in full):.....

Died on..... 19..... at.....

Probable cause of death:.....

* Signature:.....

Rank:.....

Designation:.....

* * I order burial.

** Signature of Inquirer:.....

* Where the death has occurred—

(a) in a hospital, the certificate must be signed by the officer commanding such hospital or the registrar of such hospital; or

(b) in a place other than a hospital, the certificate must be signed, in any case where the deceased person was at the time of his death subject to military law, by the medical officer of the unit to which such person was at that time attached or the officer commanding that unit, or in any case where the deceased person was at the time of his death a member of the armed forces of the enemy, by any commissioned officer in the Armed Forces of Sri Lanka.

* * Where an inquiry has been held, the order authorizing burial must be signed by the inquirer.

CHAPTER 574

REGISTRATION OF DOGS

Ordinances AN ORDINANCE TO PROVIDE FOR THE REGISTRATION OF DOGS.

- Nos.25 of 1901.
- 20 of 1915.
- 3 of 1920,
- 21 of 1921.
- 26 of 1938,
- 61 of 1939.
- 12 of 1945.
- 23 of 1946,
- 29 of 1947,

Act
No. 60 of 1961.

[3rd January. 1902.]

Short title- 1. This Ordinance may be cited as the Dog Registration Ordinance.

or revoke as and whenever the Minister shall determine.

Interpretation. 2. In this Ordinance—

" Government Agent" shall mean the Government Agent for the time being of the administrative district in which anything shall be done or may be required to be done under the provisions of this Ordinance ;

4. When any province, district, town, village area, or place has been brought under the operation of this Ordinance, it shall be lawful to the proper authority, and such proper authority is hereby authorized and empowered, to charge an annual registration fee not exceeding five rupees on each dog kept within the limits of a town wherein a Municipal Council, Urban Council, or Town Council has been or may hereafter be established, or within the limits of any village area brought under the operation of the Village Councils Ordinance, and not exceeding twenty-five cents on each dog kept outside such limits, and to make, from time to time, such by-laws as shall be necessary for collecting and levying the same, and for providing for the issue and refusal of certificates of registration, and the issue of such certificates with conditions attached thereto, and for the disposal or destruction of any dog in respect of which a certificate has been refused, or in respect of which the conditions attached to the certificate have not been complied with ; and any person residing in any such province, district, town, village area, or place having in his custody or possession any dog or dogs shall apply for a certificate of registration for each such dog from the proper authority, and the proper authority may issue in respect of each such dog a certificate to such person, which shall entitle such person to keep such dog until the thirty-first day of March of the

[§31, 60 of 1961.]

" proper authority" shall mean, within any town wherein a Municipal Council, Urban Council, or Town Council has been or may hereafter be established, the Mayor of such Municipal Council, or Chairman of such Urban Council or Town Council, and within the limits of any village area which has been brought or may hereaflei be brought under the operation of the Village Councils Ordinance, the Chairman of the Village Council, and without the limits of any such town or village area, the Government Agent or any person duly authorized by him in writing.

[§31, 60 of 1961.]

Minister may bring provinces, districts, towns, &c.. under the operation of this Ordinance. [§31, 60 of 1961.]

3. It shall be lawful for the Minister by Order to be for that purpose published in the Gazette, to bring any province, district, town, village area. or place under the operation of this Ordinance, and to define the limits of such province, district, town, village area. or place for the purposes of this Ordinance, and such Order to amend, alter,

year next following the date of such certificate:

Provided that within any town wherein a Municipal Council has been or may be hereafter established the powers vested in the proper authority under this section of charging an annual registration fee, and making, from time to time, such by-laws as shall be necessary shall be exercised by such Municipal Council, and not by the Mayor thereof;

Provided, further, that within the limits of the Colombo Municipality the proper authority may charge an annual registration fee not exceeding seven rupees and fifty cents in the case of female dogs.

Publication of by-laws.

5. All by-laws made under section 4 shall be published in the Gazette in the Sinhala, Tamil and English languages respectively, and from the date of such publication shall have the same force as if they had been enacted in this Ordinance.

Approval of by-laws.

6. All by-laws made under section 4 shall be laid before Parliament if Parliament is in session within one month of such publication, and if not in session within one month of the commencement of the session next ensuing, and any by-law which has been disapproved by resolution of Parliament shall cease to have any force or effect.

Occupier of house liable.

7. The occupier of any house or premises where any dog or dogs are kept or permitted to live or remain shall be liable to pay the registration fee for such dog or dogs, and in default of such payment shall be liable to the penalties incurred by persons keeping unregistered dogs. unless the said occupier can prove to the satisfaction of the Magistrate* of the division within which he resides that he is not the owner or has not the custody of such dog or dogs, and that such dog or dogs were kept or permitted to live or remain in the said house or premises without his sanction or knowledge :

Provided always that where there are more occupiers than one of the house or premises let in separate apartments or

lodgings or otherwise, the occupier of that particular part of the premises in which such dog or dogs shall have been kept or permitted to live and remain shall be liable to pay the registration fee for such dog or dogs.

8. Every proper authority shall keep a book to be called " The Register of Dogs ", in which he shall register the issue of every certificate, the date thereof, and the name and residence of the person to whom such certificate issued, as also the description of the dog or dogs as contained in the certificate.

Register of dogs.

9. Where any dog shall be transferred by sale or gift by its owner to any other person it shall not be necessary for such person to take out a new certificate for such dog if such dog shall have been registered within the year in which such transfer took place, provided such person shall have in his possession the certificate already, issued endorsed in his favour by such owner.

Certificate to be obtained on transfer of a dog.

10. Every proper authority shall cause all stray dogs to be seized, and such dogs shall be dealt with as follows :—

Seizure of stray dogs

- (1) Every dog so seized shall be detained in some proper place and be there kept for such period not less than three days from the date of such seizure, as the proper authority may think expedient, provided that where the owner or other person who had charge of the dog is known, the proper authority shall cause notice to be forthwith given to either of them of the seizure and detention of the dog; and upon receiving payment of the reasonable expenses incurred in respect of such seizure and detention, together with the registration fee in the case of an unregistered dog, shall, unless the proper authority shall refuse to issue a certificate in respect of such dog, deliver the dog to the person noticed or his agent, without prejudice however to the recovery of any penalty for the infringement of any of the provisions of this Ordinance.

* Also triable by a Primary Court under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

(2) If the dog so seized and detained be not claimed within two days after the notice aforesaid has been served, or, in case no owner or other person is known to be in charge of the dog, within such period not less than three days after such seizure as the proper authority may think expedient, or in case of non-payment of the reasonable expenses incurred in respect of such seizure and detention, and the registration fee if it be due as aforesaid, it shall be competent to the proper authority to cause the dog to be destroyed or otherwise disposed of in such manner as to the proper authority shall seem fit.

default of payment to simple imprisonment for a period not exceeding two weeks.

12. Every person having in his possession any dog shall produce the certificate for such dog whenever so required by a Magistrate, police officer, or peace officer, or by a proper authority, or any other person duly authorized by him in writing, and in case of refusal he shall, if such dog has been duly registered, be liable to a fine not exceeding five rupees.

Production of certificate,

13. No fine shall be imposed by a Magistrate in any case in which it shall appear to his satisfaction that the person failing to comply with the provisions of this Ordinance or any by-law made thereunder has not wilfully been guilty of such failure :

Fine not to be imposed when default not wilful.

Penalties.

***11.** (1) Any person who shall from and after the thirty-first day of March in each year after the coming into operation of this Ordinance have in his possession or custody within any province, district, town, village area, or place brought under the operation of this Ordinance any dog not duly registered in accordance with the provisions of this Ordinance, shall be liable on conviction to a fine not exceeding twenty rupees, and in default of payment to simple imprisonment for a period not exceeding two weeks, and the Magistrate[^] shall further order such person forthwith to apply for a certificate for such dog, and the proper authority may thereupon issue such certificate upon payment of the proper registration fee by such person, and such certificate shall be held to be valid until the thirty-first day of March of the year next following the date of such certificate : and if after such order such person shall continue to keep any dog without having applied for, or having applied for and been refused, a certificate, he shall in addition to the fine imposed for the second and any subsequent offence, pay a sum not exceeding fifty cents for each day he shall have kept a dog without a certificate.

Provided always that such Magistrate[^] shall forthwith order such person to apply for a certificate for the dog or dogs in his possession or custody, or otherwise comply with the provisions of this Ordinance, and that such person shall forthwith comply with such order.

[§31, 60 of 1961.]

14. All sums paid for certificates under the provisions of this Ordinance, and all penalties recovered under the provisions of this Ordinance from the inhabitants of any Municipal town, shall be taken and received by the Municipal Council of such town for the Municipal Fund, and all such like sums and penalties paid by or recovered from the inhabitants of any Urban Council or Town Council town shall be taken and received by the Urban Council or Town Council of such town for the local fund and all such like sums and penalties paid by or recovered from the inhabitants residing within the limits of any village area brought under the operation of the Village Councils Ordinance, shall be taken and received by the Village Council for the fund of the said Council.

Municipal Councils, Urban Councils and Town Councils entitled to duties.

[§31, 60 of 1961.]

(2) Any person committing a breach of any by-law made under the provisions of section 4 shall be liable on conviction to a fine not exceeding twenty rupees, and in

15. The Municipal Magistrate of any town shall hear, try, and determine any offence committed under this Ordinance within the Municipality or in breach of any by-law lawfully enacted under this Ordinance, and shall have jurisdiction to award such punishment to the offenders as is authorized by law.

Power given to Municipal Magistrate to try cases.

* Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

t Triable also by a Primary Court under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

CHAPTER 2

REGISTRATION OF ELECTORS

Act No. 44 of 1980. AN ACT TO PROVIDE FOR THE REGISTRATION OF ELECTORS IN TERMS OF ARTICLE 101 OF THE CONSTITUTION AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[23rd January. 1981]

Short title. **1.** This Act may be cited as the Registration of Electors Act.

PART I

QUALIFICATIONS OF ELECTORS

Circumstances disqualifying for registration. **2.** No person shall be qualified to have his name entered or retained in any register of electors for any electoral district (hereinafter referred to as the " register ") in any year if such person is subject to any of the disqualifications specified in Article 89 of the Constitution.

Qualifying date for determining age. **3.** The first day of June in any year is hereby prescribed as the qualifying date on which a person should have attained the age of eighteen years to qualify for the purposes of registration as an elector.

Qualifying date for determining residence. **4.** (1) The first day of June in any year is hereby prescribed as the qualifying date on which a person should be resident in any electoral district to have his name entered or retained in the register of that electoral district.

(2) The address at which a person was ordinarily resident in any electoral district on the first day of June in any year is hereinafter referred to as his " qualifying address ".

(3) In the determination of any question as to a person's residence on the first day of June in any year, particular regard shall be had to the purpose and other circumstances, as well as to the fact, of his presence at, or absence from, the address in question, and in particular his absence from such address in the performance of any duty accruing from Or incidental to any office, service or employment, held or undertaken by him.

General qualification for electors. **5.** Subject to the provisions of section 6, every person not otherwise disqualified shall be qualified to have his name entered or retained in a register.

6. The name of a person shall be entered or retained in the register for any electoral district in any year under his qualifying address, and accordingly such person shall not be entitled to have his name so entered or retained under any other address ;

Provided, however, that the registration of such person as an elector shall be deemed or construed not to be invalid or of no effect by reason only of the failure to comply with the preceding provisions of this section in respect of the entry or retention of his name in such register.

7. (1) No person shall be entitled to have his name entered or retained in more than one register, notwithstanding that he may be qualified to have his name entered or retained in two or more registers.

(2) No person shall be entitled to have his name entered or retained more than once in the same register, notwithstanding that he may be qualified to have his name so entered or retained.

PART II

REGISTERING OFFICERS, POLLING DIVISIONS AND POLLING DISTRICTS

8. (1) As soon as may be after the publication of the Proclamation under Article 97 of the Constitution, the Commissioner of Elections (hereinafter referred to as the " Commissioner ") shall appoint, by name or by office, a registering officer for each electoral district and may from time to time appoint by name or by office one or more persons to assist any registering officer in the performance of his duties. A person so appointed to assist any such officer as aforesaid shall have all the powers and may perform all the duties of the officer whom he is appointed to assist, and any reference in this Act to a registering officer shall, unless

Entry or retention of names in register under qualifying address.

Restriction on plural registration.

Appointment of registering offices

the context otherwise requires, be deemed to include a reference to an assistant registering officer.

(2) An appointment made by the Commissioner under this section may be revoked by him at any time.

Polling divisions and polling districts.

9. (1) As soon as may be after the publication of the Proclamation under Article 97 of the Constitution, the registering officer of each electoral district specified in the Proclamation aforesaid, shall, in accordance with such directions as may be issued by the Commissioner,-

- (a) divide that electoral district into polling divisions, and assign to each such polling division a distinguishing letter or letters;
- (b) sub-divide each such polling division into polling districts and assign to each such polling district a distinguishing number; and
- (c) publish in the Gazette a notice specifying-
 - (i) the polling divisions into which that electoral district has been divided and the distinguishing letter or letters assigned to each such polling division, and
 - (ii) the polling districts into which each such polling division has been sub-divided and the distinguishing number assigned to each such polling district.

(2) Unless the Commissioner otherwise directs, the sub-division of a polling division into polling districts shall be so made that each polling district, at the time of such sub-division, contains not more than one thousand five hundred electors.

(3) The division of an electoral district into polling divisions, and the sub-division of a polling division into polling districts may be altered by the registering officer as occasion may require ; and upon any such alteration being made he shall publish in the Gazette a notice specifying, in relation to that electoral district, the particulars mentioned in paragraph (c) of subsection (1). Any such alteration shall come into effect on the date of publication of the notice under section 20

relating to the next certification of the register for such electoral district, but the revision of such register before such certification may be made on the basis of such alteration.

PART III

PREPARATION OF REGISTERS

Preparation of register.

10. (1) As soon as may be after the publication of the Proclamation under Article 97 of the Constitution and after the publication of the notice referred to in section 9(1), the registering officer of each electoral district specified in such Proclamation shall prepare, or cause to be prepared, and certify a register for such electoral district, so however, that every name appearing in a register in operation or in those parts of a register in operation immediately prior to the publication of such Proclamation which relate to the area comprised in such electoral district shall appear in the register so prepared and certified together with the qualifying address under which such name so appeared in the register in operation.

(2) The registering officer shall, subject to the provisions of section 7, enter or cause to be entered in a register prepared under subsection (1), the names of persons who although their names are not in the register in operation or those parts of a register in operation referred to in that subsection appear to him to be qualified to have their names entered in the register so prepared.

(3) Before the certification of the register prepared for any electoral district under subsection (1), application may be made to the registering officer of that electoral district for the correction of an existing entry relating to the applicant in such register, and where such application is made, the registering officer shall, if he is satisfied after such inquiry as he deems fit that the entry relates to the applicant and is erroneous or defective in any particular, cause the necessary amendment in the entry to be made.

(4) Nothing in this Act shall be deemed to prohibit the registering officer, before certifying any register prepared under subsection (1), from correcting any clerical error which appears to him to have been made therein.

(5) In this section, " register in operation " means any register of electors for the time being in operation in terms of the Ceylon (Parliamentary Elections) Order in Council, 1946.*

Notice of certification of register to be given.

11. (1) On the certification of a register under section 10 the registering officer shall give notice in the Gazette and in at least one newspaper in each of the National Languages tifat the register has been certified and that such register or a copy thereof is open for inspection at all reasonable hours of the day at the office of the registering officer or at such other place in the district as may be specified in the notice.

(2) A register for any electoral district shall come into operation on the date of the publication in the Gazette of the notice aforesaid, and such register shall continue in operation until superseded by the coming into operation of the next certified register as hereinafter provided.

PART IV

REVISION OF REGISTERS

Revision of register.

12. (1) On or before the first day of June in each year after the register for any electoral district is first certified under section 10, the Commissioner shall cause the revision of such register to be commenced and a notification stating that the revision of such register has commenced and informing every person qualified to be an elector for such electoral district how he may ascertain whether his name is in such register and, if not, how he may secure its entry therein, to be published in the Gazette and in at least one newspaper in each of the National Languages and to be conspicuously displayed at public places within such electoral district.

(2) For the purpose of revising the register and of satisfying himself as to the qualification of any person for registration or determining whether the name of any person should be entered or retained in the register, the registering officer may make such house to house or other inquiry as he may deem necessary either by himself or through a person appointed by him. For the purpose of

such inquiry the registering officer may require any householder or any person owning or occupying any land or premises in his electoral district or the agent of such person to give in such form as may from time to time be determined by the Commissioner, any information in the possession of such person or agent which the registering officer may require. Any notice requiring information under this subsection may be sent by ordinary letter post to the person from whom the information is required or may be delivered to him or to an adult member of his household.

(3) All officers in the service of the Government of Sri Lanka, or any public corporation or any local authority, (other than officers in such service who are bound by an oath of secrecy under any written law), are hereby authorized and required to furnish to the registering officer all such information as he may require to enable him to revise the register.

(4) Every person who, being in possession of any information required under subsection (2), fails to give such information to the registering officer or to any person appointed by the registering officer for the purpose, or wilfully gives any false information, shall be guilty of an offence and shall, on conviction before a Magistrate, be liable to a fine not exceeding five hundred rupees, or to imprisonment of either description for a term not exceeding one month or to both such fine and imprisonment.

(5) Every officer who is appointed by a registering officer—

(a) who wilfully suppresses any information relating to the qualification of any person for registration as an elector or relevant for determining whether the name of any person should or should not be entered or retained in the register, after such information had been furnished to or collected by him, or gives any information relevant for the purpose aforesaid knowing such information to be false; or

* See section 6 of the Revision of the Legislative Enactments Act and the Schedule to that Act.

(b) who wilfully and without reasonable cause deletes or causes to be deleted from the register or fails wilfully and without reasonable cause to enter or retain in the register the name of any person who is entitled to be registered as an elector,

shall be guilty of an offence and shall, on conviction before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description not exceeding one month or to both such fine and imprisonment.

(6) Every person who, at any revision of any register in any year, knowing that he or any other person is not qualified to have the name of himself or such other person entered or retained in such register, claims or applies, or induces or aids or abets such other person to claim or apply, for the entry or retention of the name of himself or of such other person, as the case may be, in such register, shall be guilty of an offence and shall, on conviction before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description not exceeding one month, or to both such fine and imprisonment.

(7) (a) Where it appears that a person is qualified to have his name entered or retained -

- (i) in more than one register; or
- (ii) more than once in the same register under different qualifying addresses,

a registering officer shall cause notice to be served on that person requiring him to specify, within seven days of the date of service of such notice, the register in which he desires to have his name entered or retained, or the qualifying address under which he desires to have his name entered or retained in the same register aforesaid, as the case may be.

(b) Any notice referred to in paragraph (a) may be served in the manner provided in that behalf in subsection (2).

(c) Where, in compliance with a notice under paragraph (a), a person specifies-

- (i) the register in which he desires to have his name entered or retained, and the registering officer for the

appropriate electoral district is satisfied that such person is qualified to have his name entered or retained in that register, his name shall be entered or retained in that register and in no other register; or

- (ii) the qualifying address under which he desires to have his name entered or retained in the same register, and the registering officer is satisfied that such person is qualified to have his name entered or retained in that register, under that address, his name shall be entered or retained under that address in that register and under no other address in that register.

(d) Where a person fails to comply with a notice under paragraph (a)-

- (i) the Commissioner shall, if the notice required such person to specify the register in which such person desires to have his name entered or retained, determine which one of the registers in which such person is qualified to have his name entered or retained shall be the register in which such name shall be entered or retained, and such name shall be entered or retained in the register determined by the Commissioner and in no other register ; or
- (ii) the registering officer shall, if the notice required him to specify the qualifying address under which he desires to have his name entered or retained in the same register, determine which one of the qualifying addresses in the same register under which such person is qualified to have his name entered or retained shall be the address under which such name shall be entered or retained in that register, and such name shall be entered or retained under the qualifying address in that register determined by the registering officer and under no other qualifying address in that register.

(e) The failure of any person to comply with any notice served under paragraph (a), or the failure of the Commissioner or a

registering officer to comply with the provisions of paragraph (d) in respect of that person or the fact that upon such compliance his name is not entered or retained in any register, or under any qualifying address in the same register, specified by such person, shall not affect or prejudice his right to have his name entered or retained, subject to the provisions of section 7, in any register, or under any qualifying address in the same register, as the case may be, in or under which he is qualified to have his name entered or retained.

Method of revising register.

13. (1) For the purpose of revising the register in each year, the registering officer shall prepare two separate lists, one, hereinafter referred to as "list A" containing the names of persons in the register who are dead or have become disqualified for registration under the qualifying address shown in such register, or disqualified for any other reason, and the other, hereinafter referred to as "list B" containing the names of persons, who not being already in the register under the qualifying address or otherwise disqualified appear to the registering officer to be qualified to have their names entered in the register under a qualifying address.

The preparation of such lists shall be completed by the registering officer on or before the thirty-first day of January in the succeeding year.

(2) Upon the completion of the two lists referred to in subsection (1) the registering officer shall give notice in the Gazette and in at least one newspaper in each of the National Languages that such lists have been completed and that the register and such lists or copies or extracts thereof are open for inspection at all reasonable hours of the day at the office of the registering officer, and at such other places in the electoral district as may be specified in the notice.

Claims and objections at revision of register.

14. (1) Every person who is qualified in accordance with this Act to have his name entered or retained in any register at a revision of that register and whose name has been omitted from that register and from list B or whose name has been included in list A and who claims to have his name entered or retained, as the case may be, in the register

(in this section and in section 15 referred to as the "claimant") may apply to the registering officer to have his name entered or retained in such register under a qualifying address. Every claim under this subsection shall be in writing and shall be substantially in Form A set out in the Schedule to this Act.

(2) Where a person is entitled to claim under subsection (1) to have his name entered or retained in any register, any other person (in this section and in section 15 referred to as the "applicant") may apply to the registering officer to have the name of the first-mentioned person entered or retained in such register under a qualifying address. Every claim under this subsection shall be in writing and shall be substantially in Form B set out in the Schedule to this Act.

(3) Every claim under subsection (1) or subsection (2) shall be made so as to reach the registering officer within four weeks from the date of the publication in the Gazette of the notice of completion of list A and list B. The registering officer shall from time to time exhibit in a conspicuous place at his office a notice containing the name and address of each claimant.

(4) Any person whose name appears in the register or in list B for any electoral district may object to the entry or retention in such register of-

- (a) his own name; or
- (b) the name of any other person appearing in such register or list B ; or
- (c) the name of any claimant.

(5) In this section and in section 15 every person objecting to the entry or retention of any name in the register is referred to as the "objector".

(6) Every objection under paragraph (a) or paragraph (b) of subsection (4) to the entry or retention of any name in the register shall be made in writing in duplicate and shall be substantially in Form C set out in the Schedule to this Act and shall be made so as to reach the registering officer within four weeks from the date of publication in the Gazette of the notice of completion of list A and list B. The registering officer shall from

time to time exhibit in a conspicuous place at his office a notice containing the name and address of each objector and person in regard to whom such objection has been made.

(7) Every objection under paragraph (c) of subsection (4) to the entry of the name of any claimant in the register shall be made in writing in duplicate and shall be substantially in Form D set out in the Schedule to this Act and shall be made so as to reach the registering officer within fourteen days from the date on which the notice containing the name of such claimant is exhibited under subsection (3). The registering officer shall from time to time exhibit in a conspicuous place at his office a notice containing the name and address of each objector and the person in regard to whom such objection has been made.

(8) The registering officer shall, as soon as practicable after receiving an objection under this section, send one copy of the objection to the person in regard to whom objection had been made.

(9) The registering officer shall, as soon as practicable, hold a public inquiry into all claims and objections which have been duly made, giving not less than seven clear days' written notice of the date on which, and the time and place at which, the inquiry will commence, to each claimant, applicant, objector and person in regard to whom objection has been made. At any such public inquiry, any person appearing to the registering officer to be interested in or affected by the subject-matter of the inquiry may appear and be heard either by himself or by any other person duly authorized by him in writing in that behalf:

Provided that the registering officer may, without any public inquiry as aforesaid, allow any claim in respect of which no objection has been made if he is otherwise satisfied that such claim should be allowed and shall enter the claimant's name in the register:

And provided further that the registering officer may, if he deems it necessary so to do, by written notice direct any claimant, applicant, objector, or person in regard to whom objection has been made, to appear at any public inquiry as aforesaid either by himself or by any other person duly authorized by him in writing in that behalf, and if such person fails to comply with such

direction, such person shall be guilty of an offence and shall, on conviction before a Magistrate, be liable to a fine not exceeding five hundred rupees.

(10) Where an objection is made under this section, the registering officer shall call upon the objector, or some person authorized in writing in that behalf by the objector, to give proof to the satisfaction of such registering officer, of the ground of the objection.

(11) If proof of an objection under this section is given to the satisfaction of the registering officer, the registering officer shall require proof of the qualification of the person in regard to whom the objection has been made, and -

- (a) if such person's qualification is not proved to the satisfaction of the registering officer, such officer shall expunge such person's name from, or, as the case may be, refuse to enter such person's name in the register;
- (b) if such person's qualification is proved, such officer shall enter or retain such person's name in the register.

(12) If on the date fixed for inquiry into any objection, the objector or a person authorized in writing in that behalf by the objector fails to appear, or appears but fails to give proof to the satisfaction of the registering officer, then -

- (a) if the objection is to the retention in the register of the name of a person appearing therein, or to the entering therein of the name of a person whose name appears in list B, the registering officer shall retain or enter, as the case may be, such person's name in such register without calling upon such person to prove his qualification;
- (b) if the objection is to the entry in the register of the name of any claimant, the registering officer shall require proof of the qualification of the claimant, and -
 - (i) if the claimant's qualification is not proved to the satisfaction of the registering officer, he shall refuse to enter the claimant's name in such register;

(ii) if the claimant's qualification is so proved, he shall enter the claimant's name in such register.

(13) If any objection is made and is overruled by the registering officer and, in his opinion, the objection was made without reasonable cause, the registering officer may, if he thinks fit, order the objector to pay to the person in regard to whom objection has been made such sum not exceeding fifty rupees as the registering officer considers reasonable compensation for any loss of time incurred by such person in consequence of the objection.

(14) If upon an objection being overruled, the objector appeals under section 15 to the revising officer and the appeal is dismissed, and in the opinion of the revising officer the appeal was made without reasonable cause, the revising officer may, if he thinks fit, order the objector to pay to the person in regard to whom objection has been made such sum not exceeding fifty rupees as the revising officer considers reasonable compensation for any loss of time incurred by such person in consequence of the appeal. If any appeal as aforesaid is allowed by the revising officer, he shall have power to revise or cancel any order made by the registering officer for the payment of compensation by the objector.

(15) Any sum awarded as compensation under this section shall be recoverable as though the order of the registering officer or revising officer were a decree of court.

(16) Any decision made by a registering officer under this section in respect of any claim or objection shall be communicated in writing to each claimant, applicant, objector or person in regard to whom objection has been made. Such communication may be sent by ordinary letter post.

Appeals to revising officer.

15. (1) If any claimant, applicant, objector or person in regard to whom objection has been made is dissatisfied with the decision of the registering officer, he may, within ten days from the date of receipt of the communication of such decision appeal therefrom to the revising officer.

(2) Every appeal under this section shall be in writing, shall state shortly the ground of appeal, and shall bear a stamp of five rupees.

(3) The revising officer shall hear such appeal in open court or office, giving notice of the date of the hearing of the appeal to the parties concerned. It shall be in his discretion whether to hear or not to hear any evidence. His determination of the appeal shall be final.

(4) When the revising officer has determined the appeals which have been lodged with respect to any register, he shall forward to the registering officer a statement under his hand containing the names which he has decided shall be entered or retained in the register and those which he has decided shall be expunged from the register, and the registering officer shall amend the register accordingly.

(5) If an appeal is allowed, the sum of five rupees paid under subsection (2) shall be refunded to the appellant.

16. (1) Every person who wilfully makes a false statement or declaration in any claim or objection or at any inquiry held in connexion therewith or in any appeal shall, on conviction before a Magistrate, be liable to a fine not exceeding one hundred rupees.

Penalty for false statements and wrongful claims.

(2) A registering officer or revising officer may, on the consideration or hearing of any application, claim, objection, or appeal require that the evidence tendered by any person shall be given on affirmation or oath and may administer such affirmation or oath for that purpose ; and every person who in the course of any such consideration or hearing knowingly affirms or swears anything material to the validity of such application, claim, objection or appeal which is false shall be guilty of the offence of giving false evidence and shall be liable to the punishment provided therefor in the Penal Code.

17. Where a registering officer is satisfied at any inquiry under subsection (9) of section 14-

Registering officer to substitute correct qualifying address for incorrect qualifying address.

(a) that a person's name appears in a register under an incorrect qualifying address, he may substitute in the entry relating to that person in such register, for such address, the correct qualifying address as may be determined by him; or

(b) that the correct qualifying address of a person whose name is to be entered in a register is not the address specified in the claim made by him or on his behalf, such officer may enter such person's name in that register under such other address as may be determined by such officer to be the correct qualifying address of such person.

Registering officer to certify the register.

18. (1) The registering officer of each electoral district shall certify the register for that electoral district as soon as conveniently may be after the claims and objections have been adjudicated upon;

Provided that the registering officer may certify any register in accordance with this section during the pendency of any appeal under section 15 and shall thereafter enter in, or expunge from, such certified register, the name of any person in accordance with the decision of the revising officer on the determination of such appeal.

(2) Nothing in this Act shall be deemed to prohibit the registering officer before certifying any register from correcting any clerical error which appears to him to have been made therein.

(3) Application may be made to the registering officer of any electoral district before the certification of the register for that district for the correction of an existing entry relating to the applicant in that register, and, where such application is made, the registering officer shall, if he is satisfied after such inquiry as he deems fit that the entry relates to the applicant and is erroneous or defective in any particular, cause the necessary amendment in the entry to be made.

Notices by registering and revising officers and adjournments.

19. (1) All notices required to be given by a registering officer or a revising officer shall be sufficiently given if sent by registered letter post to the address, if any, given in the claim or objection, or in default of such address, to the address given in the register.

(2) A registering officer or revising officer may from time to time adjourn any proceedings before him under this Act to any convenient time and place.

20. (1) On the certification of any register under section 18, the registering officer shall give notice in the Gazette and in at least one newspaper in each of the National Languages that the register has been certified and that such register, or a copy thereof, is open for inspection at all reasonable hours of the day at the office of the registering officer, or at such other place in the district as may be specified in the notice.

Notice of certification of register and commencement and period of operation.

(2) The certified register for any electoral district shall come into operation on the date of the publication in the Gazette of the notice aforesaid, and subject to such alterations, if any, as may subsequently be made therein in accordance with section 15 (4) or section 18, such register shall continue to be in operation until superseded by the coming into operation of the next certified register,

PART V

GENERAL

21. (1) A register for any electoral district required to be prepared or revised under this Act may be compiled and maintained, where necessary, in such number of parts as may be convenient. The total number of such parts taken together, shall be deemed to be the register for such electoral district.

Compliaton and language of register.

(2) A register for any electoral district required to be prepared or revised under this Act shall be compiled and maintained, subject to the provisions of subsection (1), separately in each of the National Languages.

22. Where any person whose name is deleted from any register as he is subject to the incapacity of being registered as an elector by reason of any of the provisions of paragraphs (e), (f), (g), (h), (i) and (j) of Article 89 of the Constitution, ceases to be subject to that incapacity, then, if he makes a written application to the registering officer of any electoral district to have his name entered in the register for that electoral district and such registering officer is satisfied that such person is not disqualified to have his name entered in such register, the name of such person shall be entered in such

Entering of name deleted from register.

register. The entry of such name in such register shall have effect notwithstanding that at the time of such entry the preparation, revision or certification of such register under this Act may have been completed.

Registering officer to furnish Commissioner with certain particulars.

23. (1) Every registering officer shall, as soon as may be after a register has been certified by him under section 10 or section 18, furnish to the Commissioner in such form as the Commissioner may determine in that behalf a statement setting out the total number of electors whose names appear in such register.

(2) Where any name is entered in any register under section 15 or section 22, or where any name is expunged from such register under section 15, the registering officer shall forthwith furnish to the Commissioner in such form as may be determined by the Commissioner in that behalf, an amended statement of the total number of electors whose names appear in such register.

Powers and duties of the Commissioner.

24. The Commissioner shall -

- (a) exercise general direction and supervision over the administrative conduct of the registration of electors;
- (b) have power to issue to Deputy and Assistant Commissioners of Elections, registering officers and other officers appointed for the purposes of preparing or revising registers, such directions as he may deem necessary to ensure effective execution of the provisions of this Act;
- (c) execute and perform all other powers and duties which are conferred or imposed upon him by this Act.

Inaccurate description of persons or places.

25. No misnomer or inaccurate description of any person or place named or described in any register, list, notice or other document whatsoever prepared or issued under or for the purposes of this Act shall in any wise effect the operation of this Act or the validity of such register, list, notice or other document as respects that person or

place if that person or place is so designated in such register, list, notice or document as to be identifiable.

26. (1) Where any notice, register or other document is required by this Act to be published and, in the opinion of the authority who is required to publish such notice, register or other document, the mode of publication does not give sufficient publicity to such notice, register or other document he may, in addition to publishing such notice, register or other document as required by this Act, exhibit or make available for inspection copies of such notice, register or other document in conspicuous places within the electoral district to which such notice, register or other document relates or take such other steps as he may deem necessary for giving publicity thereto.

Publication of notices, registers and other documents.

(2) Every person who, without lawful authority, destroys, mutilates, defaces or removes any notice, register or other document which is exhibited or made available for inspection in accordance with this Act, or fails to exhibit or make available for inspection under this Act any notice, register or other document, or copies thereof, shall be guilty of an offence and shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees.

27. (1) Part II and Part III of the Ceylon (Parliamentary Elections) Order in Council, 1946,* are hereby repealed.

Repeals and transitional provisions.

(2) Notwithstanding the provisions of subsection (1), any register of electors revised under the said Order in Council and in operation on the date immediately prior to the 23rd day of January, 1981, shall continue to be in operation until the registers of electors prepared and certified under this Act shall come into operation.

(3) Where the first General Election is to be held in the circumstances referred to in Article 162 of the Constitution, the register to be used in respect of each electoral district referred to in that Article shall be prepared on the basis of the registers of electors in operation under the said Order in Council on the date immediately prior to the date of the dissolution of the first Parliament.

*See section 6 of the Revision of the Legislative Enactments Act and the Schedule to that Act.

Savings.

28. (1) Where the revision of a register has commenced under section 16 of the Ceylon (Parliamentary Elections) Order in Council, 1946, and has not been concluded on the date of the publication of the Proclamation under Article 97 of the Constitution, such revision shall, upon the publication of such Proclamation, be continued and concluded in accordance with the provisions of this Act, as if such revision were a revision of a register prepared under Part III of this Act, and accordingly any step taken in respect of such revision under the aforesaid Order in Council shall, for all purposes, be deemed to be a step taken under this Act.

(2) Every reference in any document relating to the revision of a register in respect of any electoral district in existence before the publication of the Proclamation under Article 97 of the Constitution, shall, upon such publication, be read and construed as a reference to the appropriate electoral district specified in such Proclamation within which the electoral district in existence before the publication of such Proclamation has been included.

"electoral district" means an electoral district specified in a Proclamation made under Article 97 of the Constitution ;

"local authority" means any Municipal Council, Urban Council, Town Council or Village Council and includes any Authority created and established by or under any law to exercise, perform and discharge powers, duties and functions corresponding to or similar to the powers, duties and functions exercised, performed and discharged by any such Council;

"public corporation" means any corporation, board or other body which was or is established by or under any written law other than the Companies Ordinance, with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise;

"register of electors" means the register of electors for any electoral district; and

"revising officer" means-

(a) in relation to a claimant, the District Judge of the District Court within the jurisdiction of which such claimant resides;

(b) in relation to an objector, the District Judge of the District Court within the jurisdiction of which the person against whom an objection is made resides.

Interpretation.

29. In this Act, unless the context otherwise requires -

"Commissioner of Elections" means the Commissioner of Elections appointed under Article 103 of the Constitution of the Democratic Socialist Republic of Sri Lanka ;

"elector" means a person who is entitled to be registered as an elector under this Act;

REGISTRATION OF ELECTORS

SCHEDULE

Form A

Section 14 (1)

FORM OF CLAIM FOR ENTRY OR RETENTION OF NAME OF A PERSON IN THE REGISTER OF ELECTORS BY THAT PERSON HIMSELF

To the Registering Officer,.....

.....Electoral District.

I hereby make this claim to have my name which is given below and which has been omitted/expunged* from the register of electors of the above-mentioned electoral district, entered*/retained* in that register.

The particulars in respect of my claim are stated below-

- (1) Myfullname-Mr.*/Mrs.*/Miss*.....
(2) Qualifying address where I was ordinarily resident on June 1, 19
(i) Assessment No.
(ii) Householder's List No.
(iii) Street:.....
(iv) Village*/Town*/Estate* :
(v) Post Office :.....
(vi) Grama Seva Niladhari's Division :
(vii) A.G.A's Division :.....
(3) Age on June 1, 19.....
(i) Years:.....Months.....
(ii) Date of birth:.....
(4) Any other particulars :-

(5) I hereby state that-

- (i) I am a citizen of Sri Lanka. Relevant particulars including the number and date of-
(o) the certificate of citizenship */certificate of registration*/other citizenship document;
(b) certificate of birth and other documents in proof of birth, held by me are as follows :-

(ii) I was ordinarily resident at the address mentioned in item (2) above on the first day of June, 19.....

(iii) I have not made a claim for registration under any other address in the above-mentioned electoral district or in any other electoral district.

Declaration

I hereby declare that the above claim is true in all particulars and that I am qualified to be registered as an elector for the above-mentioned electoral district.

Signature or thumb mark of Claimant.

Address of Claimant-

Date :.....

*Delete words which are not applicable.

Form B

SECTION 14 (2)

FORM OF CLAIM FOR ENTRY OR RETENTION OF NAME OF A PERSON IN THE REGISTER OF ELECTORS BY SOME OTHER PERSON ON HIS BEHALF

To the Registering Officer.....

.....Electoral District.

I hereby make this claim to have the name of the person which is given below, and which has been omitted*/expunged* from the register of electors of the above-mentioned electoral district, entered"/retained* in that register.

The particulars in respect of this claim are stated below-

- (1) Full name of person-Mr.*/Mrs.*/ Miss*.....
(2) Qualifying address where the above-mentioned person was resident on June 1,19
(i) Assessment No.
(ii) Householder's List No.
(iii) Street :.....
(iv) Village*/Town*/Estate* :
(v) Post Office :
(vi) Grama Seva Niladhari's Division :.....
(vii) A.G.A's Division :.....

(3) Age on June 1, 19.....

- (i) Years :....., Months:.....
(ii) Date of birth:.....

(4) Any other particulars:.....

(5) I hereby declare that-

- (i) the person on whose behalf this claim is made is a citizen of Sri Lanka. Relevant particulars including number and date of

(a) the certificate of citizenship"/certificate of registrations/other citizenship document;

(b) certificate of birth and other documents in proof of birth, held by me arc as follows :-

My name appears in the register of electors*/list B* for the above-mentioned electoral district as follows :-

Name:
Qualifying address:.....

- (ii) the person on whose behalf this claim is made was ordinarily resident at the address mentioned in item (2) above on'the first day of June, 19
(iii) the person on whose behalf this claim is made has not made a claim for registration under any other address in the above-mentioned electoral district or in any other electoral district.

Polling Division Letter:.....
Polling District Number:.....
Registration Number:

Signature or thumb mark of Objector.

Date:.....
Objector's address for notice

Declaration

I hereby declare that the above claim is true in all respects and the person on whose behalf the claim is made is qualified to be registered as an elector for the above-mentioned electoral district.

"Delete words which are not applicable.

Form D

SECTION 14 (7)

FORM OF OBJECTION TO THE ENTRY OF THE NAME OF ACLAIMANTINTHEREGISTEROFELECTORS

Signature or thumb mark of Applicant.

To the Registering Officer.....

Name and Address of Applicant-
.....
.....

..... Electoral District
I,..... hereby object to the entry in the register of electors for the above-mentioned electoral district of the name of the person described below-

Date:.....

Name of person on objected to :

"Delete words which are not applicable.

His qualifying address :.....

Form C

SECTION 14 (6)

FORM OF OBJECTION TO THE ENTUT OR RETENTION OF A NAME W THE REGISTER OF ELECTORS

.....
.Grounds of objection :

To the Registering Officer

.....Electoral District.

I,.....hereby object to the entry"/retention" in the register of electors of the above-mentioned electoral district of the name of the person described bclow-

My name appears in the register of electors*/list B* for the above-mentioned electoral district as follows :-

Name:.....
Qualifying address:.....

Here give particulars as appearing in the register or list B, as the

Name of person objected to:.....

His qualifying address :.....

Polling Division Letter :

Polling District Number ;

Registration Number:

Polling Division Letter :

Polling District Number:

Registration Number:.....

Grounds of objection:.....

Signature or thumb mark of Objector.

Date :.....

Objector's address for notice

Delete words which are not applicable.

CHAPTER 298

REQUISITIONING OF LAND

Acts
Nos. 33 of 1950,
20 of 1953,
55 of 1961.

AN ACT TO AUTHORIZE THE TAKING OF POSSESSION AND THE USE OF LAND REQUIRED FOR CERTAIN ESSENTIAL PURPOSES, TO PROVIDE FOR THE DETERMINATION OF THE COMPENSATION PAYABLE IN RESPECT OF SUCH LAND, AND TO MAKE SPECIAL PROVISION RELATING TO THE ACQUISITION OF SUCH LAND AND OF LAND HERETOFORE REQUISITIONED UNDER DEFENCE REGULATIONS.

[9th December, 1950.]

Short title.

1. This Act may be cited as the Requisitioning of Land Act.

possession relating to the land (being information which may reasonably be demanded of him for the purposes of this section) as may be so specified.

PART I

POSSESSION OF LAND AND PROVISION FOR COMPENSATION

Power to take possession of land.

2. (1) It shall be lawful for a competent authority, with the prior approval of the President, to take possession of any land and to give such written directions as appear to him to be necessary or expedient in connexion with the taking of possession of such land, in any case where it appears to him that the land is required—

(3) Any police officer may, if requested so to do by a competent authority, take such steps and use such force as may be reasonably necessary for securing compliance with any directions given under subsection (1) in relation to the taking or giving up of possession of any land.

(4) The period during which possession may be retained by virtue of this Act of any land of which possession is taken under this section shall be fixed by the President at the time of taking of possession; but such period may from time to time be extended by the President.

[§ 2, 55 of 1961.]

- (a) for the purpose of the maintenance of supplies or services essential to the life of the community; or
- (b) for the purpose of implementing any such scheme as is approved by the President for the importation, storage or distribution of essential commodities by any Government department, local authority, corporation or co-operative society; or
- (c) for the purposes of use or occupation by the armed forces or any visiting force.

3. (1) In any case where possession of any land had, on or after the 24th day of February, 1946, been taken by a competent authority under regulation 34 of the Defence (Miscellaneous) Regulations as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, of the Parliament of the United Kingdom, and the land is at the appointed date in the occupation of that competent authority or of any other person authorized by the competent authority in that behalf, the competent authority under this Act may, if it appears to him that the land is required for the purpose of the maintenance of supplies or services essential to the life of the community, give notice in writing by registered post to the owner of the land that possession and occupation of the land is to

Continuation of occupation of land requisitioned under the Defence Regulations.

be continued after the appointed date; and in any such case possession of the land shall be deemed for the purposes of this Act to be taken on that date by virtue of section 2 of this Act.

(2) In any case where possession of any land was continued after the 24th day of February, 1946, under regulation 34 of the Defence (Miscellaneous) Regulations as having effect by virtue of the Emergency Laws (Transitional Powers) Act, 1946, of the Parliament of the United Kingdom, and the land is at the appointed date in the occupation of a competent authority or of any other person authorized in that behalf under that regulation, the competent authority under this Act may, if it appears to him that the land is required for the purposes of use or occupation by Her Majesty's Ceylon forces or any visiting force or for the purpose of the maintenance of supplies or services essential to the life of the community, give notice in writing by registered post to the owner of the land that possession and occupation of the land is to be continued after the appointed date; and in any such case possession of the land shall be deemed for the purposes of this Act to be taken on that date by virtue of section 2 of this Act.

(3) For the purposes of the application of the Defence (Compensation) Regulations, 1941, in relation to any land in the case of which the power conferred by subsection (2) of this section is exercised, the period of possession of that land in the exercise of emergency powers shall be deemed to have terminated on the appointed date :

Provided, however, that notwithstanding anything in the Defence (Compensation) Regulations, 1941—

- (a) any compensation, under sub-paragraph (b) of paragraph (1) of regulation 2 thereof, in respect of any damage to any such land which may have occurred before the appointed date, shall not accrue due until the end of the period for which possession of the land is retained by virtue of this Act, and shall be paid to the person who is

the owner of the land at the end of the period aforesaid ; and

- (b) no compensation under the aforesaid sub-paragraph (b) shall be payable in respect of any such damage which may be made good by a person acting on behalf of a competent authority while possession of the land is retained by virtue of this Act; and
- (c) the procedure set out in sections 9 to 12 of this Act and in any regulations made under this Act shall apply in relation to any claim for any compensation referred to in paragraph (a) of this proviso in like manner as though the claim were a claim for compensation under this Act.

4. Any land, of which possession is taken under section 2 of this Act or is deemed to be taken by virtue of that section, may, notwithstanding any restriction imposed on the use thereof by any other written law or any instrument or otherwise, be used by, or under the authority of, the competent authority, for such purpose and in such manner, as that authority thinks expedient for any purpose referred to in paragraph (a) or paragraph (b) or paragraph (c) of section 2 (1); and the competent authority, so far as appears to him to be necessary or expedient in connexion with the use of the land by virtue of this section—

Occupation and use of requisitioned land.

[§ 3, 55 of 1961.]

- (a) may do, or authorize persons using the land as aforesaid to do, in relation to the land, anything which any person having an interest in the land would be entitled to do by virtue of that interest; and
- (b) may by order provide for prohibiting or restricting the exercise of rights of way over the land, and of other rights relating thereto, which are enjoyed by any person, whether by virtue of an interest in the land or otherwise.

The power of the competent authority under this section to authorize the use of land for any purpose shall include the power to authorize a person or co-operative society carrying on any business or undertaking to occupy and use the land for the purposes of that business or undertaking upon such terms as may be agreed between such person or co-operative society and the competent authority.

[§ 3, 55 of 1961.]

[§ 3, 55 of 1961.]

Compensation payable in respect of requisitioned land.

5. Compensation, assessed in accordance with the provisions hereinafter contained in that behalf, shall be paid in respect of the taking of possession and the occupation of any land possession of which is taken under section 2 of this Act or is deemed to be taken by virtue of that section.

Amount of compensation.

6. (1) The amount of the compensation payable as provided in section 5 in respect of any land shall be—

- (a) a sum equal to the rent which might reasonably be expected to be payable by a tenant in occupation of the land, during the period for which possession of the land is retained by virtue of this Act, under a lease granted immediately before the beginning of that period, whereby the tenant undertook to pay all usual rates and taxes and to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the land in a state to command that rent; and
- (b) a sum equal to the cost of making good any damage to the land which may have occurred during the period of which possession thereof is so retained (except in so far as the damage has been made good during that period by a person acting on behalf of the competent authority); and
- (c) in a case where the land is agricultural land, a sum equal to the amount (if any) which might reasonably have been expected to be payable in addition to rent by an incoming tenant, in respect of things previously done for the purpose of the cultivation of the land, and in respect of seeds,

cultivation, growing crops and other similar matters, under a lease of the land granted immediately before possession thereof was taken; and

- (d) a sum equal to the amount of any expenses reasonably incurred, otherwise than on behalf of the competent authority, for the purpose of compliance with any directions given by the competent authority in connexion with the taking of possession of the land :

Provided, however, that in computing for the purposes of paragraph (a) of this subsection the rent of any land of which possession is deemed to be taken by virtue of section 2 of this Act, no account shall be taken of any building or structure erected on the land before the appointed date by a person acting on behalf of a competent authority under the Defence (Miscellaneous) Regulations;

Provided, further, that in the case of the land or lands specified in each entry in column I of the Schedule to this Act the rent payable for the purposes of paragraph (a) of subsection (1) during the period for which possession of such land or lands is retained by virtue of this Act shall be the amount specified in the corresponding entry in column II of that Schedule;

§ 4, 55 of 961.]

Provided, further, that in the case of any land, being premises to which the Rent Act applies, the amount of the rent computed for the purposes of paragraph (a) of this subsection shall not exceed the authorized rent of the premises as determined under that Act.

(2) Any compensation under paragraph (a) of subsection (1) shall be considered as accruing due from day to day during the period for which the possession of the land is retained by virtue of this Act, and be apportionable in respect of time accordingly, and shall be paid to the person who for the time being would be entitled to occupy the land but for the fact that possession thereof is retained by virtue of this Act; but this subsection shall not

operate so as to require the making of payments at intervals of less than one month in arrear.

For the purposes of any written law relating to income tax and any written law relating to tax or rates leviable on land, and, in particular, for the purposes of any such written law relating to the deduction of tax or rates from rent, any compensation under the said paragraph (a) shall be deemed to be rent payable for the land, the State shall be deemed to pay it as tenant occupier, and the person receiving it shall be deemed to receive it as landlord.

[§ 4, 55 of 1961.]

(2A) No compensation shall be payable under paragraph (b) of subsection (1) for any damage done to any land of which possession is deemed to be taken under section 2 of this Act by reason of the demolition of any building or structure which was erected on that land before the appointed date by a competent authority or any person acting on his behalf during the period for which that land was in the occupation of such competent authority or person under the Defence (Miscellaneous) Regulations as having effect whether before or after February 24, 1946.

(3) Any compensation under paragraph (b) of subsection (1) shall accrue due at the end of the period for which possession of the land is retained by virtue of this Act, and shall be paid to the person who is then the owner of the land.

(4) Notwithstanding anything in the preceding provisions of this section, the maximum amount of the compensation payable in any case under paragraph (b) of subsection (1) shall be an amount equal to the market value which the land would have had on the date of the termination of the period for which possession of the land is retained by virtue of this Act, if until that date it had remained in the original condition in which it was on the date on which possession thereof was first taken by a competent authority under this Act, or on which possession thereof was deemed to be taken by virtue of section 2 of this Act:

Provided, however, that where the competent authority is of opinion—

- (a) that, if the land had remained in such original condition, its market value at any time during the period for which possession thereof was retained by virtue of this Act would have been higher than such maximum amount as aforesaid, and
- (b) that, having regard to the circumstances referred to in paragraph (a), the limitation of the compensation to such maximum amount would be inequitable,

the competent authority may in his discretion determine that, in addition to the compensation payable under paragraph (b) of subsection (1), there shall be awarded as special additional compensation an amount not exceeding the difference between (i) the highest market value which the land would have had during the period mentioned in paragraph (a), and (ii) such maximum amount as aforesaid.

No appeal shall lie against a determination by the competent authority of the amount of the special additional compensation to be awarded under the proviso to this subsection; and in any case where the amount of the compensation payable under paragraph (b) of subsection (1) is increased or reduced upon any appeal, the competent authority may in his discretion reduce or increase the amount to be awarded under the proviso as special additional compensation.

(5) In determining for the purposes of subsection (4) the market value of any land of which possession is deemed to be taken by virtue of section 2 of this Act, no account shall be taken of any appreciation in the value thereof due to any building or structure erected, or any work done, on that land before the appointed date by a competent authority or any person acting on his behalf during the period for which that land was in the occupation of such competent authority or person under the Defence (Miscellaneous) Regulations as having effect whether before or after February 24, 1946. [§ 4,55 of 1961.]

(5A) Where in the case of any land of which possession is deemed to be taken by virtue of section 2 of this Act, compensation is payable under sub-paragraph (b) of paragraph (1) of regulation 2 of the Defence (Compensation) Regulations, 1941, in respect of any damage to the land which may have occurred during the period for which the land was in the occupation of a competent authority or of any other person under or by virtue of the Defence (Miscellaneous) Regulations as having effect whether before or after the 24th day of February, 1946, nothing in this Act shall confer or be deemed or construed to confer any right to compensation in respect of such damage in any amount exceeding the amount payable under that sub-paragraph; and the amount of such compensation shall accordingly be computed separately from the compensation, if any, which may be payable under this Act in respect of any damage to the land which may have occurred during the period for which possession thereof is retained by virtue of this Act.

(6) Any compensation under paragraph (c) of subsection (1) shall accrue due at the time when possession of the land is taken under section 2 of this Act and shall be paid to the person who, immediately before that time, was the occupier of the land.

(7) Any compensation under paragraph (d) of subsection (1) shall accrue due at the time when the expenses in respect of which the compensation is payable are incurred, and shall be paid to the person by whom or on whose behalf those expenses were incurred.

7. Any compensation under this Act shall carry interest, as from the date on which it accrues due until payment, at such rate not exceeding five *per centum* per annum as the Minister may from time to time prescribe by Order made with the concurrence of the Minister in charge of the subject of Finance.

8. Where any sum by way of compensation is paid in accordance with this Act to the owner of any land, then, if the land is, at the time when the compensation accrues due, subject to any mortgage, the sum so paid shall be deemed to be comprised in that mortgage.

9. (1) No claim for any compensation under this Act shall be entertained unless notice of the claim has, in such form and manner as may be prescribed by regulations, been given to the prescribed authority within the period of six months commencing on the date on which the compensation accrues due or such longer period as the Minister in charge of the subject of Justice may prescribe either generally or in relation to any particular claim or class of claims.

Claims for compensation.

(2) Every such notice of claim shall be signed by the claimant or by a person duly authorized by him in that behalf and shall be delivered or transmitted to the prescribed authority referred to in subsection (1).

10. In any case where any dispute arises as to the person to whom any compensation under this Act in respect of any land is payable, the provisions of sections 10 to 14 of the Land Acquisition Act shall apply in like manner as they apply where any land is to be acquired under that Act.

Dispute as to right to compensation.

11. (1) Upon any claim for any compensation under this Act being duly made in accordance with the provisions of section 9, the competent authority shall endeavour to settle by agreement the amount of the compensation, if any, payable to the claimant; and the competent authority shall, whether or not such agreement is reached, make an award under his hand determining the amount of the compensation, if any, which in his opinion should, in accordance with the provisions of this Act, be paid to the claimant.

Settlement of award as to compensation.

The competent authority shall give written notice of the award to the claimant.

(2) In any case where any dispute referred to in section 10 has arisen, the competent authority shall defer the making of an award under this section until there has been a final decision or determination upon that dispute; and in any such case the award made under this section shall accord with the final decision or determination upon the dispute.

12. Any claimant who is dissatisfied with the award made by the competent authority under section 11 upon his claim

appeal from award.

Interest on compensation

Provision as to land subject to mortgage.

for compensation may appeal against that award to the board of review constituted under section 19 of the Land Acquisition Act; and the provisions of subsections (2) and (3) of section 22 of that Act and of sections 23 to 28 of that Act shall apply in relation to any appeal so preferred.

PART II

COMPULSORY ACQUISITION OF REQUISITIONED LAND

Protection of rights to compensation under Defence Regulations.

13. (1) If, at the time when the Defence (Compensation) Regulations, 1941, expire or are revoked, there is pending any claim for any compensation payable under those regulations, in respect of any land of which possession and occupation was not continued after the appointed date under section 3 of this Act, the procedure set out in sections 11 and 12 of this Act shall apply in relation to such claim in like manner as though it were a claim for compensation under this Act; and accordingly any proceedings in respect of any such claim which are pending at the aforesaid time of expiration or revocation before a tribunal constituted under the Defence (Compensation) Regulations, 1941, shall, in accordance with regulations which are hereby authorized to be made in that behalf under section 21 of this Act, be transferred to and disposed of by the board of review constituted under section 19 of the Land Acquisition Act.

(2) For the purposes of enabling the provisions of subsection (1) of this section and of subsection (3) of section 3 and of subsection (5A) of section 6 to have effect, but subject to the aforesaid provisions, section 6 (3) of the Interpretation Ordinance shall, notwithstanding that the Defence (Compensation) Regulations, 1941, may expire or be revoked, apply in all respects as though those regulations are, on the date of their expiration or revocation, repealed by written law.

Application of Ordinance No. 21 of 1944.

14. In any case where any land, possession of which is deemed to be taken by virtue of section 2 of this Act, is acquired under the Land Acquisition Act, while it is

in the possession of any authority or person under the powers conferred by this Act, the provisions of the Land Acquisition (War Purposes) (Assessment of Compensation) Ordinance, No. 21 of 1944*, as amended by Act No. 9 of 1950, (which Ordinance is hereinafter referred to as the "special Ordinance"), shall apply in all respects as though the possession of the land by virtue of this Act were possession under emergency powers as defined in that Ordinance.

15. The special Ordinance shall have effect and be deemed at all times after its enactment to have had effect in relation to any land in like manner as though the reference in section 2 thereof to " purposes connected with the present war " included a reference to all the purposes for which possession of that land is or was authorized to be retained, whether by this Act or by any Defence Regulation heretofore in force.

Construction of section 2 of the special Ordinance.

16. (1) In every case where any land is acquired under the Land Acquisition Act, and the provisions of the special Ordinance apply in relation to the compensation payable in respect of the acquisition, then, notwithstanding anything in the Defence (Compensation) Regulations, 1941, no compensation under subparagraph (b) of paragraph (1) of regulation 2 of those regulations shall be payable or be deemed to be payable to any person in respect of that land.

Exclusion of damage compensation where the special Ordinance applies.

(2) The provisions of subsection (1) of this section shall be deemed to have come into force on the date of the commencement of the special Ordinance.

17. (1) In every case where any land, possession of which is taken under section 2 of this Act, is acquired under the Land Acquisition Act, while it is in the possession of any authority, person, local authority or co-operative society under the powers conferred by this Act, then, in determining the amount of compensation to be awarded under the Land Acquisition Act for that land—

Compensation upon acquisition of land where possession is taken under section 2. [§ 5, 55 of 1961.]

(a) the market value of that land shall be taken to be the market value (within the meaning of that Act)

* Omitted from this Edition.

for compensation may appeal against that award to the board of review constituted under section 19 of the Land Acquisition Act; and the provisions of subsections (2) and (3) of section 22 of that Act and of sections 23 to 28 of that Act shall apply in relation to any appeal so preferred.

PART II

COMPULSORY ACQUISITION OF REQUISITIONED LAND

Protection of rights to compensation under Defence Regulations.

13. (1) If, at the time when the Defence (Compensation) Regulations, 1941, expire or are revoked, there is pending any claim for any compensation payable under those regulations, in respect of any land of which possession and occupation was not continued after the appointed date under section 3 of this Act, the procedure set out in sections 11 and 12 of this Act shall apply in relation to such claim in like manner as though it were a claim for compensation under this Act; and accordingly any proceedings in respect of any such claim which are pending at the aforesaid time of expiration or revocation before a tribunal constituted under the Defence (Compensation) Regulations, 1941, shall, in accordance with regulations which are hereby authorized to be made in that behalf under section 21 of this Act, be transferred to and disposed of by the board of review constituted under section 19 of the Land Acquisition Act.

(2) For the purposes of enabling the provisions of subsection (1) of this section and of subsection (3) of section 3 and of subsection (5A) of section 6 to have effect, but subject to the aforesaid provisions, section 6 (3) of the Interpretation Ordinance shall, notwithstanding that the Defence (Compensation) Regulations, 1941, may expire or be revoked, apply in all respects as though those regulations are, on the date of their expiration or revocation, repealed by written law.

Application of Ordinance No. 21 of 1944.

14. In any case where any land, possession of which is deemed to be taken by virtue of section 2 of this Act, is acquired under the Land Acquisition Act, while it is

in the possession of any authority or person under the powers conferred by this Act, the provisions of the Land Acquisition (War Purposes) (Assessment of Compensation) Ordinance, No. 21 of 1944*, as amended by Act No. 9 of 1950, (which Ordinance is hereinafter referred to as the "special Ordinance"), shall apply in all respects as though the possession of the land by virtue of this Act were possession under emergency powers as defined in that Ordinance.

15. The special Ordinance shall have effect and be deemed at all times after its enactment to have had effect in relation to any land in like manner as though the reference in section 2 thereof to " purposes connected with the present war " included a reference to all the purposes for which possession of that land is or was authorized to be retained, whether by this Act or by any Defence Regulation heretofore in force.

Construction of section 2 of the special Ordinance.

16. (1) In every case where any land is acquired under the Land Acquisition Act, and the provisions of the special Ordinance apply in relation to the compensation payable in respect of the acquisition, then, notwithstanding anything in the Defence (Compensation) Regulations, 1941, no compensation under subparagraph (b) of paragraph (1) of regulation 2 of those regulations shall be payable or be deemed to be payable to any person in respect of that land.

Exclusion of damage compensation where the special Ordinance applies.

(2) The provisions of subsection (1) of this section shall be deemed to have come into force on the date of the commencement of the special Ordinance.

17. (1) In every case where any land, possession of which is taken under section 2 of this Act, is acquired under the Land Acquisition Act, while it is in the possession of any authority, person, local authority or co-operative society under the powers conferred by this Act, then, in determining the amount of compensation to be awarded under the Land Acquisition Act for that land—

Compensation upon acquisition of land where possession is taken under section 2. [§ 5, 55 of 1961.]

(a) the market value of that land shall be taken to be the market value (within the meaning of that Act)

* Omitted from this Edition.

which that land would have had if it had remained, until the date by reference to which the market value is required by that Act to be determined, in the condition in which it was at the date on which possession thereof was taken under section 2 of this Act; and

- (b) no account shall be taken of any enhancement or depreciation in the value which may be attributable, directly or indirectly, to any buildings, works or improvements erected, constructed, demolished or made on, over or under that land for any purpose for which the land is authorized by this Act to be used.

(2) In every case where the provisions of subsection (1) apply in relation to the compensation payable in respect of the acquisition of any land, then, notwithstanding anything in paragraph (b) of subsection (1) of section 6 of this Act, no compensation under that paragraph shall be payable or be deemed to be payable to any person in respect of that land.

PART III

GENERAL

Appointment of competent authority.

18. The Minister may from time to time appoint any public officer to be, for the purposes of this Act, a competent authority, whether for the whole of Sri Lanka or for any specified area.

Certificate that land is required under this Act.

19. In any proceedings in any court, a certificate under the hand of the President that any land specified or described therein is required for any purpose so specified shall be conclusive proof that the land is required for such purpose.

Service of notices.

20. Any notice which by this Act is required or authorized to be served on any person shall be deemed to be duly served if it is sent by registered letter through the post to the last known address of that person, or where the address is not known, if the notice is published in the Gazette.

Regulations.

21. (1) The Minister may make such regulations as may be necessary for carrying

out or giving effect to the principles and provisions of this Act; and without prejudice to the generality of the powers hereinbefore conferred, any such regulation may provide that any provision of the Land Acquisition Act specified in section 10 or section 12 of this Act shall in its application for the purposes of this Act have effect subject to such amendments, omissions or modifications as may be specified in the regulation.

(2) No regulations made by the Minister under this section shall have effect until it is approved by Parliament. Notice of the approval of any regulation by Parliament shall be published in the Gazette.

(3) Where a regulation made by the Minister under this section is approved by Parliament and notice of the approval is published in the Gazette, that regulation shall be valid and effectual as if it were herein enacted.

22. In this Act, unless the context otherwise requires— Interpretation.

" appointed date " means the 9th day of December, 1950;

" agricultural land " means any land used for cultivation, plantation, or pasture and includes land used for the purpose of poultry farming, market gardens, nurseries, or orchards;

" armed forces " means the military, naval, or air forces of the Republic;

" land " includes land covered with water, and houses, buildings and parts of houses or buildings;

" local authority " includes any Municipal Council, Urban Council, Town Council or Village Council;

" owner ", in relation to land, means the person who is receiving the rent of the land whether on his own account or as agent or trustee for any other person, or who would so receive the rent of the land if it were let at a rent;

" visiting force " has the same meaning as in the Visiting Forces Act.

Column I
Description of Land

Column H
Rent per month

WESTERN PROVINCE

Rs. c.

| | | |
|--|---------------|-----------|
| 1. Tonbridge situated in Katunayake | | 8 50 |
| 2. Goluwapokuna Estate situated in Katunayake | | 21,520 87 |
| 3. Warrings Bungalow Estate (Lot A) situated in Katunayake | | 438 63 |
| 4. Warrings Bungalow Estate (Lot C) situated in Katunayake | | 1,44600 |
| 5. Warrings Bungalow Estate (a portion in extent 52A. 3R. 22P.) situated in Katunayake | | 1,071 19 |
| 6. Kadirana Group (portion) situated in Katunayake | | 3,156 30 |
| 7. Kadirana Estate situated in Katunayake | | 17400 |
| 8. Dambuwa Estate (part) situated in Katunayake | | 88 00 |
| 9. Land depicted as lot 16 in Requisition Survey Plan 69 and situated in Katunayake | | 10 00 |
| 10. Land depicted as lot 21 in Requisition Survey Plan 69 and situated in Katunayake | | 12 00 |
| 11. Land depicted as lot 23 in Requisition Survey Plan 69 and situated in Katunayake | • • | 2 00 |
| 12. Land depicted as lot 30 in Requisition Survey Plan 69 and situated in Katunayake | | 50 |
| 13. Land depicted as lot 31 in Requisition Survey Plan 69 and situated in Katunayake | | 2 25 |
| 14. Land depicted as lot 32 in Requisition Survey Plan 69 and situated in Katunayake | | 5 66 |
| 15. Land depicted as lot 113 in Requisition Survey Plan 69 and situated in Katunayake | | 50 |
| 16. Land depicted as lots 118 and 120 in Requisition Survey Plan 69 and situated in Katunayake | | 5 50 |
| 17. Land depicted as lot 121 in Requisition Survey Plan 69 and situated in Katunayake | | 5 00 |
| 18. Land depicted as lot 122 in Requisition Survey Plan 69 and situated in Katunayake | | 58 |
| 19. Land depicted as lot 19 in Requisition Survey Plan 60 and situated in Katunayake | | 1815 |
| 20. Land depicted as lot 21 in Requisition Survey Plan 69B and situated in Katunayake | | 25 |
| 21. Land depicted as lot 22 in Requisition Survey Plan 69B and situated in Katunayake | | 25 |
| 22. Land depicted as lot 24 in Requisition Survey Plan 69B and situated in Katunayake | | 50 |
| 23. Land depicted as lot 25 in Requisition Survey Plan 69B and situated in Katunayake | | 25 |
| 24. Land depicted as lot 26 in Requisition Survey Plan 69B and situated in Katunayake | | 25 |
| 25. Land depicted as lot 27 in Requisition Survey Plan 69B and situated in Katunayake | | 25 |
| 26. Land depicted as lot 28 in Requisition Survey Plan 69B and situated in Katunayake | | 25 |
| 27. Land depicted as lot 29 in Requisition Survey Plan 69B and situated in Katunayake | | 25 |
| 28. Land depicted as lot 30 in Requisition Survey Plan 69B and situated in Katunayake | | 25 |
| 29. Land depicted as lot 31 in Requisition Survey Plan 69B and situated in Katunayake | | 25 |
| 30. Land depicted as lot 32 in Requisition Survey Plan 69B and situated in Katunayake | | 25 |
| 31. Land depicted as lot 33 in Requisition Survey Plan 69B and situated in Katunayake | | 25 |
| 32. Land depicted as lot 36 in Requisition Survey Plan 69B and situated in Katunayake | | 25 |
| 33. Land depicted as lot 37 in Requisition Survey Plan 69B and situated in Katunayake | | 25 |
| 34. Land depicted as lot 38 in Requisition Survey Plan 69B and situated in Katunayake | | 25 |
| 35. Land depicted as lot 39 in Requisition Survey Plan 69B and situated in Katunayake | | 25 |
| 36. Land depicted as lot 40 in Requisition Survey Plan 69B and situated in Katunayake | | 25 |

REQUISITIONING OF LAND

[Cap.298

| <i>Column I</i> <i>Description of Land</i> | <i>Column II</i> <i>Rent per month</i> |
|---|---|
| | <i>Rs. c.</i> |
| 37. Ekala Mahawatta (lot 1) situated in Ekala | 1,00000 |
| 38. Yaknaran Kotuwa (lot 2) situated in Ekala | 308 30 |
| 39. Yaknaran Kotuwa (lot 3) situated in Ekala | 30830 |
| 40. Land in extent 17.5 perches situated in Katunayake | 3 50 |
| 41. Land in extent 5.2 perches situated in Katunayake | 75 |
| 42. Land in extent 4.6 perches situated in Katunayake | 1 75 |
| 43. Land in extent 0.5 perch situated in Katunayake | 25 |
| 44. Land in extent 7.7 perches situated in Katunayake | 1 25 |
| 45. Land in extent 10 perches situated in Katunayake | 1 50 |
| 46. Land in extent 9.5 perches situated in Katunayake | 1 25 |
| 47. Land in extent 10 perches situated in Katunayake | 1 75 |
| 48. Land in extent 1.2 perches situated in Katunayake | 75 |
| 49. Land in extent 1 perch situated in Katunayake | 25 |
| 50. Land in extent 2.1 perches situated in Katunayake | 75 |
| 51. Land in extent 2.3 perches situated in Katunayake | 1 00 |
| 52. Land in extent 5 perches situated in Katunayake | 1 00 |
| 53. Land in extent 9 perches situated in Katunayake | 1 25 |
| 54. Land in extent 4.8 perches situated in Katunayake | 75 |
| 55. Land in extent 6.5 perches situated in Katunayake | 1 75 |
| 56. Land in extent 4.5 perches situated in Katunayake | 50 |
| 57. Land in extent 2.2 perches situated in Katunayake | 1 00 |
| 58. Land in extent 4.5 perches situated in Katunayake | 1 25 |
| 59. Land in extent 3.5 perches situated in Katunayake | 1 00 |
| 60. Land in extent 3.2 perches situated in Katunayake | 1 00 |
| 61. Josita Estate (Part) situated in Ekala | 11200 |
| 62. Cinco Estate (Part) situated in Ekala | 48 00 |
| 63. Ekala Estate (Part) situated in Ekala | 200 00 |
| 64. Land depicted as lot 5 in Requisition Survey Plan 71 A, known as Dagonna and situated in Horahena | 93 00 |
| 65. Lands known as Kurunduwatte and Boralessgamuwa situated in Gangodawila | 12 00 |
| 66. Pelendegahakanatta situated in Gangodawila | 23 00 |
| 67. Kekunagahawatte situated in Gangodawila | 12 00 |
| 68. Kekunagahawatte (No. 2) situated in Gangodawila | 28 62 |
| 69. Land depicted as lots 5 and 6 in Requisition Survey Plan 42 situated in Gangodawila | 40 00 |
| 70. Land depicted as lot 7 in Requisition Survey Plan 42 situated in Gangodawila | 30 00 |
| 71. Kimbulapitiya (lot 5) situated in Horahena | 21 50 |
| 72. •Dagonna (lot 21) situated in Horahena | 15300 |
| 73. Kimbulapitiya (lot 8) situated in Horahena | 84 00 |
| 74. Kimbulapitiya (lot 6) situated in Horahena | 14 50 |

| <i>Column I</i> <i>Description of Land</i> | <i>Column II</i> <i>Rent per month</i> | Ks. c. |
|--|---|---------------|
| 75. Kimbulapitiya (lot 7) situated in Horahena | | 44 00 |
| 76. Kimbulapitiya (lot 4) situated in Horahena | | 26 00 |
| 77. Land depicted as lot 3 in Requisition Survey Plan 7B situated in Gangodawila | | 336 00 |
| 78. Land depicted as lots 14 and 18 in Requisition Survey Plan 7 situated in Gangodawila | | 107 00 |
| 79. Land described as Block 2A situated in Gangodawila | | 1 00 |
| 80. Land depicted as lot 15 in Requisition Survey Plan 7 situated in Gangodawila | | 30 00 |
| 81. Micadewatte Estate, Colombo District | | 906 64 |
| 82. No. 556, Second Division, Maradana, Colombo (presently No. 555) | | 163 00 |
| 83. No. 47, Church Street, Colombo | | 48 90 |
| 84. No. 24, Galpote Street, Colombo | | 69 27 |
| 85. No. 9, Hyde Park Corner, Colombo | | 16 30 |
| 86. Numbers 31 and 33, Galle Road, Bambalapitiya, Colombo | | 105 45 |
| 87. No. 259, Layards Broadway, Colombo | | 40 16 |
| 88. No. 336, Deans Road, Colombo | | 124 53 |
| 89. No. 371, Grandpass Road, Colombo | | 28 03 |
| 90. No. 138, Skinners Road South, Colombo | | 40 16 |
| 91. No. 44, Cotta Road, Colombo | | 73 35 |
| 92. No. 429, Havelock Road, Colombo | | 28 40 |
| 93. No. 85, Main Street, Colombo | | 183 38 |
| 94. Numbers 177 and 179, Galle Road, Wellawatte, Colombo | | 104 58 |
| 95. No. 103, Havelock Road, Colombo | | 56 55 |
| 96. No. 74, Deans Road, Colombo | | 40 12 |
| 97. No. 218, Deans Road, Colombo | | 44 82 |
| 98. No. 24, Silversmith Street, Colombo | | 27 67 |
| 99. No. 198, Bankshall Street, Colombo | | 203 00 |
| 100. No. 219, Main Street, Colombo | | 478 16 |
| 101. No. 893, Maradana Road, Colombo | | 48 65 |
| 102. No. 198, Wolfendhal Street, Colombo | | 20 25 |
| 103. No. 200, Wolfendhal Street, Colombo | | 20 25 |
| 104. No. 202, Wolfendhal Street, Colombo | | 20 25 |
| 105. No. 625 (part), Aluthmawatte Road, Colombo | | 32 29 |
| 106. No. 129 (part). Church Road, Mattakkuliya, Colombo | | 227 1 |
| 107. No. 416, Baseline Road, Colombo | | 52 72 |
| 108. No. 277, Galle Road, Wellawatte, Colombo | | 24 32 |
| 109. No. 93, Pickerings Road, Colombo | | 36 42 |
| 110. No. 369, Aluthmawatte Road, Colombo | | 38 88 |
| 111. No. 238, Dam Street, Colombo | | 89 65 |
| 112. No. 146, Nagalagam Street, Colombo | | 179 0 |
| 113. No. 19, Ramsay Road, Colombo | | 408 8 |

REQUISITIONING OF LAND

[Cap. 298

Column I
Description of Land

Column II
Rent per month

| | | | Rs.c. |
|------|---|-------|----------|
| 114. | No. 35, Norris Road, Colombo | .. .. | 69 15 |
| 115. | No. 327, Galle Road, Kollupitiya, Colombo | .. .. | 7272 |
| 116. | No. 137, St. Michaels Road, Colombo | .. .. | 6075 |
| 117. | No. 194, Dematagoda Road, Colombo | .. .. | 81 50 |
| 118. | Numbers 65, 65/1, 65/2, 65/3, 65/6, 65/7, 65/8, 65/9, 65/10 and 12, 65/11 and 69, St. Sebastian Street, Colombo | .. .. | 1,515 90 |
| 119. | No. 77, St. Sebastian Road, Colombo | .. .. | 3775 |
| 120. | No. 226, Sea Street, Colombo | .. .. | 68 20 |
| 121. | Land depicted as lot 3 in Requisition Survey Plan 11 known as Kottambagahakelawatta and situated in Kalutara District | .. .. | 72 00 |
| 122. | Land described as lot 10 in Requisition Survey Plan 11 known as Kottambagahakelawatta and situated in Kalutara District | .. .. | 31 00 |
| 123. | Land described as lot 15 in Requisition Survey Plan 11 known as Kottambagahakelawatta and situated in Kalutara District | | 20 55 |
| 124. | " Beatrice Villa" (building only) situated in Kalutara | .. .. | 5268. |

SOUTHERN PROVINCE

| | | | |
|------|---|--|--------|
| 125. | Numbers 148 and 150, Main Street, Galle | | 142 92 |
|------|---|--|--------|

EASTERN PROVINCE

| | | | |
|------|--|-------------------------|----------|
| 126. | Veppandudakadu Thirukkaikuda Snug Cove Karimalaiuttu Nachchikuda | Situated in Trincomalee | 2,648 00 |
| 127. | Nachchikudakani Nallathanniodaikadu | Situated in Trincomalee | 539 04 |
| 128. | Sinnakunchikadu situated in Trincomalee | | 2 00 |

REQUISITIONING OF MOTOR VEHICLES AND AGRICULTURAL EQUIPMENT

[Cap.200

CHAPTER 200

REQUISITIONING OF MOTOR VEHICLES AND AGRICULTURAL EQUIPMENT

Act No.4 of 1971. AN ACT TO REQUISITION MOTOR VEHICLES, AGRICULTURAL PLANTS, MACHINERY AND EQUIPMENT FOR TEMPORARY USE BY THE GOVERNMENT FOR CERTAIN PURPOSES, FOR THE PAYMENT OF COMPENSATION, THEREFOR AND FOR MATTERS CONNECTED, THEREWITH OR INCIDENTAL THERETO.

[21st January. 1971.]

Short title. **1.** This Act may be cited as the Requisitioning of Motor Vehicles and Agricultural Equipment Act.

Requisitioning of equipment for temporary use by Government- **2.** (I) Where the competent authority is satisfied that any motor vehicle, agricultural plant, machinery or equipment (hereinafter referred to as "equipment"), is required for the purpose of or in connexion with any scheme for the importation, storage, purchase, sale, supply, distribution, transport or cultivation of any agricultural product, he may, by notice (hereinafter referred to as "requisitioning notice"), served on the owner or person in whose possession or custody such equipment is, requisition such equipment for the temporary use of the Government.

(2) Where a requisitioning notice has been served under subsection (1) on any person, it shall be lawful for any officer authorized by the competent authority (hereinafter referred to as an "authorized officer") to take possession of the equipment to which the notice relates on behalf of the competent authority.

(3) The authorized officer may give to the owner or person in whose possession or custody such equipment is, such written directions as appear to him to be necessary or expedient in connexion with the taking possession of such equipment; and such owner or person shall comply with all such written directions.

(4) Any police officer, if requested by an authorized officer to do so, shall take such steps and use such force as may be necessary for securing compliance with any direction given under subsection (3).

3. The period during which any equipment requisitioned under section 2 for temporary use by the Government shall not exceed thirty days in each calendar year.

4. (1) Every person who—
(a) prevents, obstructs or resists; or
(b) directly or indirectly causes anyone to prevent, obstruct or resist,

any person from or in taking possession of any equipment under this Act; or

(c) fails to comply with any written direction given under section 2,

shall be guilty of an offence under this Act.

(2) Any person guilty of an offence under subsection (1) shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding two years or to a fine not exceeding two thousand rupees or to both such imprisonment and fine; and the Magistrate may, where such offence is committed by the owner of an equipment or his agent or servant, order the forfeiture of such equipment, in respect of which the offence is committed, to the State.

(3) Where any offence under this Act is committed by a body of persons, then—

(a) if that body is a body corporate, every director of that body corporate shall be deemed to be guilty of that offence; or

Period of temporary use of equipment not to exceed thirty days in year.

Prevention of or obstruction to taking possession of equipment.

REQUISITIONING OF MOTOR VEHICLES AND AGRICULTURAL EQUIPMENT

(b) if that body is a firm, every partner of that firm shall be deemed to be guilty of that offence:

Provided, however, that no such director or partner shall be deemed to be guilty of an offence under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of that offence.

Claims to the compensation payable under this Act.

5. Where any equipment is requisitioned under the provisions of this Act, the owner of such equipment at the time of such requisition, may, within one month after the lapse of thirty days from the date of such requisition, make a written claim to the compensation payable in respect of such equipment and specify in his claim—

- (a) his name and address;
- (b) the nature of his interest;
- (c) the period in respect of which the claim is made; and
- (d) the amount claimed by him.

Determination of compensation in respect of claim.

6. (1) Upon the receipt of any claim made under section 5 to the compensation payable under this Act, the competent authority shall make a determination as soon as may be convenient as to the amount payable in respect of such claim and shall give written notice of such determination made by him.

(2) The determination under subsection (1) as to the amount of compensation payable shall be made having regard to the rate of hire payable by the Government in respect of such equipment in the district and the period for which such equipment has been requisitioned.

(3) The determination of the competent authority, subject to any appeal under section 7, shall be final and conclusive and shall not be questioned in any court of law.

Appeal from a determination of compensation under section 6.

7. (1) Any person aggrieved by the decision of the competent authority on a determination made by him on a claim to compensation under this Act may within

fourteen days of the receipt of the notice of determination under section 6 appeal to the Secretary to the Ministry from such determination.

(2) The decision of the Secretary to the Ministry on such appeal shall be final and conclusive and shall not be questioned in any court of law.

Payment of compensation.

8. (1) The compensation payable under this Act shall be paid to the person who at the time of the requisitioning of the equipment was the owner of such equipment.

(2) Where, on the date of the requisitioning of the equipment, a person, other than the owner of such equipment, was by virtue of a subsisting contract entitled to possession and use of such equipment, the owner to whom compensation is paid shall be deemed to receive it as a trustee for such other person.

Manner in which notice or direction may be served on persons.

9. Any notice or direction to be given to any person under any provision of this Act shall be deemed to be given to him, if such notice or direction is sent to him by registered letter through the post.

Interpretation.

10. In this Act—

"agricultural plant, machinery or equipment" includes tractors, bulldozers or any other contraptions used for the purpose of or in connexion with the clearing and cultivation of land ;

"agricultural product" has the same meaning as in the Agricultural Products (Regulation) Ordinance;

"competent authority" means , the Government Agent, and includes an Assistant Government Agent, of an administrative district;

"motor vehicle " has the same meaning as in the Motor Traffic Act;

"owner " in relation to a motor vehicle means the registered owner of that vehicle, and in relation to any agricultural plant, machinery or

***REQUISITIONING OF MOTOR VEHICLES AND
AGRICULTURAL EQUIPMENT***

[Cap. 200

equipment, means the person in possession or custody of such plant, machinery or equipment;

"requisitioning" with its grammatical variations and cognate expressions

means, in relation to any equipment, taking possession of such equipment or requiring the equipment to be placed at the disposal of the competent authority.

CHAPTER 137

REGISTRATION OF OLD DEEDS AND INSTRUMENTS

Ordinance No. 35 of 1947.

AN ORDINANCE TO PROVIDE FOR THE REGISTRATION OF INSTRUMENTS AFFECTING LAND WHICH WERE EXECUTED PRIOR TO THE YEAR 1864 AND TO RESTRICT THE RECEPTION IN EVIDENCE OF UNREGISTERED INSTRUMENTS IN PROOF OF TRUSTS OR FIDEICOMMISSA.

[2nd July, 1947.]

Short title.

1. This Ordinance may be cited as the Registration of Old Deeds and Instruments Ordinance.

(2) The provisions of subsection (1) shall apply to any instrument executed or made prior to the 2nd day of February, 1840, notwithstanding that such instrument may have been registered under the *Sannases* and Old Deeds Ordinance.

Inadmissibility in evidence of unregistered instrument to prove trust or fidei-commissum.

2. (1) On and after the 1st day of January, 1948, no instrument affecting any land, which was executed or made at any time prior to the 1st day of January, 1864, shall unless—

(3) The Ordinances referred to in paragraphs (a) and (b) of subsection (1) are —

(a) it was, at the date of the commencement of this Ordinance, duly registered under any of the Ordinances specified in subsection (3); or

The Registration of Documents Ordinance,

The Land Registration Ordinance, No. 14 of 1891,*

(b) it is referred to in any other instrument which was, at the date of the commencement of this Ordinance, registered under any of the Ordinances specified in subsection (3) as an instrument affecting that land ; or

The Land Registration Ordinance, No. 5 of 1877,

The Land Registration Ordinance, No., 8 of 1863.

(c) it is registered in accordance with the provisions of this Ordinance,

3. (1) An instrument affecting land which was executed or made prior to the 1st day of January, 1864, may be presented for registration in accordance with the provisions of this Ordinance at any time before the 1st day of January, 1948 :

Conditions as to presentation and registration of instruments.

be of any force or avail or be received in evidence in any court as against any person claiming any interest in such land upon valuable consideration or any other person claiming under any such person, for the purpose of proving the land to be subject to a trust or fideicommissum.

Provided, however, that if an application is, prior to the 1st day of January, 1948, made under section 4 or section 5 for an order authorizing or directing the presentation of any instrument for registration, and an order is made under either of those sections, such instrument may be presented for registration within two months of the date of such order.

In this subsection " interest" means an interest created or arising whether before or after the date of the commencement of this Ordinance.

* Repealed by Ordinance No. 23 of 1927.

(2) No instrument shall be registered as provided by this Ordinance unless it is duly presented for registration within the time prescribed in that behalf by subsection (1):

Provided, however, that no such instrument shall be registered as provided by this Ordinance at any time after the 31 st day of December, 1953.

(3) No will executed or made prior to the 1st day of January, 1864, shall be registered in accordance with the provisions of this Ordinance unless the probate of such will is also presented for such registration.

Order authorizing presentation for registration of instruments executed before 2nd February, 1840.

4. (1) No instrument affecting land, executed or made prior to the 2nd day of February, 1840, which was not registered under the *Sannases* and Old Deeds Ordinance, may be presented for registration in accordance with the provisions of this Ordinance or accepted for the purposes of registration, unless application is, prior to the 1st day of January, 1948, made to a District Court as hereinafter provided for an order authorizing the presentation of that instrument for registration and an order in that behalf has been made by the court.

(2) Such application shall be made by way of petition to the District Court having jurisdiction in the place where the land or any of the lands to which the instrument relates is situated.

(3) No order authorizing the presentation of any instrument for registration shall be made under this section, unless it is proved to the satisfaction of the court that the instrument was not registered under the *Sannases* and Old Deeds Ordinance owing to the absence from Ceylon or the minority or unsoundness of mind of any person who was required by section 2 of that Ordinance to produce the instrument for the purposes of registration.

(4) Any person who is aggrieved by the refusal of the District Court to make an order under this section authorizing the presentation of any instrument for registration may, before the expiry of a period of fourteen days from the date of such refusal, make application to the Supreme Court* for the revision of the decision of the District Court, and the Supreme Court* may, if it thinks fit, make order authorizing the presentation of the instrument for

registration. The decision of the Supreme Court* shall be final. The Supreme Court* may, generally or in any particular case, prescribe the procedure to be followed in the case of any application to the court under this subsection.

(5) Every application made under this section to a District Court or to the Supreme Court* shall bear a stamp of ten rupees. No further stamp duty shall be payable in respect of any proceedings upon any such application.

(6) Notwithstanding anything in subsection (1), no order under the preceding provisions of this section shall be required to authorize the presentation for registration of any instrument affecting land (executed or made prior to the 2nd day of February, 1840) in any case where such instrument is a will, or a grant of administration to the estate of any person, or a judgment or order of any court.

5. (1) Where any person, at any time prior to the 1st day of January, 1948, makes application in that behalf, supported by an affidavit declaring that he is entitled to any interest in any land under or by virtue of any instrument affecting the land (executed or made prior to the 1st day of January, 1864) and that such instrument is in the possession of any other specified person, the District Court having jurisdiction in the place in which the land is situated, may, in its discretion after such inquiry, if any, as it may consider necessary, issue a summons directing such other person to produce the instrument to the court on or before a specified date.

Power of court to order production of instruments.

(2) Where any person on whom a summons under subsection (1) has been served fails to comply with the summons the court may order him to be arrested and brought before the court.

(3) Where any person on whom a summons under subsection (1) has been served, or who is arrested and brought before the court as provided in subsection (2), fails to produce the instrument referred to in the summons, the court may require him on oath or affirmation to answer any question which the court may put or allow respecting the instrument alleged to be in his possession,

* This is a reference to the Supreme Court constituted by the now repealed Courts Ordinance.

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and the refusal to take such oath or make such affirmation or to answer such question shall be punishable in the same manner as the like refusal by a witness in a civil case is punishable by that court under the Civil Procedure Code.

Where such person, by affidavit or in evidence given upon oath or affirmation, denies that the instrument is in his possession or control, the proceedings commenced upon the application under subsection (1) shall terminate.

(4) Where any person on whom a summons under subsection (1) has been served produces the instrument to the court, the court shall hold an inquiry for the purpose of determining whether the instrument should be presented for registration under this Ordinance, and where it so determines shall, subject as hereinafter provided, make an order directing that the instrument shall be retained in the court for the purpose of being so presented:

Provided that where the instrument is one to which the provisions of section 4 (1) apply, no order shall be made under this subsection unless the court is satisfied that the case is one in which an order may be made under the aforesaid section 4 authorizing the presentation of the instrument for registration ; and in any such case no further order under that section shall be required in relation to that instrument.

(5) The court shall not, except with the consent of the person producing the instrument, permit such instrument to be inspected by or on behalf of the applicant for the summons, unless the court is satisfied, after examination of the instrument and consideration of such evidence as the court may deem necessary, that the applicant has reasonable grounds for alleging that he is entitled to any interest in the land under or by virtue of the instrument.

(6) Where an order is made under subsection (4), the person producing the instrument may appeal to the Supreme Court* against such order, and where the

court refuses to make such an order the applicant for the summons may appeal to the Supreme Court* against such refusal. Such appeal shall be preferred before the expiry of a period of fourteen days from the date of the order or refusal.

The provisions of the Civil Procedure Code and of any other written law relating to appeals to the Supreme Court* against orders or decrees of District Courts in civil actions shall *mutatis mutandis* apply in the case of any appeal under this subsection.

(7) Where an order directing the presentation of any instrument for registration is made under this section by District Court or by the Supreme Court* upon appeal, the instrument shall forthwith be presented for registration by the secretary+ of the District Court, and shall thereafter be returned to the secretary + for the purpose of being delivered to the person by whom it was produced to the court.

(8) Where a summons is issued by the court as provided in subsection (1) or an order for the arrest of any person is made as provided in subsection (2), the provisions of Chapter XVII of the Civil Procedure Code shall apply in like manner as though the summons or order were issued or made under that chapter in civil proceedings before the court in the exercise of its ordinary jurisdiction.

6. (1) The provisions of the Registration of Documents Ordinance and of the regulations made thereunder shall, where not inconsistent with the provisions of this Ordinance, apply in relation to the presentation of instruments for registration as provided by this Ordinance and to the registration of such instruments, and the provisions of sections 36 to 39 of the Registration of Documents Ordinance shall apply in the case of instruments presented for registration or registered as provided by this Ordinance.

Registration of Documents Ordinance to apply for purposes of registration,

(2) A fee of ten rupees shall be payable upon the presentation of any instrument for registration as provided by this Ordinance.

* This is a reference to the Supreme Court constituted by the now repealed Courts Ordinance.

+ This is a reference to the Secretary of the District Court prior to the change of designation to Registrar.

REGISTRATION OF OLD DEEDS AND INSTRUMENTS [Cap. 137]

Description of land affected by instrument and order by court for registration.

7. (1) Nothing in section 13 of the Registration of Documents Ordinance shall apply where any instrument is presented for registration as provided by this Ordinance.

(2) Every instrument presented for registration as provided by this Ordinance shall be accompanied—

- (a) by a certified copy of such instrument, and
- (b) by a written description of the land claimed to be affected thereby, its boundaries, extent and situation, the district and village, pattu, korale or other division of the district in which the land is situated and, where the land is situated in a town, the name if any of the street in which it is situated.

If the land consists of a divided portion of any land or allotment, such portion shall be clearly and accurately defined by its particular boundaries and extent.

If the land consists of an undivided share in a land, the proportion which the share bears to the entire land shall be stated and a written description of the entire land shall be given as required by the preceding provisions of this subsection.

(3) Where the land claimed to be affected by any instrument presented for registration as provided by this Ordinance is, to the knowledge of the person presenting the instrument for registration, affected by any other instrument registered under any of the Ordinances mentioned in subsection (3) of section 2 of this Ordinance, the instrument presented for registration shall be accompanied by a reference to the volume and folio in which such other instrument is registered if such reference is known to the person presenting the instrument.

(4) Where the Registrar of Lands is not satisfied that the land claimed to be affected by such instrument is affected thereby, the Registrar may, with the prior approval of the Registrar-General, refuse to register the instrument.

Notice of such refusal shall be sent by registered post to the person presenting the instrument for registration.

(5) The person presenting any instrument for registration, if aggrieved by the refusal of the Registrar to register the instrument, may within one month, from the date of the communication of such refusal to him, make an application to the District Court for an order directing the Registrar to register the instrument. The Registrar-General shall be named respondent to such application.

Upon such application being made, the District Court may, after such inquiry as the court may consider necessary and after notice to such persons as may appear to the court to be interested, make order directing the Registrar to register the instrument as an instrument affecting the land claimed by the applicant to be affected thereby or may refuse to make such order.

No appeal shall lie against any order made by the District Court under this subsection or against the refusal of the District Court, to make any such order.

(6) Every application to the District Court under this section, shall bear a stamp of ten rupees. No further stamp duty shall be payable in respect of any proceedings upon such application.

(7) Where the secretary* of a District Court is required by section 5 to present an instrument for registration, the copy, statements and particulars referred to in subsections (2) and (3) of this section shall be furnished to the secretary* by the person at whose instance the instrument was produced to the court, and such copy, statements and particulars shall be transmitted by the secretary* to the Registrar together with the instrument presented for registration.

In any such case notice of the refusal to register the instrument shall be given under subsection (4) to the person at whose instance the instrument was produced to the court, and an application under subsection (5) may be made by that person.

* This is a reference to the Secretary of the District Court prior to the change of designation to Registrar.

(8) The making of an order under this section by a District Court directing the registration of any instrument as an instrument affecting any land shall not be taken or construed in any way to be *res adjudicata* upon any question arising in any other proceedings.

registration, as against any other such instrument duly registered in accordance with the provisions of this Ordinance.

(3) Where any instrument has been registered under this Ordinance, and any person in any proceedings claims any interest in any land under or by virtue of that instrument, the burden of proving that such land is land affected by that instrument shall be on such person.

Return of registered instruments and custody of certified copies.

8. (1) Upon the registration of any instrument as provided by this Ordinance, the Registrar shall—

- (a) return such instrument to the person by whom it was presented for registration; and
- (b) retain and preserve in his custody the certified copy thereof which accompanied the application for registration.

(2) No certified copy retained and preserved by the Registrar under subsection (1) shall be delivered out of the custody of the Registrar, except upon an order made by any court in that behalf in any proceedings in which the court requires the production of the instrument.

10. Nothing in section 7 of the *Sannases* and Old Deeds Ordinance shall apply to any instrument which is registered as provided by this Ordinance.

Application of section 7 of *Sannases* and Old Deeds Ordinance modified.

11. In this Ordinance "instrument affecting land" means any instrument referred to in paragraph (a) of section 8 of the Registration of Documents Ordinance, and includes any *sannas* or *ola*.

Meaning of "instrument affecting land".

12. (1) During the period commencing on the 1st day of January, 1948, and ending on the 31st day of December, 1953, nothing in section 2 of this Ordinance shall apply in the case of any instrument affecting land which was executed or made at any time prior to the 1st day of January, 1864, if the court before which that instrument is sought to be produced in evidence is satisfied—

Transitory provisions.

Effect of registration as provided by this Ordinance.

9. (1) The registration as provided by this Ordinance of any instrument affecting land shall not cure any defect in the instrument or confer upon it any effect or validity which it would not otherwise have.

(2) Notwithstanding anything in section 7 of the Registration of Documents Ordinance—

- (a) no instrument registered under any of the Ordinances mentioned in subsection (3) of section 2 of this Ordinance shall gain any priority by reason of prior registration as against any instrument executed or made before the 1st day of January, 1864, which is duly registered in accordance with the provisions of this Ordinance;
- (b) no instrument executed or made before the 1st day of January, 1864, which is duly registered in accordance with the provisions of this Ordinance shall gain any priority by reason of prior

that-

- (i) such instrument had , been presented for registration in accordance with the provisions of this Ordinance before the 1st day of January, 1948, and proceedings under this Ordinance for; ,;the registration thereof are pending whether before the Registrar or any court; or
- (ii) an application for an order authorizing the presentation of such instrument had been made under section 4 before the 1st day of January, 1948, and proceedings upon such application or any subsequent proceedings under this Ordinance for the registration

of such instrument are pending before the Registrar or any court; or

- (iii) an application for an order under section 5 in respect of that instrument had been made before the 1st day of January, 1948, and proceedings upon such application or any subsequent proceedings under this Ordinance for the registration of such instrument are pending before the Registrar or any court; and

- (b) that notice of the presentation of such instrument for registration or of the application under section 4 or section 5, as the case may be, has been duly registered under subsection (2) as a notice affecting the land in which an interest is claimed under the instrument..

(2) Any person presenting an instrument for registration as provided by this Ordinance or making any application under section 4 or section 5 in respect of any

instrument, may at any time before the 1st day of January, 1948, make application to the Registrar to enter notice of such presentation or application as a notice affecting the land claimed to be affected by such instrument. The Registrar shall thereupon register such notice under the Registration of Documents Ordinance as though it were an instrument affecting the land claimed by the applicant to be affected thereby.

(3) No fee shall be payable for the registration of any notice under subsection (2).

(4) It shall be the duty of the Registrar-General, on at least three occasions prior to the 1st day of January, 1948, to publish in the Gazette and in at least three daily newspapers notices calling attention to the provisions of section 2 and to the fact that no instrument referred to therein can be registered as provided by this Ordinance unless it is presented for such registration prior to the 1st day of January, 1948.

The form of notices under this subsection shall be such as the Registrar-General may in his discretion determine.

**RESUMPTION OF STATE LAND
(ANURADHAPURA PRESERVATION BOARD) [Cap. 582**

CHAPTER 582

**RESUMPTION OF STATE LAND
(ANURADHAPURA PRESERVATION BOARD)**

Law
No. 3 of 1975.

A LAW TO ENABLE THE RESUMPTION BY THE STATE IN CERTAIN CIRCUMSTANCES OF LANDS ALIENATED BY THE ANURADHAPURA PRESERVATION BOARD, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[4th February. 1975.]

Short title.

1. This Law may be cited as the Resumption of State Land (Anuradhapura Preservation Board) Law.

Vesting in the State in certain circumstances of land alienated by the Anuradhapura Preservation Board.

2. (1) Where any land within the Area of Authority of the Anuradhapura Preservation Board, hereinafter referred to as the " Board ", had been alienated by the Board before July 17, 1973, to any person for the purpose of industrial, business, residential or commercial development, and the Government Agent is satisfied that no construction of a permanent building has been commenced on that land on or before July 17, 1974, in accordance with a plan approved by the Board, the Government Agent shall by a vesting Order published in the Gazette vest such land in the State with effect from such date as may be specified therein.

(2) Where any land within the Area of Authority of the Board had been alienated by the Board, on or after July 17, 1973, to any person for any industrial, business, residential or commercial development, and the Government Agent is satisfied that no construction of a permanent building has been commenced on that land in accordance with the plan approved by the Board, before the lapse of one year from the date of such alienation, the Government Agent shall by a vesting Order published in the Gazette Vest such land in the State with effect from such date as may be specified therein.

Legal effect of vesting Order.

3. (1) A vesting Order made under section 2 shall have the effect of vesting such land in the State free of all encumbrances.

(2) Where any land is vested in the State by virtue of a vesting Order made under section 2, no person having any interest in such land shall be entitled to enforce his rights in respect of such interest against the State or against any person to whom such land is subsequently alienated by the State.

(3) A vesting Order made under section 2 shall not be called in question in any court of law.

4. (1) A copy of the vesting Order made under section 2 shall be served on the person to whom the land had been alienated by the Board or where he cannot be found on the person who is in occupation of such land or where there is no person in occupation, by affixing such copy in a conspicuous place on such land.

Serving of vesting Order and taking possession of land alienated.

(2) Upon the copy of a vesting Order being served as required under this Law, the person to whom the land was alienated by the Board or where any other person is in occupation of such land, such other person shall, within a period of thirty days from the date of such service, remove any temporary structure erected on such land and vacate such land.

(3) Where the person to whom the land had been alienated by the Board or the person in occupation of such land fails to vacate the land within the aforesaid period of thirty days, the Government Agent may

**RESUMPTION OF STATE LAND
(ANURADHAPURA PRESERVATION BOARD)**

by himself or through any officers authorized by him, enter such land and take possession of such land. The Government Agent or such officers may, if they consider it necessary to do so, call upon the assistance of the members of the police force for the purpose of taking possession of such land.

Obstruction to be an offence.

5. Any person who in any manner obstructs the Government Agent or any officers in their attempt to take possession of such land shall be guilty of an offence and shall, upon conviction after trial by a Magistrate, be liable to a fine not exceeding five hundred rupees or to a term of imprisonment of either description not exceeding six months or to both such fine and imprisonment.

This Law not to apply to associations or bodies.

6. The provisions of this Law shall not apply where land had been alienated by the Board to any association or body of persons, whether corporate or unincorporate.

This Law to prevail over other laws.

7. Where the provisions of this Law are in conflict or inconsistent with the provisions of any other law, the provisions of this Law shall prevail.

8. In this Law, Unless the Context Interpretation. otherwise requires—

"alienate" with its grammatical variations and cognate expressions includes—

- (i) any conveyance, transfer, grant, lease or any other disposition whatsoever, and
- (ii) the transfer of possession under any purported, proposed or intended conveyance, transfer, grant, lease, or any other disposition whatsoever;

"Anuradhapura Preservation Board" means the Anuradhapura Preservation Board established by the Anuradhapura Preservation Board Act, No. 32 of 1961 ;*

"building" includes any foundation or structure of a permanent nature constructed in accordance with any plan approved by the Board ;

"Government Agent" means the Government Agent of the Anuradhapura District, and includes an Additional or Assistant Government Agent of that District.

* Repealed by Law No. 25 of 1974.

CHAPTER 360

REVENUE PROTECTION

Act
No. 19 of 1962.

AN ACT TO PROVIDE FOR THE PROTECTION OF THE PUBLIC REVENUE OF SRI LANKA.

[26th May, 1962.]

Short title.

1. This Act may be cited as the Revenue Protection Act-

(5) Every Revenue Protection Order shall be published in the Gazette.

Power of Minister to make Revenue Protection Orders.

2, (1) Where the Cabinet decides that a Bill or resolution should be introduced in Parliament, being a Bill or resolution which will have the effect of—

3. A Revenue Protection Order shall cease to be in force—

When a Revenue Protection Order ceases to be in force.

- (a) imposing any customs duty on any article for the time being not subject to such duty; or
- (b) increasing or reducing the rate of such duty on any article for the time being subject to such duty; or
- (c) abolishing such duty on any article for the time being subject to such duty,

- (a) on a date four months after the date on which such Order came into force; or
- (b) on the date of the rejection by Parliament of the Bill or resolution which was the subject-matter of the decision in relation to which such Order was made; or
- (c) on the date of the withdrawal of such Bill or resolution from Parliament; or
- (d) on the date on which Parliament adjourns *sine die* the consideration of such Bill or resolution; or
- (e) on the date of the dissolution of Parliament ; or
- (j) on the date on which such Bill (whether with or without modification) becomes an Act of Parliament, or such resolution (whether with or without modification) is passed by Parliament, as the case may be,

the Minister may make an Order with a view to giving immediate legal effect to such decision pending that Bill becoming an Act of Parliament, or that resolution being passed by Parliament, as the case may be.

(2) An Order made by the Minister under subsection (1) is in this Act referred to as a " Revenue Protection Order ".

(3) A Revenue Protection Order shall come into force on such date as may be specified in the Order or, if no date is so specified, on the date on which it is made by the Minister.

(4) A Revenue Protection Order shall, so long as it remains in force, have the effect of law notwithstanding anything in the Customs Ordinance or any resolution passed by Parliament thereunder and, if so expressly provided, notwithstanding the provisions of any other written law (other than the Customs Ordinance or such resolution) as may be specified in the Order.

whichever date is the earlier date.

4. So long as a Revenue Protection Order is for the time being in force in respect of any customs duty on any article, the Minister shall not make a subsequent Revenue Protection Order in respect of such

Circumstances in which a Revenue Protection Order is void and of no effect.

duty on that article, and accordingly any such Order made by the Minister in contravention of the preceding provisions of this section shall be void and of no effect whatsoever.

5. So long as a Revenue Protection Order is for the time being in force in respect of any customs duty on any article, the Principal Collector shall,—

- (a) if such Order is an Order to demand and levy such duty on that article at the rate or rates specified in the Order, provisionally demand and levy such duty on that article at the rate or rates so specified, in lieu of such duty leviable on that article under the Customs Ordinance or any resolution passed by Parliament thereunder but, unless otherwise expressly provided in the Order, in addition to such duty leviable on that article under any written law other than the Customs Ordinance or such resolution; or
- (b) if such Order is an Order abolishing such duty on that article, provisionally not demand or levy such duty on that article.

6. Where a Revenue Protection Order in respect of any customs duty on any article ceases to be in force, the Principal Collector shall,—

- (a) if such Order has so ceased to be in force by virtue of the operation of any of the provisions of paragraphs (a) to (e) of section 3 and customs duty was leviable on that article on the day immediately preceding the date on which such Order came into force, demand and levy such duty at the rate which was in force on that day; or
- (b) if such Order has so ceased to be in force by virtue of the operation of the provisions of paragraph (f) of section 3 and was not an Order abolishing such duty on that article, demand and levy such duty at the rate specified in the Act of Parliament or the resolution referred to in that paragraph,

until the rate of such duty is altered, or such duty is abolished, under the provisions of

this Act or any other written law applicable in that behalf.

7. (1) Where a Revenue Protection Order in respect of any customs duty on any article ceases to be in force, then, u—

Refunds and recoveries of customs duty.

- (a) such duty is required to be demanded and levied on that article on or after the date of such cessation at a rate higher than the rate at which such duty was so demanded and levied while such Order was in force, the Principal Collector shall be entitled to recover from the person from whom such duty was so demanded and levied the amount which would have been payable by such person as such duty if such duty had been demanded and levied at such higher rate while such Order was in force, less any sum actually paid by such person as such duty while such Order was in force; or
- (b) such duty is required to be demanded and levied on that article on or after that date at a rate lower than the rate at which such duty was so demanded and levied while such Order was in force, the person from whom such duty was so demanded and levied shall be entitled to a refund from the Principal Collector of the amount of such duty paid in excess by such person while such Order was in force; or
- (c) no such duty is required to be demanded and levied on that article on and after that date but was so demanded and levied while the Order was in force, the person from whom such duty was so demanded and levied shall be entitled to a refund of the whole amount paid by such person as such duty while such Order was in force; or
- (d) such duty is required to be demanded and levied on that article on and after that date but was not so demanded and levied while such

Effect of a Revenue Protection Order.

Customs duty which may be demanded and levied when a Revenue Protection Order ceases to be in force.

REVENUE PROTECTION

Order was in force, the amount which would have been payable as such duty if it had been demanded and levied while such Order was in force at the rate in force on and after that date shall be recoverable by the Principal Collector from the person who would have been liable to pay such duty.

(2) The provisions of subsection (1) shall have effect notwithstanding anything in section 5.

* 10. In this Act unless the context interpretation otherwise requires—

" customs duty " means any export duty or import duty;

" Principal Collector" means the Principal Collector of Customs and includes any Deputy or Assistant Collector of Customs, or any Officer of Customs.

* Sections 8 and 9, repealing the Revenue Protection Ordinance, are omitted.

CHAPTER 213

RICE RESERVES

Onlinante AN ORDINANCE TO MAKE PROVISION FOR THE MAINTENANCE OF RESERVE STOCKS
 No. 52 of 1941. QF- RÆ BY DEALERS, ESTATES, EMPLOYERS OF LABOUR AND GOVERNMENT CONTRACTORS, AND FOR SUCH PURPOSE TO SUPPLEMENT THE PROVISIONS OF THE ESSENTIAL COMMODITIES RESERVES ORDINANCE, NO. 5 of 1939*, AND FOR OTHER MATTERS CONNECTED WITH OR INCIDENTAL TO THE PURPOSES AFORESAID.

[12th December. 1941.]

Short title and operation.

1. This Ordinance may be cited as the Rice Reserves Ordinance, and shall be in operation in every such area (hereinafter referred to as a "proclaimed area") as may for the time being be specified by the Minister by Order published in the Gazette to be an area in which the provisions of this Ordinance shall apply.+

applies), who supplies rice or is under any contract or obligation to supply rice whether cooked or uncooked, at any place or premises in a proclaimed area to persons employed by him, and who, for the purposes of such supply, uses on an average each month a quantity of rice equal to or greater than ten bushels;

Application of Ordinance m establishments, estates employers and contractors.

2. For the purposes of this Ordinance—

"establishment to which this Ordinance applies" means any establishment, situated in a proclaimed area, at which the average amount of rice used or consumed each month for the supply of meals is equal to or greater than ten bushels ;

"contractor to whom this Ordinance applies" means any person who, at any time after the provisions of this Ordinance come into operation in a proclaimed area, enters into a contract for the supply and delivery, in that area, of rice, whether cooked or uncooked, to any hospital or establishment maintained by the Government, or to any State prison or to any of the armed forces.

"estate to which this Ordinance applies" means any land, situated in a proclaimed area, of which ten or more acres are actually cultivated and on which not less than forty persons are usually resident, whether or not such persons are actually employed on the land in any capacity, and includes an estate as defined in section 3 of the Estate Labour (Indian) Ordinance;

"employer to whom this Ordinance applies" means an employer, (not being the manager of an establishment to which this Ordinance applies or the proprietor of an estate to which this Ordinance

3. (1) Upon the publication in the Gazette of an Order under section 1 in respect of any area, the Controller shall, by notice published in accordance with the provisions of subsection (2), specify, in relation to that area, a date on or before which returns shall be made under section 4(1) or section 5 (1), as the case may be, by managers of establishments, employers, contractors, and proprietors of estates ; and for the purposes of the application of any of the provisions of section 4 or section 5 in the case of that area, any reference in any

Meaning of "prescribed date"

* See List of Enactments omitted from the Revised Edition,
 t Made applicable to the whole of Ceylon. Gazette No. 8,833 of 19th December. 1941.

such provision to " the prescribed date " shall be deemed to be a reference to the date so specified by the Controller.

(2) Every notice under subsection (1) shall be published in the Gazette and in at least one Sinhala, one Tamil and one English newspaper.

Duly of managers, employers, &c to furnish returns.

4. (1) On or before the prescribed date—

- (a) the manager of every establishment to which this Ordinance applies;
- (h) every employer to whom this Ordinance applies, and
- (c) every contractor to whom this Ordinance applies,

shall furnish to the Government Agent a return containing such particulars as the Government Agent may require for the purposes of this Ordinance.

(2) Every person who, on any date subsequent to the prescribed date, becomes the manager of an establishment to which this Ordinance applies or an employer to whom this Ordinance applies or a contractor to whom this Ordinance applies, shall, within ten days of that date, furnish to the Government Agent a return containing such particulars as the Government Agent may require for the purposes of this Ordinance.

(3) Every return under subsection (1) or subsection (2) shall be made on such form as may be provided by the Government Agent for the purpose.

Duty of proprietors of estates to furnish returns.

5. (1) On or before the prescribed date, the proprietor of every estate to which this Ordinance applies shall furnish to the Controller or to such other officer of Government as may be specified by the Controller by notification published in the Gazette, a return containing such particulars as the Controller may require for the purposes of this Ordinance.

(2) Every person who, on any date subsequent to the prescribed date, becomes the proprietor of an estate to which this Ordinance applies, shall, within ten days of that date, furnish to the Controller or to such other officer as may have been specified by notification under subsection. (1) a return containing such particulars as the Controller may require for the purposes of this Ordinance.

(3) Every return under subsection (1) or subsection (2) shall be made on such form as

may be provided by the Controller for the purpose.

6. (1) The Government Agent may, by notice, require any employer, or the manager of any establishment, or any person who in his opinion is a contractor to whom this Ordinance applies, to furnish to him in such form as he may provide and before such date as he may specify, such particulars as he may require for the purposes of this Ordinance; and upon receipt of any such notice, it shall be the duty of the person to whom the form is sent to return such form duly completed before the date so specified.

Power to require particulars to be furnished.

(2) The Controller, or any officer specified in a notification under section 5 (1), may, by notice, require the proprietor of any estate to furnish to him, in such form as he may provide and before such date as he may specify, such particulars as he may require for the purposes of this Ordinance; and upon receipt of any such notice, it shall be the duty of the person to whom the form is sent to return such form duly completed to the Controller or to such officer before the date so specified.

7. (1) Subject to the provisions of subsection (4), no person shall, on or after such date as the Minister may fix in respect of any proclaimed area by notification published in the Gazette, carry on business as a dealer in rice in that proclaimed area, unless he has been registered as a dealer under this Ordinance.

Registration of dealers.

(2) Every application for the registration of a person as a dealer in rice shall be made to the Government Agent in such form as the Government Agent may provide for the purpose.

(3) The Government Agent shall, upon the registration of any person as a dealer in rice, issue to that person a certificate authorizing him to carry on the business of a dealer.

(4) The Minister may, in any notification under subsection (1), or by subsequent notification, declare that no registration under subsection (1) shall be required in the case of persons carrying on business as dealers in any such part of a proclaimed area as may be specified in the notification; and nothing in the preceding provisions of this section or in section 8 shall apply in the case of any person by reason only of the fact that he carries on business as a dealer in any such specified part of a proclaimed area.

(5) The Government Agent may, by notice, require any dealer to furnish to him in such

form as he may provide and before such date as he may specify, such particulars as he may require for the purposes of this Ordinance, and upon receipt of any such notice, it shall be the duty of the person to whom the form is sent to return such form duly completed on or before the date so specified.

Orders requiring reserves to be kept.

8. (1) Subject to the provisions of section 10, the Government Agent may, by order served on any person who—

- (a) is a registered dealer;
- (b) is the manager of an establishment to which this Ordinance applies ;
- (c) is an employer to whom this Ordinance applies; or
- (d) is a contractor to whom this Ordinance applies,

direct that person to keep reserves of rice during such periods, in such quantities, and at such place or places, as may be specified in the order.

(2) An order under subsection (1) requiring a registered dealer to keep reserves of rice may be made by entry in, or endorsement upon, the certificate issued to that dealer under section 7.

(3) The Controller, or any officer specified in any notification under section 5 (1), may, by order served on any person who is the proprietor of an estate to which this Ordinance applies, direct that person to keep reserves of rice during such periods, in such quantities and at such place or places as may be specified in the order.

(4) Upon the service on any person of any order made under the preceding provisions of this section, that person shall keep reserves of rice in accordance with the directions contained in the order.

Alteration and rescission of orders.

9. Any order made under section 8 may at any time be altered, varied or rescinded by the authority by whom such order was made.

Power of Controller to grant exemptions in the case of importers of rice.

10. Where the Controller is satisfied that a registered dealer is for the time being registered as an importer of rice under the Essential Commodities Reserves Ordinance,

No. 5 of 1939*, the Controller may, in his discretion and to such extent as he may deem expedient, exempt that dealer from the operation of section 8 of 'this Ordinance; and, in any such case, the powers conferred by section 8 on the Government Agent shall be exercised subject to any exemption which may have been granted by the Controller under this section.

11. (1) Where the Government Agent is satisfied that any registered dealer has contravened any provision of this Ordinance or of any regulation, the Government Agent may, by order, cancel the registration and the certificate of that dealer. An appeal shall lie to the Minister against any order of cancellation made under this section; and the decision of the Minister upon any such appeal shall be final.

Cancellation of registration of dealer.

(2) Where any person who has been registered as a dealer under this Ordinance proposes to discontinue his business as a dealer in rice, he may make application to the Government Agent for the cancellation of his registration as a dealer; and the Government Agent may, upon surrender to him of the certificate of registration issued to that person under section 7, cancel the registration of that person as a dealer in rice and alter, vary or rescind any order which may have been made under section 8 requiring that person to keep reserves of rice.

12. Regulations may be made exempting persons who are required under this Ordinance to keep reserves of rice or any specified class or description of such persons, from the operation of any provision of any other written law relating to the storage of rice and to the places at which and the manner in which rice shall be stored ; and my such regulation shall have effect notwithstanding anything to the contrary in such other written law.

Spccial regulations as to storage, &c.

13. The Controller, or any Government Agent, or any authorized officer may at any reasonable time during the day enter any granary, warehouse, shop, store or other premises in which rice is kept, or in which reserves of rice are kept or required under this Ordinance U be kept, and may make such examination of the stocks of rice and

Powers of entry and examination.

* See List of Enactments omitted from the Revised Edition.

of the books and registers kept or maintained therein, as he may deem necessary for the purposes of this Ordinance or for the purpose of verifying any particulars furnished under this Ordinance.

In this section, "examination" includes the weighing and measuring of rice.

Books, registers, &c.

14. The Controller may, by notification published in the Gazette, direct that all or any of the persons who are required by order under this Ordinance to keep reserves of rice shall maintain such books or registers as may be specified in the notification. Every such book or register shall be made available for inspection at any time by the Controller, or by a Government Agent or by a peace officer, or by any authorized officer.

Verification of returns and applications.

15. Every return and every application made under or for the purposes of this Ordinance shall be verified by a declaration signed by the person making the return or application, as the case may be, to the effect that the statements and particulars contained therein are true and accurate. Every such declaration shall be free of stamp duty.

Special provisions as to signatures on orders, notices, &c.

16. A facsimile of the signature of any officer of Government, if printed upon any order, notice or other document made or issued for the purposes of this Ordinance, or if affixed to any such notice, order or document by means of a rubber stamp or otherwise, shall, for the purposes of the application of the provisions of section 57 (7) of the Evidence Ordinance and for all other purposes, be deemed, until the contrary is proved, to be the signature of that officer.

Ordinance to be administered under general directions of the Controller.

17. The Government Agent shall, in the exercise of his powers, the performance of his duties and the discharge of his functions under this Ordinance, be subject to the general direction and control of the Controller; and without prejudice to the preceding provisions of this section the Government Agent shall, in determining whether an order should be issued under section 7 in respect of any person, in specifying the amount of any reserve to be kept by any person, and in deciding whether any order should be altered, varied or

rescinded under this Ordinance, have regard and give effect to all such instructions as may be issued to him in that behalf by the Controller.

18. (1) Any person who—

Offences and penalties.

- (a) acts in contravention of any provision of this Ordinance; or
- (b) fails to comply with any order or requirement made under this Ordinance or with any directions given thereunder; or
- (c) fails or refuses duly to furnish any return or particulars required to be furnished by him under this Ordinance; or
- (d) makes in any return or other document furnished under this Ordinance any statement which is untrue or incorrect,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees, or to imprisonment of either description for a term not exceeding three months, or to both such fine and imprisonment.

(2) The court which convicts any registered dealer of any offence under this Ordinance may, in addition to any other punishment which it may impose for that offence, make order cancelling the registration of that dealer and the certificate issued to him under this Ordinance.

19. (1) Notwithstanding anything in the Code of Criminal Procedure Act—

Power to sanction prosecutions and to compound offences.

- (a) no prosecution shall be instituted against any person for any offence except by the Government Agent or with his written sanction;
- (b) where the Government Agent has reasonable grounds for believing that any person has committed an offence, he may, if he thinks fit, compound such offence instead of instituting a prosecution against that person for that offence;

(c) where a prosecution has been instituted against any person for any offence, the Government Agent may, at any time before the Magistrate has recorded his verdict, compound that offence and withdraw the prosecution.

(2) Where an offence is compounded under subsection (1) the Government Agent may accept from the offender such sum of money as the Government Agent may deem appropriate for the composition of that offence ; and any sum so accepted shall be credited to the Consolidated Fund.

(3) For the purpose of the application of the preceding provisions of this section in the case of any offence committed or alleged to have been committed by the proprietor of an estate, every reference in those provisions to the Government Agent shall be deemed to be a reference to the Controller,

(4) Save as provided in subsections (1), (2) and (3), the provisions of the Code of Criminal Procedure Act shall apply in respect of any offence or the prosecution of any person therefor.

(5) In this section, " offence " means an offence under this Ordinance.

Authorized officers.

20. The Controller may, by notification published in the Gazette, appoint any person, by name or by office, to be an authorized officer for the purposes of this Ordinance.

Regulations.

21. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters :—

(a) appeals to the Minister under this Ordinance, the time within which such appeals must be preferred;

(b) the matters referred to in section 12 ;

(c) the service of notices and orders under this Ordinance;

(d) the issue of duplicates of certificates of registration.

(3) No regulation shall have effect unless it is approved by Parliament. Notification of such approval shall be published in the Gazette.

(4) Every regulation shall, on the publication of the approval of that regulation under subsection (3), be as valid and effectual as if it were herein enacted.

22. In this Ordinance, unless the context otherwise requires—

Interpretation.

" armed forces " means the Sri Lanka Army, Sri Lanka Navy and the Sri Lanka Air Force;

" authorized officer " means any person appointed to be an authorized officer under section 20;

" Controller " means the person for the time being holding the office of Food Controller under the Food Control Act, and includes the person for the time being holding the office of Deputy Food Controller under that Act;

" dealer " means a person who, by way of trade, carries on any business (whether wholesale or retail) of selling uncooked rice, and includes any person who so carries on any such business together, with any other business;

" establishment " includes any institution, school, private hospital, club, hotel, resthouse, boarding house, restaurant or eating house at or from which meals are supplied;

" estate " means any land under cultivation;

" Government Agent " includes an Assistant Government Agent;

"manager", in relation to an establishment, means the proprietor of the establishment, and includes the person for the time being in charge of the establishment;

"proprietor", in relation to an estate, includes the superintendent or other person for the time being in charge of that estate ;

"regulation" means a regulation made under this Ordinance.

23 The provisions of this Ordinance shall be in addition to and not in derogation of the provisions of the Food Control Act or the Essential Commodities Reserves Ordinance, No. 5 of 1939*.

• Sec List of Enactment!) omitted from the Revi-ied F.diliun.

CHAPTER 419

RATNAPURA SRI SUMANA BAUDDHA SANGAMAYA

Law No. 26 of 1975. A LAW TO INCORPORATE THE RATNAPURA SRI SUMANA BAUDDHA SANGAMAYA.

[17th July. 1975.]

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|--|--|---|------------------------|
| Short title. | 1. This Law may be cited as the Ratnapura Sri Sumana Bauddha Sangamaya Law. | 4. (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation, be administered by an Executive Committee consisting of the Patrons, the President, five Vice-Presidents, the General Secretary, the Organizing Secretary and the Treasurer of the Corporation and such number of other persons elected in accordance with the rules in force for the time being of the Corporation. | Executiv Committee |
| Incorporation of the Ratnapura Sri Sumana Bauddha Sangamaya. | 2. From and after the date of commencement of this Law, the President, Vice-Presidents and members of the Executive Committee for the time being of the Ratnapura Sri Sumana Bauddha Sangamaya, and such and so many persons as now are members of the said Ratnapura Sri Sumana Bauddha Sangamaya, hereinafter referred to as " the Association ", or shall hereafter be admitted members of the Corporation hereby constituted, shall be a body corporate (hereinafter referred to as " the Corporation ") with perpetual succession under the name and style of "The Ratnapura Sri Sumana Bauddha Sangamaya " and by that name may sue and be sued in all courts, with full power and authority to have and use a common seal and to change and alter the same at their pleasure. | (2) All members of the Corporation shall be subject to the rules in force for the time being of the Corporation. | |
| General objects of the Corporation. | 3. The general objects for which the Corporation is constituted are hereby declared to be :— | (3) The first Executive Committee of the Corporation shall consist of the Patrons, the President, the Vice-Presidents, the General Secretary, the Organizing Secretary, the Treasurer and the other members of the Committee of the Association holding office on the date of commencement of this Law. | |
| | (a) to administer and develop the Sri Sumana Pirivena, Ratnapura, and the institutions affiliated thereto ; | 5. It shall be lawful for the Corporation, from time to time, at any general meeting of the members and by a majority of votes according to the rules for the time being in force, to make rules for the admission, withdrawal or expulsion of members for the conduct of the duties of the Executive Committee and of the various officers, agents and servants of the Corporation, for the procedure in the transaction of business, and otherwise generally for the management of the affairs of the Corporation and the accomplishment of its objects, and subject to the provisions of section 7, such rules may, at a general meeting, be amended, added to or rescinded. | Power to make rules |
| | (b) to advance the interests of the Buddha Sasana; | | |
| | (c) to undertake educational and other social welfare projects ; and | | |
| | (d) to undertake national and cultui activities. | | |

Rules in the Schedule to be rules of the Corporation.

6. Subject to the provisions of section 5, the rules set out in the Schedule* to this Law, shall for all purposes be the rules of the Corporation:

(2) The Principal of the Pirivena shall be the Secretary of the Board of Governors.

Provided, however, that nothing in this section contained shall be deemed or construed to prevent the Corporation at any general meeting from making fresh rules or from amending, adding to or rescinding any of the rules set out in the Schedule*.

(3) Every member of the Board of Governors except those holding office ex officio, shall be appointed for a period of five years and shall be eligible for reappointment.

Procedure for Corporation rules.

7. No rule in the Schedule* to this Law nor any rule hereafter passed at a general meeting, shall be amended, added to or rescinded, except by a vote of two-thirds of the members present and voting at a general meeting of the Corporation.

10. (1) No expenditure above one thousand rupees, or any disposition of property by way of lease, hire, rental, mortgage, sale, purchase, gift or otherwise shall be valid unless such expenditure or disposition shall have had the prior approval of the Board of Governors.

Debts due by and payable to the Association.

8. All debts and liabilities of the Association existing at the time of the coming into operation of this Law shall be paid by the Corporation and all debts due to and all subscriptions and contributions payable to the Association shall be paid to the Corporation for the purposes of this Law.

(2) The Executive Committee may not exercise its borrowing powers on behalf of the Corporation unless it has obtained the prior approval of the Board of Governors.

The Board of Governors.

9. (1) There shall be a Board of Governors consisting of the following, namely:—

11. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of two members of the Executive Committee namely the President and either the General Secretary or the Treasurer who shall sign their names to the instrument in token of their presence and such signing shall be independent of the signing of any person as a witness.

- (a) the Viharadhipathi for the time being of the Sri Sumana Pirivena Viharaya, Ratnapura;
- (b) the Principal for the time being of the Sri Sumana Pirivena, Ratnapura;
- (c) two approved teachers of the Sri Sumana Pirivena, Ratnapura, elected by the teachers of the said Pirivena;
- (d) three representatives of the Corporation elected at a general meeting of the Corporation; and
- (e) two representatives of the past students of the said Pirivena elected at a meeting of the Past Students Association.

12. The Corporation shall be able and capable in law to take and hold any property, movable or immovable, which may be vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise, and all such property shall be held by the Corporation for the purposes of this Law and subject to the rules in force for the time being of the Corporation with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

13. Nothing in this Law contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Law and those claiming by, from, or under them.

* Schedule omitted.—Private enactment.

CHAPTER 466

RIFAI THAREEQ ASSOCIATION

Law A LAW TO INCORPORATE THE RIFAI THAREEQ ASSOCIATION OF SRI LANKA.
 No. 29 of 1976.

[21st December, 1976.]

Short title. **1.** This Law may be cited as the Rifai Thareeq Association of Sri Lanka (Incorporation) Law.

Incorporation of the Rifai Thareeq Association of Sri Lanka. **2.** From and after the date of commencement of this Law, such and so many persons as now are members of the Rifai Thareeq Association of Sri Lanka (hereinafter referred to as "the Association ") or shall hereafter be admitted members of the Corporation hereby constituted, shall be and become a Corporation with perpetual succession under the style and name of "The Rifai Thareeq Association of Sri Lanka"* (hereinafter referred to as "the Corporation "), and by that name may sue and be sued in all Courts, with full power and authority to have and to use a common seal and to change and alter the same at its pleasure.

General objects of the Corporation. **3.** The general objects of the Corporation are hereby declared to be—

- (a) the study and the promotion of Islamic culture and religion and the development of the Rifai Thareeq;
- (b) the research into the life history and activities of the founder of the Rifai Thareeq, His Holiness Sulthanul Arifeen Seyed Ahameed Kabeer Rifai (Kadesallahu Sirrahul Azees) and to conduct commemorative events connected therewith, and also of Prophet Muhammed (Sellallahu Alaihiwasallam) and of other leading Saints;
- (c) the promotion of a spirit of fellowship among the members of the Corporation and the inculcation in them the spirit of service to the community and the country;

(c) the provision of facilities for the advancement of education of the Muslims;

(e) the establishment and maintenance of a Muslim religious school for the teaching of Al Quran and the Arabic Language;

(f) the provision for charitable acts for the benefit of poor Muslims;

(g) the maintenance of the Mohideen Mosque, First Mosque Lane, Colombo 12;

(h) the engagement in any religious or charitable acts as may be found to be necessary in the opinion of the General Committee of Management; and

(i) to do all such other things as are incidental or conducive to the accomplishment of the above objects.

4. The Corporation shall have the power to do, perform and execute all such acts, matters and things whatsoever as are necessary or desirable for the promotion or furtherance of the objects of the Corporation or any one of them including the power to open, operate and close bank accounts, to borrow or raise moneys with or without security, and to engage, employ and dismiss personnel required for the carrying out of the objects of the Corporation.

General powers of the Corporation.

5. (1) The Spiritual Heads of the Corporation shall be the Life Patrons of the Corporation as long as they continue to be such Spiritual Heads.

Life Patrons.

(2) The Spiritual Heads of the Association on the date of commencement of this Law, namely—

- (a) His Eminence Rifai Moulana P. P. Nalla Koya Thangal,
- (b) His Eminence Rifai Moulana P. P. Yoosuf Koya Thangal, G. K. K., and
- (c) His Eminence Rifai Moulana Seyid Fathhudeen Thangal, M.A. (Al-Azhar).

shall be the first Life Patrons of the Corporation.

General Committee of Management.

6. (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation, be administered by a General Committee of Management consisting of such number of persons as may be provided for in such rules and appointed annually by the Life Patrons.

(2) The first General Committee of Management of the Corporation shall be the General Committee of Management of the Association holding office on the date of commencement of this Law,

Committee of Trustees.

7. (1) The custody of all property belonging to the Corporation shall, subject to the rules for the time being of the Corporation, be vested in a Committee of Trustees consisting of five persons who shall be appointed by the Life Patrons, and shall continue as such Trustees until they resign or die, or until they are removed from office by the Life Patrons.

(2) The first Committee of Trustees of the Corporation shall be the Committee of Trustees of the Association holding office on the date of commencement of this Law.

Rules of the Corporation.

8. (1) It shall be lawful for the Corporation from time to time at any general meeting of the members and by a majority of votes to make rules for the admission, withdrawal or expulsion of members, for the conduct of the duties of the General Committee of Management, the

Committee of Trustees and the various officers, agents and servants of the Corporation, for the procedure in the transaction of business, and otherwise generally for the management of the affairs of the Corporation and the accomplishment of its objects. Such rules when made may, at a like meeting, be altered, added to, amended or rescinded.

(2) The rules of the Association in force on the date of commencement of this Law shall be deemed to be the rules of the Corporation made under this section.

(3) All members of the Corporation shall be subject to the rules of the Corporation for the time being in force.

9. All debts and liabilities of the Association existing at the time of the coming into operation of this Law shall be paid by the Corporation hereby constituted, and all debts due to and subscriptions and contributions payable to the Association, shall be paid to the Corporation for the purposes of this Law.

Debts due by and payable to the Corporation.

10. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of such number of persons as may be provided for in the rules of the Corporation who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

How the seal of the Corporation is to be affixed.

11. The Corporation shall be capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise, and all such property shall be held by the Corporation for the purposes of this Law and subject to the rules in force for the time being of the Corporation.

Corporation may hold property, movable and immovable.

12. Nothing in this Law contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Law and others claiming by, from, or under them.

Saving of the rights of the Republic and others.

CHAPTER 476

RAILWAY UNIFORM STAFF BENEVOLENT FUND

Ordinance AN ORDINANCE TO INCORPORATE THE CEYLON RAILWAY UNIFORM STAFF
 No. 50 of 1947. BENEVOLENT FUND.

[19th December, 1949.]

Short title- **1.** This Ordinance may be cited as the Railway Uniform Staff Benevolent Fund Ordinance.

incorporation. **2.** From and after the passing of this Ordinance the president and such and so many persons as are now members of the Ceylon Railway Uniform Staff Benevolent Fund (hereinafter referred to as "the association"), or shall hereafter be admitted members of the corporation hereby constituted shall be and become a corporation with continuance for ever under the name of "The Ceylon Railway Uniform Staff Benevolent Fund ", (hereinafter referred to as the corporation) and by that name may sue and be sued in all courts and shall have full power and authority to have and use a common seal, and to change and alter the same at their will and pleasure.

General objects. **3.** The general objects for which the corporation is constituted are hereby declared to be—

- (a) to promote thrift among its members;
- (b) to give relief to its members in times of distress;
- (c) to pay to each member on his retirement, resignation or dismissal from the public service such portion of his contribution to the funds of the corporation and such donation, if any, as may be authorized by the rules of the corporation made as hereinafter provided; and
- (d) in the event of the death of any member prior to his ceasing to be a public servant to pay to his nominee appointed in accordance with the rules of the corporation or,

in the absence of a properly appointed nominee, to his heirs at law such portion of his contribution to the funds of the corporation and such donation, if any, as may be authorized by the rules of the corporation.

4. (1) The affairs of the corporation shall be subject to the rules of the corporation and be administered by a committee of management consisting of the following:—

- (a) Ex officio members:
 - (i) The president of the corporation (hereinafter referred to as "the president") elected each year by the members of the corporation from among their own number or from among the officers of the Government Railway Department at the annual general meeting of the corporation; and
 - (ii) two vice-presidents elected each year by the members of the corporation from among their own number at the annual general meeting of the corporation.

(b) Elected members:
 Twelve persons elected each year by the members of the corporation from among their own number at the annual general meeting of the corporation.

(2) The first committee of management shall consist of the president, the two

vice-presidents, the secretary and treasurer and the members of the committee of management of the association holding office at the time of the coming into operation of (his Ordinance, and shall function until the first general meeting of the corporation.

Secretary to the Ministry and after such approval has been obtained he shall be seconded for service as the secretary and treasurer of the corporation and appointed as such by the said committee on such terms and conditions as may be agreed upon from time to time between the Government and the said committee.

Powers of the committee of management.

5. The committee of management shall, subject to the provisions of this Ordinance and of any rules made under section 16, have full power and authority—

(a) to govern, direct and decide all matters whatsoever connected with—

(i) the appointment and dismissal of officers, agents and servants of the corporation;

(ii) the administration of the affairs of the corporation;

(iii) the accomplishment of the objects of the corporation ; and

(b) to defray out of the funds of the corporation all expenses necessary for the purpose of such appointment and dismissal and of such administration and accomplishment:

Provided that the said committee shall not exercise any powers which are by this Ordinance or by the rules made under section 16 declared to be exercisable by the corporation in general meeting;

Provided further that no rule made by the corporation in general meeting shall invalidate any prior act of the said committee which would have been valid if such rules had not been made.

Secretary and treasurer.

6. (1) The committee of management shall select a person from among the members of the corporation for appointment to the joint office of secretary and treasurer of the corporation.

(2) The appointment of such person as secretary and treasurer of the corporation shall be subject to the approval of the

(3) If at any time the said committee be of opinion that it is not possible to appoint a suitable person to the joint office of secretary and treasurer from among the members of the corporation it shall be lawful for the said committee subject to the approval of the Secretary to the Ministry to appoint any suitable person to the said office.

(4) If at any time it is necessary provisionally to fill the joint office of secretary and treasurer of the corporation any person may be appointed in that capacity for a period of three months by the said committee.

7. The person appointed to the joint office of secretary and treasurer of the corporation (in this Ordinance and in the rules made thereunder referred to as "the secretary and treasurer ") shall receive and keep account of all moneys and funds of the corporation and shall act as secretary of the committee of management and shall, subject to the provision of section 23 (2), pay all claims, loans, advances and expenses authorized by the said committee. He shall also prepare and submit monthly to the said committee an account of the transactions of the corporation and generally act under the direction of the ex officio members of the said committee.

Duties of secretary and treasurer.

8. (1) (a) Meetings of the committee of management for the dispatch of business shall be held at least once a month.

Committee meeting

(b) It shall be lawful for the president to convene a special meeting of the said committee whenever he shall consider it desirable.

(c) It shall be incumbent upon the president to convene a special meeting of the said committee whenever so requested by five or more members thereof.

(2) Any member of the committee of management who does not attend three successive meetings thereof shall cease to be a member of the said committee.

hereby constituted, shall have his name inscribed.

Who shall preside at committee meetings.

9. The president shall if present preside at meetings of the committee of management. In the absence of the president one of the vice-presidents who will be elected for the purpose by the members of the committee present at the meeting shall preside. In the absence of the president and both the vice-presidents, such member as may be elected for the purpose by the members present at the meeting shall preside.

(2) The register shall contain the following particulars:—

- (a) the name, age at admission, address and occupation of each member;
- (b) the date on which the name of any person was inscribed in the register as a member;
- (c) the date on which any person commenced to be a member;
- (d) the date on which any person ceased to be a member.

Powers of the committee vested in the quorum.

10. All acts whatsoever authorized or required by this Ordinance and the rules made under this Ordinance to be done by the committee of management shall be decided upon and done by the majority of the members present at a duly convened meeting thereof, such members being not less than seven:

(3) All members of the said association whose names are inscribed in the register shall be deemed to have been members of the corporation from the date referred to in subsection (1).

Provided that when the votes of members present in regard to any question shall be equally divided, the person presiding at the meeting shall, besides his own vote as a member, have a casting vote.

14. The committee of management shall cause proper books of account relating to the funds of the corporation to be kept. The said books of account shall be open at all reasonable times to the inspection of the members of the corporation and of any person or persons whom the Secretary to the Treasury may at any time appoint to examine the same. Books of accounts

Vacancies in the committee of management how filled.

11. In the event of death or resignation of any member of the committee of management or in the event of any member ceasing to be a member of the committee of management under section 8 (2) it shall be lawful for the remaining members of the said committee to elect a member of the corporation in his place, and the member so elected shall continue in office until the annual general meeting of the corporation next following his election.

15. It shall be lawful for the corporation by resolution passed at any general meeting to remunerate the services of any member or members of the committee of management, and from time to time fix the amount of such remuneration and to require such security from such member or members so remunerated as may be deemed sufficient. Remuneration to members.

Membership.

12. Every person holding an appointment in the service of the Government Railway who fulfils the requirements of the rules made under section 16 shall be eligible for admission as a member of the corporation and may in the discretion of the committee of management be admitted a member.

16. It shall be lawful for the corporation from time to time at any general meeting of the members and by a majority of votes to make rules for the admission, withdrawal, or expulsion of members, for the imposition of fines and forfeitures for breaches of rules, for the conduct of the duties of the committee of management and of the various officers, agents and servants of the corporation, for the procedure in the transaction of business, for the regulation of the extraordinary loans to be given to members under section 23 and for prescribing the conditions of such loans including the nature and situation of the Rules.

Register of members.

13. (1) The committee of management shall cause to be kept a register in which every person who at the date of the passing of this Ordinance is a member of the said association and every person thereafter duly admitted a member of the corporation

immovable property that may be accepted as security, and otherwise generally for the management of the affairs of the corporation and the accomplishment of its objects. Such rules when made may at a like meeting be altered, amended, or cancelled, subject however to the requirement of section 21:

Provided that no rule or alteration, amendment, or cancellation of any rule shall have effect until the same is confirmed by the Minister. Notice of such confirmation shall be published in the Gazette and thereupon the same shall be as valid and effectual as if it had been herein enacted.

General meetings.

17. (1) The secretary and treasurer upon the request of the committee of management, or upon the written requisition of fifty or more members of the corporation shall call a general meeting of the members of the corporation.

(2) No general meeting shall be held unless the quorum of members prescribed by the rules be present, and unless at least seven days' notice, specifying the time and place of such meeting and the purpose for which it is to be held, has been given by advertisement in two or more local newspapers, or in such other manner as may be required by any rule made by the corporation, and no business shall be brought before or transacted at such meetings other than the business specified in such notice.

Annual general meeting.

18. (1) An annual general meeting of the members of the corporation shall be held not later than the thirty-first day of March of each year, at which there shall be submitted a balance sheet, containing a statement of assets and liabilities of the corporation on the preceding thirty-first day of October and an account of income and expenditure of the corporation during the twelve months ending on the thirty-first day of October of the preceding year.

(2) The said balance sheet and account shall—

(a) be prepared by the secretary and treasurer, and

(b) be duly examined and audited and the correctness thereof certified, prior to the annual general meeting at which the same are submitted, by one or more auditors elected for that purpose by the members of the corporation at the preceding annual general meeting, and

(c) be forwarded in duplicate to the General Manager of Railways within one month of the annual general meeting.

(3) If no auditor is elected under subsection (2) (b), or if any auditor elected under the subsection is unable to act as such through death or any other cause or refuses or neglects to perform his duties, the committee of management may elect an auditor, who shall be deemed to have been duly elected under subsection (2) (b).

(4) Every auditor elected by the members of the corporation or by the committee of management shall receive such remuneration for his services as may be fixed by the members of the corporation or by the committee as the case may be at the time of his election.

(5) If no election of an auditor or auditors is made as aforesaid, the Secretary to the Treasury may, on the application of any member of the corporation, appoint an auditor or auditors for the purpose of examining and auditing any such balance sheet, statement, and account as aforesaid and may fix the remuneration to be paid to him or them by the corporation, and such remuneration shall be paid accordingly. Any auditor or auditors so appointed shall be deemed to have been duly elected under subsection (2) (b).

(6) At every such annual general meeting all business of which due notice has been given shall be transacted and there shall also be elected the president, the vice-presidents and the required number of members of the committee of management, who shall respectively hold office as such until the next subsequent annual general meeting.

(7) No person shall be appointed auditor under this section unless he is—

- (a) a member of the Institute of Chartered Accountants in England and Wales, or of any similar society incorporated by Royal Charter whose members are entitled to use the designation "Chartered Accountant";
- (b) a member of the Society of Incorporated Accountants and Auditors of Great Britain; or
- (c) a public auditor appointed under section 18 of the Societies Ordinance.

Who shall preside at general meetings.

19. The president shall preside at the general meetings of the corporation and in his absence one of the vice-presidents elected for the purpose by the members present shall preside. If the president and both the vice-presidents are absent the members present shall elect one of themselves to be the chairman for the occasion. Whoever presides at a general meeting shall have a casting vote in addition to his own vote as a member.

Security from officers and agents.

20. It shall be lawful for the committee of management to require security to be given by any of the officers, agents or servants appointed by them, and to determine the nature and value of such security.

Mode in which rule or order once made may be subsequently altered, amended or cancelled.

21. No rule passed and no decision come to by the corporation in general meeting shall be altered, amended or cancelled except by at least a majority of two-thirds of the members present and voting at a subsequent general meeting.

Debts due by and payable to association.

22. All debts and liabilities of the association existing at the time of the coming into operation of this Ordinance shall be paid by the corporation hereby constituted and all debts due to and subscriptions, contributions, fines and amounts of loans and advances payable to the association shall be paid to the corporation for the purposes of this Ordinance.

23. (1) The funds of the corporation shall be placed in the name of the corporation at one or more of the local banks, and it shall be lawful for the committee of management from time to time to invest such part of the said fund as is not required for loans, advances and other current expenses—

Funds of the corporation how to be kept, paid out and invested.

- (a) in fixed deposits in one or more of the local banks or in securities of the Government of Sri Lanka, or
- (b) in extraordinary loans to members of the corporation to be secured by mortgage of immovable property situated within eight miles of the Municipal limits of Colombo, or
- (c) in such other manner as the Secretary to the Treasury may from time to time approve.

(2) All cheques and orders against the said fund shall be signed by at least two of the following four persons:—

- (a) the three ex office members of the committee of management, and
- (b) the secretary and treasurer of the corporation.

24. The committee of management may from time to time under the common seal of the corporation appoint such officer or officers, agent or agents, as they may consider necessary for recovering dividends, interest or other revenue to be derived from investment, or for otherwise carrying out the provisions of this Ordinance, and all persons so appointed shall hold office during the pleasure of and shall be entitled to such remuneration as may be determined by the said committee.

Appointment of officers, agents, &c.

25. The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of at least two of the four persons mentioned in section 23 (2), who shall sign their names to the instruments in token of their presence and such signing shall be independent of the signing of any person as a witness.

Seal of the corporation how to be affixed to instruments.

26. The corporation shall be able and capable in law to take and hold any property movable or immovable which may become vested in it by virtue of any grant,

Corporation may hold property, movable or immovable.

gift, testamentary disposition, or otherwise, and all such property shall be held by the corporation for the purposes of this Ordinance.

effect, and if the court decline to grant the prayer of the petition it shall be competent for the petitioner to appeal to the Court of Appeal.

Corporation may demise lands on lease.

27. It shall be lawful for the corporation to demise any land vested in it for building or other purposes, on lease for any term not exceeding ninety-nine years, reserving the best yearly or monthly rental procurable for the same and with the ordinary covenants for re-entry in case of non-payment of rent, breach of covenants, or otherwise.

(3) Any land sold or exchanged or any land which, having been mortgaged, is sold in execution under a mortgage decree obtained from a competent court, shall be held by the purchaser or person taking the same in exchange free of the trusts created by this Ordinance.

Corporation may not sell, exchange, or mortgage lands without leave of court.

28. (1) It shall not be lawful for the corporation to sell, exchange, or mortgage any of the lands vested in it without the leave of the District Court of Colombo, which leave shall be applied for by petition addressed to the said court setting out the fact and reasons for which the corporation desires to sell, exchange, or mortgage such lands, and praying for an order of the said court.

29. In case any doubt or ambiguity shall arise, and any controversy shall take place among the members of the corporation and of the committee of management, or either of them, as to the interpretation of this Ordinance or as to the powers of the said committee, the same shall be referred to the Secretary to the Treasury whose decision shall be final and conclusive.

Doubts or ambiguities how decided.

(2) If the said court shall be of opinion that it will be for the general advantage of the corporation to grant the prayer of the petition, an order may be made to that

30. Nothing in this Ordinance contained shall affect or be deemed to affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Ordinance and those claiming by, from, or under them.

Saving of rights of the Republic and others.

CHAPTER 586

RIVER VALLEYS DEVELOPMENT BOARD

Act
Nos. 51 of 1949,
40 of 1952,
46 of 1961,
50 of 1961,
6 of 1965,
18 of 1965,
Law
No. 4 of 1975.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND REGULATION OF A BOARD FOR THE DEVELOPMENT OF THE GAL OYA VALLEY AND OTHER AREAS WHICH MAY BE BROUGHT UNDER THE CONTROL OF THE BOARD, AND TO MAKE PROVISION FOR MATTERS INCIDENTAL TO OR CONNECTED THEREWITH.

[15th December, 1949.]

Short title. 1. This Act may be cited as the River Valleys Development Board Act.
[§2.6 of 1965.]

(b) if he has, directly or indirectly, any interest in a subsisting contract with, or in any work being done for, the Board except as a shareholder (other than a director) in an incorporated company.

PART I

[§2.6 of 1965.] ESTABLISHMENT OF RIVER VALLEYS DEVELOPMENT BOARD

River Valleys Development Board. [§2.6 of 1965.] 2. (1) With effect from such date* as the Minister may appoint by Notification published in the Gazette there shall be established a board by the name of the River Valleys Development Board.

(4) Where a member of the Board is a shareholder (other than a director) in an incorporated company which has entered into any contract with, or is doing any work for, the Board, he shall disclose to the Minister the nature and extent of the shares held by him in such company.

(2) The Board shall be a body corporate having perpetual succession and a common seal and may by its name sue and be sued.

(5) The Minister may, if he thinks it expedient to do so, remove, by Order published in the Gazette, any member of the Board from office without reason stated.

Constitution of the Board. 3. (1) The Board shall consist of four members appointed by the Minister, one of whom shall be a person nominated for the purpose by the Minister in charge of the subject of Finance, such person being either the Secretary to the Ministry charged with the subject of Finance or any other officer of the General Treasury.

(6) A member of the Board in respect of whom an Order under subsection (5) is made by the Minister shall vacate his office on the date of the publication of such Order in the Gazette.

(2) The Minister shall appoint one of the members of the Board to be the Chairman of the Board.

(7) A member of the Board who has been removed from office shall not be eligible for reappointment as a member of the Board or to serve the Board in any other capacity.

(3) A person shall be disqualified for appointment or for continuing, as a member of the Board—

(8) A member of the Board may at any time resign his office by letter addressed to the Minister.

(a) if he is a Member of Parliament, or

(9) If the Chairman or any other member of the Board is temporarily unable to

* 19th December, 1949.—Gazette No. 10,054 of 16th December, 1949.

RIVER VALLEYS DEVELOPMENT BOARD [Cap. 586]

discharge the duties of his office on account of ill health or absence from Sri Lanka or for any other cause, the Minister may appoint some other person to act in his place as the Chairman or as a member.

(10) Every member of the Board shall, unless he earlier vacates office by death, resignation or removal, hold office for a period of five years. Any member of the Board who vacates office by effluxion of time shall be eligible for reappointment.

(11) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the appointment of a member thereof.

4. The members of the Board shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by regulations made under section 27.

5. (1) The Board may appoint such officers and servants as it considers necessary for the efficient discharge of its functions:

Provided that a person who is not a citizen of Sri Lanka, according to the law for the time being in force relating to citizenship of Sri Lanka, shall not be appointed an officer or servant of the Board without the prior sanction of the Minister.

(2) The officers and servants of the Board shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by rules made under section 2L

(3) No person who has directly or indirectly, by himself or his partner or agent, any share or interest in any contract made by or on behalf of the Board shall become or remain an officer or servant of the Board.

PART II

FUNCTIONS AND POWERS OF THE BOARD

6. (1) The Board may, subject to the other provisions of this Act, discharge all or

any of its functions and exercise all or any of its powers within any area (hereinafter referred to as an "area of authority") consisting of—

(a) the area declared by Order of the Minister to be the Gal Oya Valley for the purposes of this Act, and

(b) such other areas in any part of the Island as may, from time to time, be declared by like Order to be within the control of the Board. [§3,6 of 1965.]

(2) No Order made by the Minister under subsection (1) shall have effect until such Order together with the plan of development and the estimated cost has been approved by Parliament and published in the Gazette. [§ 3, 6 of 1965.]

(3) Nothing in subsection (1) shall be deemed to preclude the Board from maintaining any office or stores outside an area of authority. [§3.6 of 1965.]

(4) Notwithstanding anything to the contrary in this Act- the Board may, acting under the authority granted by the Minister by Order under his hand, execute, outside an area of authority, any such work specified in the order as may be necessary for the discharge of its functions under this Act. [§ 2, 50 of 1961.] [§ 3, 6 of 1965.]

(5) The Minister may by Order published in the Gazette direct that the Board shall cease to discharge or exercise all or any of its functions or powers within the whole or any part of an area of authority ; and every such Order shall be complied with by the Board. [§2. 50 of 1961.] [§3. 6 of 1965.]

7. (1) The Minister shall divide each area of authority into—

(a) the developed area, and [Developed area and undeveloped area. [§4,6 of 1965.]

(b) the undeveloped area.

The limits of each such area shall be specified by Notification published in the Gazette.

(2) If any local authority within an area of authority is likely to be affected by the division of that area into the developed area [§4.6 of 1965.]

Remuneration and conditions of service of members of the Board.

Appointment of officers and servants.

Areas of authority. [§3,6 of 1965.]

and the undeveloped area, the Minister shall, in making such division, consult the Minister in charge of the subject of Local Government.

Functions of the Board.
[§5,6 of 1965.]

8. The functions of the Board shall be—

- (a) to develop each undeveloped area;
- (b) to promote and operate schemes of—
 - (i) irrigation,
 - (ii) water supply,
 - (iii) drainage,
 - (iv) generation, transmission and supply of electrical energy, and
 - (v) flood control;
- (c) to promote and control irrigation and fisheries;
- (d) to promote afforestation ;
- (e) to control soil erosion;
- (f) to promote public health ;
- (g) to prevent and control plant and animal diseases; and
- (h) generally to promote agricultural and industrial development and economic and cultural progress in each area of authority.

[§ 6, 6 of 1965.]

Roads and irrigation.

9. (1) The Board may construct and maintain roads and construct, maintain and operate dams, channels and other irrigation works.

(2) The Board may determine and levy rates for the supply of water for irrigation.

Water supply.

10. (1) The Board may construct waterworks for the supply of water for industrial or domestic purposes and may supply water to any Government department, local authority, or any other person or body of persons.

(2) The Board may determine and levy rates or fees for the supply of water whether in bulk or by retail, and such rates or fees may be levied from any consumer of water supplied by the Board whether such consumer is a Government department or a local authority or any other person or body of persons.

11. All irrigation works which, at the date on which the Board is established or the date with effect from which any area is declared to be within the control of the Board under section 6, are maintained and operated within the area of authority by the Government shall, on and after that date, be maintained and operated by the Board.

Existing irrigation works.
[§6,6 of 1965.]

12. Save as otherwise prescribed, no person shall, on or after the date on which the Board is established, construct in an undeveloped area any irrigation works or waterworks without the prior sanction of the Board or otherwise than in accordance with such conditions as may be imposed by by-laws or directions made or issued by the Board.

Works requiring sanction of the Board.
[§7,6 of 1965.]

13. (1) Notwithstanding anything in the electricity law, the Board may within an area of authority—

Generation and supply of electrical energy.
[§ 8, 6 of 1965.]

- (a) establish, maintain and operate such installations as may be necessary for the purpose of generating, transmitting and supplying electrical energy, and
- (b) sell such energy to any consumer or supplier, whether such consumer or supplier is a Government department, local authority, or any other person or body of persons.

(2) For the purpose of establishing, maintaining and operating any installation for the generation, transmission and supply of electrical energy, the Board shall have all the powers conferred on the General Manager of the Ceylon Electricity Board by or under the electricity law: and the Board shall, in the exercise of those powers, comply with such provisions of that law as the aforesaid General Manager is required by that law to comply with when exercising those powers.

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[§8.6 of 1965.] (3) The electricity law shall apply within an undeveloped area subject to the following modifications : ~

(a) the Board shall be the authority who is empowered to issue licences and permits under the electricity law and who is generally responsible for the administration of that law, and accordingly every reference in that law to the General Manager of the Ceylon Electricity Board shall be deemed to be a reference to the Board ;

(b) the Board shall determine the fees to be charged for the supply of electrical energy whether in bulk or by retail, and such fees shall be recovered in accordance with the electricity law and credited to the fund of the Board ;

(c) the Board may, in any contract for the supply of electrical energy in bulk by the Board to any other supplier, impose such terms and conditions, including the rates of fees to be charged by the other supplier for the sale of electrical energy by retail to consumers, as it may deem necessary or desirable for the purpose of encouraging the use of electrical energy.

Other activities of the Board.

14. (1) The Board may establish, maintain and operate laboratories, experimental and research stations and farms for conducting experiments and research in respect of any of the following subjects:—

(a) the utilization of the water, electrical energy and other resources in the most economical manner for the development of any area of authority;

[§9.6 of 1965.]

(b) the determination of the effect of the operations of the Board on the flow of rivers in any area of authority;

[§9.6 of 1965.]

(c) any other subject included in the functions specified in section 8.

(2) The Board may establish its own departments or agencies for the purposes of any work of planning, designing, construction or operation, or make contracts or other arrangements for such purposes with Government departments, local authorities, educational and research institutions or any person or body of persons:

Provided, however, that the Board shall not, without the prior sanction of the Minister, enter into any such contract or arrangement with any Individual or firm not resident in Sri Lanka or with any company not formed and registered in Sri Lanka.

15. (1) In an undeveloped area the Board shall, notwithstanding the provisions of Part XI of the State Lands Ordinance, be the sole authority responsible for and charged with the administration of that Ordinance, and accordingly every reference in any provision of that Ordinance to the Land Commissioner or any other officer of Government entrusted with any duties in respect of State lands shall, for the purposes of the application of that Ordinance in an undeveloped area, be deemed to be a reference to the Board or to any such officer of the Board as may be authorized by the Board for the purposes of that provision.

State lands. [§ 10, 6 of 1965.]

(2) The Board shall, notwithstanding anything in any other written law, be the sole authority for making recommendations to the Minister in regard to the exercise of such powers of the President in an undeveloped area as are conferred by the State Lands Ordinance or by any other written law relating to State lands.

[§, 10, 6 of 1965.]

(3) The Board may use any State land in an undeveloped area for any of its purposes or reserve any such land for future use.

[§ 10. 6 of 1965-]

16. (1) Where any land or any interest in any land in an area of authority is required by the Board for any of its purposes, that land or interest may be acquired under the land acquisition law by the Government for the Board, and the provisions of that law shall, save as otherwise provided in subsection (2), apply for the purposes of the acquisition of that land or interest.

Compulsory acquisition of land in area of authority. [§ 11. 6 of 1965.]

(2) In any case where any land or any interest in any land is to be acquired under the land acquisition law for any purpose of the Board and the public notice of the intention to acquire that land or interest is published as required by that law at any time within the period of three years commencing on the appointed date, the following provisions shall apply for the purpose of determining the amount of compensation to be paid in respect of that land or interest notwithstanding anything to the contrary in the land acquisition law :—

- (a) the market value of the land shall be deemed to be the market value which the land would have had at the appointed date if it then was in the same condition as it is at the time of acquisition;
- (b) in ascertaining the market value of the land at the appointed date no account shall be taken of any benefit or increase in value which may have accrued, or of any expectation of benefit or increase in value likely to accrue, directly or indirectly, from any work of development or other operation of the Government after the 1st day of October, 1948. or from any work of development or other operation of the Board in pursuance of this Act.

(3) Where the Board requires for any of its purposes any land situated in such part of an undeveloped area as is described in a notice published and displayed under the preceding provisions of this section and where no claim of any right, title or interest to or in that land has been made to the Board as required by that notice or all the claims made in respect of that land are, after due investigation, considered by the Board to be invalid, the Board may take possession of that land and cause any work to be done thereon, notwithstanding that no proceedings under the land acquisition law have been taken in respect of that land.

[§ 12. 6 of 1965.]

(4) Any person authorized in writing in that behalf by the Board may, for and on behalf of the Board, take possession of any land referred to in subsection (3).

(5) Where any person who is authorized in writing by the Board to take possession of any land referred to in subsection (3) is unable to take possession of that land because of any obstruction or resistance which has been offered, he shall, on his making an application in that behalf to the Magistrate's Court having jurisdiction where that land is situated, be entitled to an order of that court directing the Fiscal to deliver possession of that land' to him for and on behalf of the Board.

(6) Where an order under subsection (5) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute that order and in writing report to that court the manner in which that order is executed.

(7) For the purpose of executing an order issued by a Magistrate's Court under subsection (5), the Fiscal or any person acting under his direction may use such force as may be necessary to enter the land to which that order relates and to eject any person offering obstruction or resistance and to deliver possession of that land to the person who is duly authorized to take such possession for and on behalf of the Board.

17. (1) The Board may, by notice published and displayed in accordance with the provisions of subsection (2). require every person who claims any right, title or interest to or in any land situated in such part of an undeveloped area as is described in the notice to prefer his claim in writing to the Board within such time as may be specified in the notice.

(2) The notice referred to in subsection (1) shall be published in the Gazette and in at least one newspaper in the Sinhala language and one newspaper in the Tamil language and shall be displayed, in accordance with directions of the Board, at conspicuous places in such part of an undeveloped area as is described in the notice.

18. (1) Any land of which possession is taken by the Board under section 17 shall, with effect from the date of commencement of such possession, vest absolutely in the Board free from all encumbrances.

Effect of possession under section 17.

Possession of land in undeveloped area otherwise than under land acquisition law. [§, 12. 6 of 1965.]

[§ 12. 6 of 1965.]

(2) No person claiming any right, title or interest to or in any land of which possession has been taken by the Board under section 17 shall, save as provided in subsection (3), be entitled to institute any suit or other legal proceeding against the Board in respect of that land, or of the taking of possession thereof by the Board or of the doing of any work thereon by or under the authority of the Board.

(3) Any person who would but for the provisions of subsection (1) have any right, title or interest to or in any land of which possession has been taken by the Board under section 17 may institute in a court of competent jurisdiction an action against the Board for a declaration of such right, title or interest and for obtaining compensation from the Board in respect of that land.

(4) The amount of compensation which is to be awarded to any person in an action under subsection (3) shall, save as otherwise provided in subsection (5), be determined on the basis on which compensation would be determined under the land acquisition law if the land in respect of which compensation is to be awarded were acquired under that law.

(5) Where compensation is to be awarded to any person in an action under subsection (3) in respect of a land of which possession has been taken by the Board at any time within the period of three years commencing on the appointed date, the provisions of paragraphs (a) and (b) of subsection (2) of section 16 shall apply for the purpose of determining the amount of such compensation.

19. The Board may—

- (a) acquire and hold any movable or immovable property and dispose of any movable or immovable property acquired or held by it;
- (b) cause the construction of such dams, barrages, reservoirs, power houses, power structures, electrical transmission lines and sub-stations, navigation works, irrigation,

navigation and drainage canals, and such other works and structures, as may be required;

- (c) stock its reservoirs and watercourses with fish;
- (d) undertake resettlement of the population displaced by its operations;
- (e) establish and finance co-operative societies;
- (f) undertake measures for the prevention of malaria and other diseases ; and
- (g) execute such other works, and carry out such other operations, as may be necessary for the purpose of discharging its functions under this Act.

***19A.** No person shall erect a monument on any land belonging to the State or on any land vested in or belonging to the River Valleys Development Board except with the prior approval of the Minister granted upon an application made in that behalf by such person.

Control and erection of monuments. [§ 7. Law 4 of 1975.]

In this section " monument " includes any statue, pillar, post, or any structure erected to commemorate any person, whether living or dead, but does not include any structure, tomb, or cross erected in any cemetery or burial ground.

[§ 9, Law 4 of 1975.]

***19B.** It shall not be lawful for the River Valleys Development Board to name any public park, playground, library, reading room, stadium, building, clock tower, bridge or bathing-well except with the prior approval of the Minister.

Naming of public parks, &c. [§ 8. Law 4 of 1975.]

20. (1) The written laws for the time being specified in the First Schedule to this Act shall have effect in every undeveloped area subject to the modification that it shall be lawful for the Board—

Special powers in respect of undeveloped area. [§ 13. 6 of 1965.]

- (a) to make or issue for the whole or any specified part of an undeveloped area any by-law, regulation, order or notification under any such written law, and

[§13.6 of 1965.]

* New sections 19*i* and 19*n* have been introduced in the course of the revision and are based on sections 7, 8 and 9 of the Naming of Streets and the Control of the Erection of Monuments Law. No. 4 of 1975-

General powers.

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[§ 13. 6 of 1965.]

(b) to exercise and discharge in an undeveloped area or any part thereof all or any of the powers or functions vested by any such written law in any officer or person,

in like manner as though references in any such written law to the authority, officer or person empowered to make or issue such by-laws, regulations, orders or notifications or to exercise or discharge such powers or functions include references to the Board.

(2) No officer or person in whom any powers or functions are vested by any written law for the time being specified in the First Schedule to this Act shall, within an undeveloped area. exercise or discharge any of those powers or functions except where necessary for the purpose of executing or carrying out any contract or arrangement made by the Board under subsection (2) of section 14.

(3) The Board may—

(a) by by-law made under section 22 of this Act apply any provision of any written law for the time being specified in the Second Schedule to this Act, with or without modification, to any part of an undeveloped area which is not within the operation of such written law, or

(b) make for any part of an undeveloped area which is not within the operation of any written law for the time being specified in the Second Schedule to this Act any by-law which could, if such part had been within the operation of such written law, have been made by the appropriate local authority.

(4) Any power or function which the Board is authorized by paragraph (h) of subsection (1) to exercise or discharge, may be exercised or discharged on behalf of the Board by any member of the Board or by any such officer of the Board as is authorized in writing in that behalf by the Chairman.

[§ 13. 6 of 1965.]

[§ 13.6 of 1965.]

[§ 13. 6 of 1965.]

21. (1) The Board may make rules in respect of all or any of the following matters:—

(a) any matter which has to be determined under subsection (2) of section 5;

(b) the appointment, promotion, dismissal and disciplinary control of its officers and servants ;

(c) the meetings of the Board and the quorum for and the procedure to be followed at such meetings.

(2) No rule made under subsection (1) shall have effect until it has been approved by the Minister.

(3) The Minister shall not, without the concurrence of the Minister in charge of the subject of Finance, approve of any rule made by the Board in respect of any matter referred to in paragraph (a) or paragraph (b) of subsection (1).

22. (1) The Board may make by-laws in respect of all or any of the following matters:—

(a) any matter which is required by this Act to be prescribed or for or in respect of which by-laws are required or authorized by this Act to be made;

(b) the control of the use of water for irrigation within any area of authority; [§ 14, 6 of 1965.]

(c) the prevention of the pollution of water within any area of authority ; [§ 14, 6 of 1965.]

(d) the prevention of damage to, or the obstruction of, channels in any area of authority ; [§ 14, 6 of 1965.]

(e) the conditions, restrictions and exemptions subject to which any rate imposed under this Act shall be levied;

(f) the recovery, whether in a summary manner or otherwise, of—

(i) rates for the supply of water for irrigation, and

(ii) rates or fees for the supply of water for industrial or domestic purposes;

(g) the regulation of fishing in waters within any area of authority ;

(h) the regulation of navigation within any area of authority;

(i) the ejection of persons trespassing on such lands within any undeveloped area as are under the control of the Board ;

(j) the regulation of the transport or movement of cattle, grain and other agricultural produce within any undeveloped area;

(k) the regulation of the use of roads within any undeveloped area;

(l) the regulation of the erection of buildings within any undeveloped area.

(2) No by-law made under subsection (1) shall have effect until it has been approved by the Minister, confirmed by Parliament, and published in the Gazette.

(3) Every by-law made under subsection (1) and approved by the Minister and confirmed by Parliament shall upon its publication in the Gazette be as valid and effectual as if it were herein enacted.

PART III

FINANCE AND ACCOUNTS

23. (1) The Board shall have its own fund. All moneys received by the Board, including such sums as may be voted by Parliament for the use of the Board, shall be credited to the fund, and all payments made by the Board shall be made therefrom.

(2) The excess of the revenue over the expenditure of the Board for each financial year shall, after the deduction of any sum necessary for such reserves for depreciation or any other purpose as the Minister may approve, be paid by the Board to the General Treasury.

24. Notwithstanding anything in any other written law the Principal Collector of Customs may, with the sanction of the Secretary to the Treasury, waive the customs duty on any articles imported by, or for, the Board, or purchased out of bond by the Board, for any of its purposes.

25. (1) The Board shall cause proper accounts of its income and expenditure to be kept and shall prepare an annual statement of accounts relating to its business in such form and containing such particulars as the Minister with the concurrence of the Minister in charge of the subject of Finance may, from time to time, specify.

(2) The accounts of the Board for each financial year shall be audited by the Auditor-General. For the purpose of assisting him in the audit of such accounts, the Auditor-General may employ the services of any qualified auditor or auditors who shall act under his direction and control.

(3) For the purpose of meeting the expenses incurred by him in the audit of the accounts of the Board, the Auditor-General shall be paid by the Board such remuneration as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance. Any remuneration received from the Board by the Auditor-General shall, after deducting any sums paid by him to any qualified auditor employed by him for the purposes of such audit, be credited to the Consolidated Fund.

(4) The Auditor-General shall examine the accounts of the Board and furnish a report—

(a) stating whether he has or has not obtained all the information and explanations required by him ;

(b) stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Board ; and

(c) drawing attention to any item in the accounts which in his opinion may be of interest to Parliament in any examination of the activities and accounts of the Board.

[§ 14, 6 of 1965.]

[§ 14, 6 of 1965.]

[§ 14, 6 of 1965.]

[§ 14, 6 of 1965.]

[§ 14, 6 of 1965.]

[§ 14, 6 of 1965.]

[§ 2, 46 of 1961.]
[§57, (1) 18 of 1965.]

Accounts of [he Board and audit of such accounts. [§ 15, 6 of 1965.]

Fund of the Board.

(5) The Auditor-General shall transmit his report to the Board.

(6) The Auditor-General and any person assisting the Auditor-General in the audit of the accounts of the Board shall have access to all such books, deeds, contracts, accounts, vouchers and other documents of the Board as the Auditor-General may consider necessary for the purposes of the audit, and shall be furnished by the Board or its officers with such information within their knowledge as may be required for such purposes.

(7) For the purposes of this section, the expression "qualified auditor"* means any person who is registered as an auditor under the Companies Ordinance.†

Report of Board and copies of Auditor-General's report, and statement of accounts to be sent to Minister and laid before Parliament. [§ 16, 6 of 1965.]

26. (1) The Board shall, as soon as possible, after the end of each financial year of the Board, make to the Minister a report on the exercise and performance by the Board of its powers and duties during that year and on its policy and programme. The Minister shall lay a copy of such report before Parliament.

(2) The Board shall, on receipt of the Auditor-General's report in each year, transmit to the Minister—

- (a) a copy of such report, and
- (b) a copy of the statement of accounts prepared under subsection (1) of section 25.

(3) The Minister shall lay copies of the report and statement referred to in subsection (2) before Parliament before the end of the year next following the financial year to which such report and statement of accounts relate.

Minister's power to make regulations.

27. (1) The Minister may, with the concurrence of the Minister in charge of the subject of Finance, make regulations for all or any of the following matters ;—

- (a) any matter which has to be determined under section 4 ;
- (b) the manner in which the accounts of the Board shall be kept and audited.

* See also Article 154 (S) of the Constitution.

† Repealed and replaced by the Companies Act, No. 17 of 1982.

(2) No regulation made by the Minister under subsection (1) shall have effect until it has been approved by Parliament and published in the Gazette.

PART IV

MISCELLANEOUS

28. (1) Where any village area or any part of a village area is, by any Order under section 6(1), included in such part of an area of authority as forms an undeveloped area, that village area or that part of a village area is hereby excluded from the operation of the Village Councils Ordinance with effect from the date on which that Order comes into force, and the Village Council for any village area which is so excluded from the operation of that Ordinance is hereby dissolved with effect from the aforesaid date, notwithstanding anything in any other written law.

Dissolution of Village Councils in undeveloped area- [§ 17,6 of 1965.]

(2) All the property, rights, debts, liabilities and obligations of every Village Council dissolved by subsection (1) are hereby transferred to and vested in the Board with effect from the date of dissolution of that Village Council, and any such property which is immovable property of the State vested in that Village Council subject to any conditions shall be held by the Board subject to those conditions.

(3) Every by-law which has been or is deemed to have been made by any Village Council dissolved by subsection (1) and which is in force at the date of dissolution of that Village Council shall continue in force as though it were a by-law made by the Board under section 20 (3) (b) and may be amended or rescinded by by-law made by the Board under that section.

(4) Where only a part of a village area is, by virtue of subsection (1), excluded from the operation of the Village Councils Ordinance with effect from any date, every by-law which has been or is deemed to have been made by the Village Council for that village area and which is in force at that date shall continue in force in that part as though it were a by-law made by the Board under section 20 (3) (b) and may be

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amended or rescinded by by-law made by the Board under that section.

which in good faith is done or purported to be done, under this Act.

Constitution of local authorities in undeveloped area. [§ 18, 6 of 1965.]

29. No local authority shall, without the prior approval of the Minister, be constituted in an undeveloped area, notwithstanding anything in any other written law.

34. All forests owned by, or under the supervision or control of, the Board shall be deemed to be reserved forests for the purposes of sections 6 and 7 of the Forest Ordinance.

Forests of the Board.

Minister's directions to the Board.

30. (1) In the discharge of its functions and the exercise of its powers the Board shall be subject to, and act in accordance with, such general or special directions as the Minister may, from time to time, issue.

35. (1) Every person who contravenes any provision of this Act or of any by-law made by the Board under section 22 shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding six months or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

Offences.

(2) The Minister shall, in issuing directions under subsection (1) with regard to any matter affecting the functions of any other Minister, act in consultation with that other Minister.

Power to enter any land or premises.

31. Any officer or servant of the Board who is generally or specially authorized in that behalf by the Board may, at all reasonable times, enter upon any land or premises and there do such acts as may be reasonably necessary for the purpose of carrying out any work of the Board, or of making any survey, examination or investigation preliminary or incidental to the exercise of any power, or the discharge of any function, of the Board.

(2) No court shall take cognizance of any offence under subsection (1) except on a complaint by an officer of the Board who is authorized by the Board to make the complaint.

Members and employees of the Board to be deemed to be public servants.

32. (1) Every member, officer and servant of the Board shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of the Penal Code.

36. The provisions of this Act or of any by-law, regulation, order or notification made or issued under this Act shall have effect notwithstanding anything in any other written law.

Effect of other laws.

(2) The members, officers and servants of the Board shall, for the purposes of the Public Servants (Liabilities) Ordinance, be deemed to be public servants.

37. The Minister may by Order published in the Gazette amend any Schedule to this Act.

Amendment of Schedules.

(3) The officers of the Board shall, for the purposes of paragraph (d) of section 8 of the Post Office Ordinance, be deemed to be officers of the public service.

38. In this Act, unless the context otherwise requires,—

Interpretation

"appointed date" means the 15th day of December, 1949;

"Board" means the River Valleys Development Board established under section 2;

[§ 2, 6 of 1965.]

"Chairman" means the person appointed under this Act to be or to act as the Chairman of the Board;

Protection for action taken under this Act.

33. (1) No suit or other legal proceeding shall lie against the Board for any damage caused, or likely to be caused, by any act which in good faith is done, or purported to be done, under this Act.

"developed area" includes any area declared to be, or to be a part of, a Municipality under the Municipal Councils Ordinance or a town under the Urban Councils Ordinance or the Town Councils

[§ 19, 6 of 1965.]

(2) No suit, prosecution or legal proceeding shall lie against any person in the employment of the Board for any act

Ordinance, or any area within the jurisdiction of a Village Council declared to be a built-up locality under section 37 (7) of the Village Councils Ordinance;

"land acquisition law" means the Land Acquisition Ordinance, 1876,* or the Land Acquisition Act, and includes any written law enacted under that Ordinance or Act;

"electricity law" means the Electricity Act or the Ceylon Electricity Board Act, and includes any written laws made or deemed to be made under those Acts;

"local authority" means any Municipal Council, Urban Council, Town Council or Village Council;

"General Treasury" means the department of Government known as the General Treasury ;

" prescribed " means prescribed by by-law made under section 22 ; and

" village area " has the same meaning as in the Village Councils Ordinance.

[Section 20.]

FIRST SCHEDULE

- Animals Act
- Entertainment Tax Ordinance
- Fauna and Flora Protection Ordinance
- Flood Prelection Ordinance
- Forest Ordinance
- Irrigation Ordinance
- Land Development Ordinance
- Mines and Minerals Law
- Thoroughfares Ordinance
- Tolls Ordinance
- Vehicles Ordinance
- Wells and Pits Ordinance
- Written Law enacted under any of the aforesaid enaclments.

[Section 20.]

SECOND SCHEDULE

- Municipal Councils Ordinance
- Town Councils Ordinance
- Urban Councils Ordinance
- Village Councils Ordinance.

* Repealed by Act No. 9 of 1950,